

Approved: April 12, 2018

Posted: April 17, 2018



Town Council Meeting Minutes

Thursday March 22, 2018, at 7:00 PM, in the Matthew Thornton Room

Chairman Harrington called the meeting of the Town Council to order at 7:00 p.m. Present at the meeting were Councilor Albert, Councilor Flood, Councilor Koenig, Councilor Thornton, Town Manager Eileen Cabanel, and Assistant Town Manager/Finance Director Paul Micali. Vice Chairman Rothhaus and Councilor Boyd were excused.

Pledge of Allegiance

Members of Girl Scout Troop 14002 led in the Pledge of Allegiance.

Announcements

A Non-Public meeting will be conducted on Thursday, March 29th at 6:30 p.m. A regular meeting of the Town Council will be conducted on Thursday, April 12th at 7:00 p.m. All meetings will take place in the Matthew Thornton Room.

Tuesday, April 10th is Voting Day. Polls will be open from 7:00 a.m. to 7:00 p.m. at all three polling locations; James Masticola Upper Elementary School, Merrimack Middle School, and St. John Neumann Church. Please contact the Town Clerk's Office at 424-3651 should you have any questions concerning polling location. Information is also available on the New Hampshire Secretary of State's [website](#).

Saturday, March 24th, from 9:00 a.m. - 2:00 p.m., the Library is hosting the annual Free Computer Clinic facilitated by the Michael LoVerme Memorial Foundation. Visit the library's website to register for a time slot. These volunteers are prepared to answer any of your technology questions.

Despite the snow, the 26th Annual Easter Egg Hunt at Wasserman Park is still on for Saturday, March 24th. The event runs from 10:00 - 11:30 a.m. Grab your snow boots and your Easter baskets and prepare for some fun. Visit the Parks & Recreation website at www.merrimackparksandrec.org to view the egg hunt times for each age group.

Councilor Koenig noted voting locations have not changed in the last several elections.

Councilor Albert thanked the Public Works Department (PWD) for the job they have done this winter.

PFOA Update

Chairman Harrington spoke of the meeting conducted the previous day by the New Hampshire Department of Environmental Services (NHDES) related to a Consent Decree between NHDES and Saint-Gobain. The Decree involves homes in Merrimack, Bedford, and Litchfield that were in the disputed area. The Decree states the homes within the disputed area will be connected with municipal water. The Town's website includes a list of every home involved.

Councilor Albert spoke of the Department of Transportation (NHDOT) Public Hearing. Chairman Harrington indicated the State is conducting a widening project on Route 3 and had planned on

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conducting a Public Hearing on March 27th. However, given the Merrimack Village District Town Meeting is being conducted on that date, the NHDOT's Public Hearing has been postponed until May 1, 2018.

The Merrimack Village District Town Meeting will be conducted on March 27, 2018 at 7:00 p.m. at the James Mastricola Upper Elementary School.

Highway Garage Project Update

Councilor Flood stated the committee met the previous morning. The consultants are in the middle of the value engineering process, e.g., trying to shave costs while maintaining functionality. Rebates are expected.

Comments from the Press and Public - None

Recognitions, Resignations and Retirements - None

Appointments

1. Annual Review with the Heritage Commission

Submitted by Heritage Commission Chair Anita Creager

Per Town of Merrimack Charter Section 6-6, at least annually, there should be an annual review with the Heritage Commission. This agenda item is to highlight the commission's significant actions, current projects, anticipated actions, and to raise any concerns the Council should know or could act on.

Anita Creager, Chairman, Heritage Commission, stated at the end of 2017, the Commission had 4 full members and a Liaison. Since that time, the Commission has lost a member and gained a member. The Commission is actively seeking 1 additional full member and 3 alternate members. The Commission meets on the 2nd Monday on alternating months and met 7 times during 2017.

Tour brochures are available at Town Hall, the Library, etc. The display case at Town Hall has the recognition of the Town Hall's history. The hope is to have a new display up by May.

Commemorative plaques have been made for 17 more homes. Two commemorative (granite) signs for the Town were made, ready to be put up, and problems arose with the DOT. Because of the granite bases, the State dictates they cannot be within 35' of the road. The Town has purchased the signs, and they have been erected in front of Town Hall and Watson Park. New signs have been made for the other locations and will be installed once the ground thaws. The new signs are like those in front of the Police Department and Abbie Griffin Park.

The plaques for the history of the Town Village Dam and the Chamberlain Bridge are ready and waiting for installation.

The original slate roof shingles from Town Hall were given to the Historical Society, which is in turn giving them to the Commission. The Town Seal will be decouped onto the slates, and they will be made available for sale.

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The Commission will participate on the plans for the development of the Skylar family park at Thorntons Ferry. The Commission's plan is to make that a Thorntons Ferry Park. The Commission is working with the Town of Litchfield, which is doing a similar project. The desire would be to have a grand opening of the two parks at the same time, and have boats going back and forth.

Ms. Creager spoke of the Upham Road/Hazen property, which had Fullers Mill on it. The Commission is conversing looking to understand if the mill will be protected. They had been told the mill would not be taken out. It is within the floodplain.

The Commission will be doing a good deal of work on the Old King's Highway; tracing original location, additional signage, etc.

The Commission is concerned about Simons Rock, which is on the New Hampshire list of historical places. It is located off Manchester Street, is well recognized, but on Pennichuck Water Works' property. Ms. Creager stated she had an opportunity to view maps for the area, which do not identify Simons Rock. The Commission wishes to ensure Simons Rock does not disappear and will remain accessible.

A letter was sent to the Good Karma Family Trust asking for consideration to set up a fund for preservation of properties in Merrimack.

Additional signage is planned for the three Class VI roads in Town, the 4 villages, and the original locations of all school houses.

Ms. Creager presented plaques to owners of historic homes.

There being no objection, the Council went out of the regular order of business to take up Item #2 under New Business.

2. Consideration for Girl Scout Project at Wasserman Park

Submitted by Parks and Recreation Director Matthew Casparius

Girl Scout 14002 would like to build an equipment storage shed for the Dog Park at Wasserman Park so that the Dog Park Committee can store rakes, shovels and other items that are routinely used to maintain the Dog Park.

Matthew Casparius, Director, Parks and Recreation, spoke of the large group of dedicated volunteers that do routine maintenance at the Dog Park, and the need to store equipment. The Girl Scouts have made a presentation on the donation of a shed to the Parks and Recreation Committee. The agenda packets included information on the options brought forward.

Members of Girl Scout Troop 14002 informed the Council the Troop is working on its Bronze Award. Having identified an issue/need within the Town, the Troop proposes constructing a shed for the Dog Park. The shed would be located near the parking lot at Wasserman Park. Photos of the location were provided. Options include a prefabricated structure costing approx. \$600 or the construction of a wooden shed at an approx. cost of \$975.00 (includes a ramp).

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The Parks and Recreation Department has recommended constructing a shed to include a ramp. It is believed lumber and other donations could be gained with this approach.

Fundraising efforts include a grant application, a Troop donation of approx. \$100.00, material discounts and volunteer labor, and the sale of homemade dog biscuits.

The timeline calls for installation the weekend of May 4th, fundraising in March and April and spreading the word during the months of May and June.

Councilors expressed a preference for the option of the scouts building the shed. The type of structure to be donated is dependent upon the level of funding reached.

MOTION made by Councilor Thornton and seconded by Councilor Koenig to approve the Girl Scout project to build an equipment storage shed for the Dog Park at Wasserman Park so that the Dog Park Committee can store rakes, shovels and other items that are routinely used to maintain the Dog Park. MOTION CARRIED 5-0-0

The Council returned to the regular order of business.

Public Hearing - None

Legislative Updates from State Representative - None

Town Manager's Report - None

Consent Agenda - None

Old Business - None

New Business

1. Committee Appointments

Submitted by Town Council Chairman Nancy Harrington and Vice Chair Finlay Rothhaus
The Town Council to consider appointing the following individuals to Town Committees, pursuant to Charter Article 4-8:

Neil Anketell – Planning Board (Full member)

Dan Ricker – Planning Board (Full member)

Chairman Harrington stated the agenda identified the two appointments as a full member and an alternate member. However, following publication of the agenda, notification was received of a resignation on the Planning Board. As both individuals had expressed a desire to serve as full members, that is how they are being presented.

MOTION made by Councilor Koenig and seconded by Councilor Thornton to appoint Neil Anketell and Dan Ricker as Full members of the Merrimack Planning Board.

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ON THE QUESTION

Councilor Albert thanked the gentlemen for stepping forward to serve the community in this way.

Councilor Koenig spoke of the individuals having been interviewed and of their qualifications and desire to serve the community. Mr. Ricker has been serving as an Alternate member but sitting as a full member at most meetings.

MOTION CARRIED

5-0-0

Oath of office administered to Neil Anketell by Chairman Harrington

3. Chapter 111, Conservation Areas, Merrimack Town Code Process and Procedure

Submitted by MCC Member Tim Tenhave

Town Council to review and approve a process by which Chapter 111, Conservation Areas, of the Merrimack Town Code may be revised.

Tim Tenhave, Merrimack Conservation Commission, noted the Commission has outlined a process believed to be applicable to revise/overhaul Chapter 111. The intent is to be very deliberate and detailed about the steps in the process to allow residents to follow along and participate. He believes the process, in its entirety, will take upwards of a year.

As the process was being created, information was shared with the Town Manager and the Director of Community Development who were able to provide needed input.

Town Manager Cabanel spoke of the enormity of the undertaking and requested Mr. Tenhave speak to the desired accomplishment(s).

Mr. Tenhave stated the Town, either on its own or through the Conservation Commission, owns 190+ parcels of land in Town. Between 30-40 are open space parcels that could potentially require some sort of control or regulation, e.g., something that should be put in an ordinance to provide the Police Department the necessary authority to regulate activity.

The desire would be to identify all properties. Some, but not all property data is available through the Assessing database. A request would be made of the Assessing Department to provide additional information, e.g., book and page. Once the properties are identified the number of properties would be whittled down to those that could potentially require, or already have within their Deeds, regulations that should be codified.

The suggestion is that the Conservation Commission do the initial review of the property list, whittle it down, and seek input from the Town Council.

The desire is not to increase the number of regulations, but to codify what is already known. Mr. Tenhave commented there are Deeds to properties that have been acquired that have restrictions around the types of vehicles permitted, whether hunting is permitted, etc. If it is in the Deed, it is legally binding in perpetuity.

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The first pass would be to classify or categorize properties based on known information. They would also review some of the properties to see if they lend themselves, because of their characteristics, to needing some sort of additional regulation. They would pull the information together and try to create as few categories as possible.

Chairman Harrington commented Chapter 111 is presently labeled Conservation Areas. Mr. Tenhave stated he would speak to the properties more in terms of open spaces. They will be properties without municipal buildings; don't have a designated or future use.

Councilor Albert stated his appreciation for the process as well as the desire to simplify matters rather than create additional regulations. He noted the paragraph that speaks to the Town budget covering all expenses related to the update of the Chapter indicating concern with language such as legal review and consultants. He questioned if there is an estimated cost.

Mr. Tenhave stated expenses would relate to costs associated with pulling documents from the Hillsborough County Registry of Deeds, printing costs related to information being available for Public Hearings, etc. He is of the belief most could be covered with the current Conservation Commission budget, which is part of the Town budget. A legal review would be necessary, and at a cost that is unknown at this time.

He stressed the approach is "less is more"; there is the desire to do what is necessary either because there is language within a Deed or document that requires it or because there is some other compelling reason to do it.

Mr. Tenhave noted within the process there are several places where input would be sought, data exchanged with Town staff, etc. He would suspect the Town Manager would want her department heads to review the first list of potential properties to be addressed; there are likely things the Commission is not aware of that would help narrow the list down. In the day-to-day efforts of gathering Deeds, pulling sub-division plans, etc., the Commission will require some staff time from the Community Development Department.

When reaching Phase III, which is the proposed regulation, the Commission will put something together and seek a legal review. The review will involve issues such as discharging of firearms, use of bows and arrows, etc. Those are already included in Chapter 111; but will have to be addressed on certain properties that may have those restrictions in their Deeds. What is unfortunate is there could be two parcels side-by-side with different restrictions. When having two parcels so uniquely joined, it may be best to have both parcels have very similar if not the same restrictions. Having the clarity that would come with understanding and posting of restrictions/rules would benefit all.

The last phase of the review relates to the Council's process.

Chairman Harrington noted there would be opportunities at critical junctures during the Conservation Commission's review for the Council to be provided updates and the opportunity to provide feedback.

Mr. Tenhave stated the narrowed list would be provided the Council after review/input by the Town Manager and department heads. At the end of the classification portion of the review, the Commission

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would look to the Council for concurrence they are going down the right path. All background data to substantiate proposed restrictions would be available.

Town Manager Cabanel spoke of being pleased with the project and stated she and her staff would be supportive of the effort. She suggested the appropriate department heads be asked to provide any known data and noted that all the chapters of the Town Code have undergone legal review.

Chairman Harrington stated concern with imposing timelines on the various departments. Town Manager Cabanel commented Mr. Tenhave has indicated it is premature to place timeframes on the review at this time.

Town Manager Cabanel recommended the Council approve the concept until additional information could be provided.

Councilor Koenig was not concerned with identified timeframes noting they are more suggestive in nature. There is no penalty involved. He questioned, if the intent is to formalize the process, would the Council also need to formalize a way to amend it. Chairman Harrington stated her desire would be to gather feedback from the department heads as to whether a stated timeframe is a reasonable request to make of the department.

Town Manager Cabanel stated she and Mr. Tenhave, after having had the opportunity to review the document with department heads, could come back before the Council to discuss progress and whether there is the need to make amendments to the document. The Council could then formalize the process.

The consensus of the Council was to support the proposed process.

MOTION made by Councilor Koenig and seconded by Councilor Thornton to table the item until the Council's May 10, 2018 meeting. MOTION CARRIED 5-0-0

4. Acceptance of New Hampshire Department of Safety Homeland Security and Emergency Management (HSEM) Grant for the Merrimack Police Department

Submitted by Captain Brian Levesque

The Town Council to consider the acceptance and expenditure of New Hampshire Department of Safety, Homeland Security and Emergency Management (HSEM) grant in the amount of \$2,210.68 for training four officers at the 2018 New York Tactical Officers Conference April 24 to April 27, 2018. This includes the conference fee of \$349.99 and three nights lodging per officer, pursuant to RSA 31:95-b and Charter Article 8-15.

Lt. Matthew Tarleton stated the Containment Team is part of the Tactical Officers Association of New Hampshire. As a member you become eligible for certain funding through the Department of Homeland Security. Specifically, the Terrorism Prevention Oriented Activities Grant. It is funding available to all tactical teams in the State. A lot of the teams attend this conference on a yearly basis. This would be the first time Merrimack has sent its officers. It is a three-day conference that entails lectures, practical, classes on leadership, etc.

Councilor Koenig questioned costs exceeding the grant amount, and was informed once all costs are understood, e.g., backfilling shifts, the paperwork would be submitted for reimbursement to the

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Department of Homeland Security. It is expected all expenses would be covered by the grant (if costs exceed the grant amount they will work with you).

Councilor Koenig questioned the amount of time needed to satisfy the reimbursement submission. Councilor Albert stated the paperwork for these types of grants is cookie-cutter and Homeland Security does most of the work for you.

MOTION made by Councilor Albert and seconded by Councilor Thornton to authorize the acceptance and expenditure of New Hampshire Department of Safety, Homeland Security and Emergency Management (HSEM) grant in the amount of Two Thousand Two Hundred Ten Dollars and Sixty-Eight Cents (\$2,210.68) for training four officers at the 2018 New York Tactical Officers Conference April 24 to April 27, 2018. This includes the conference fee of Three Hundred Forty-Nine Dollars and Ninety-Nine Cents (\$349.99) and three nights lodging per officer, pursuant to RSA 31:95-b and Charter Article 8-15. MOTION CARRIED 5-0-0

There being no objection, the Council went out of the regular order of business to take up Item #7.

7. Authorization for the Merrimack-Bedford Intermunicipal Agreement for Sewer Service

Submitted by Assistant Director of Public Works / Wastewater

Town Council to consider authorizing the Town Manager to sign the Merrimack-Bedford Intermunicipal Agreement (IMA). The original IMA expired April 2016. The purpose of the agreement is to provide sewer service to a portion of Bedford known as Greenfield Farms and to provide sewer service to Merrimack residents located on Pearson Road.

Sarita Croce, Pretreatment Manager, Public Works Department/Wastewater, stated the request is to replace the original agreement, which expired in 2016 (issued in 1996). The purpose of the agreement is to provide sewer service to a portion of Bedford known as Greenfield Farms and to provide sewer service to Merrimack residents located on Pearson Road near the Bedford/Merrimack line. The agreement has been reviewed and approved by attorneys from both the Town of Merrimack and the Town of Bedford as well as gone through extensive review with both Public Work departments.

Chairman Harrington questioned what has been in place since the agreement expired in 2016 and was informed the parties had agreed to continue the agreement until a new one was arrived at. The agreement now includes language indicating if the agreement does expire all conditions are maintained in force until arriving at a new agreement.

Town Manager Cabanel spoke of the situation on Pearson Road near the pump station and questioned if it is incorporated into the agreement or if that changes any of the timeframes on what happens. Assistant Director Taylor responded it would not change the timeframe on this agreement. Currently there are 24 homes on Grapevine that are tied into the pump station that is there. When the difficulties are overcome for the 3 homes at 59 Pearson Road then they will be tied in.

Councilor Koenig stated it to be an intermunicipal agreement between Merrimack and Bedford for Merrimack to provide services to Bedford residences. Ms. Croce stated that to be correct noting there are about 240 homes in Greenfield Farms that discharge to the Pearson pump station. Merrimack treats that wastewater.

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Councilor Koenig questioned the need for the verbiage regarding servicing Merrimack residents on Pearson Road. When asked why that language would be included as part of the agreement, Assistant Director Taylor stated it to be simply because they flow down to the same pump station. In the original agreement there was an area that allocated flow in Merrimack to the pump station and then the flow that is allocated from Bedford, then it becomes capacity, so you are looking at what we can allow Bedford to have for capacity plus Merrimack development. Councilor Koenig questioned how Bedford is being billed and was informed the Bedford residents are paying the sewer charge that is normally being billed to Merrimack residents, and 90% of the operation and maintenance costs as well as 90% of the capital costs associated with Pearson Road. There is a formula whereby Bedford pays for any of our upgrades to our plant as well because we are treating their water. The total is about \$82,000/year.

When asked to provide additional information on the number of homes in Bedford, Ms. Croce stated Merrimack decreased the allocation per home to 200/gal., which allows for a buildout of 334 homes in Greenfield Farms. Originally, they had received approval for 408 homes.

Councilor Albert questioned if the departments see the Town expanding services to Bedford. Assistant Director Taylor responded he does not. The agreement was strictly for that one development on the Bedford line. Those 340 homes would be the maximum that could be tied in from the Town of Bedford. When asked if expansion in Merrimack is expected that would use that facility, Assistant Director Taylor responded other than the three homes, he is unaware of any plans that would tie into that pump station. The next phase of Greenfield Farms, which is proposed for the Whispering Pines area, will be gravity sewer (won't be part of the pump station).

Town Manager Cabanel stated the agreement to be like what Merrimack has with the City of Nashua, but in the reverse.

MOTION made by Councilor Thornton and seconded by Councilor Koenig to authorize the Town Manager to sign the Merrimack-Bedford Intermunicipal Agreement (IMA). The original IMA expired April 2016. The purpose of the agreement is to provide sewer service to a portion of Bedford known as Greenfield Farms and to provide sewer service to Merrimack residents located on Pearson Road. MOTION CARRIED 5-0-0

The Council returned to the regular order of business.

- 5. Appreciation Plaque Discussion [Follow-up from December 21, 2017, Town Council meeting]**
Submitted by Town Council Chairman Nancy Harrington and Vice Chair Finlay Rothhaus
Town Council to discuss the cost, options and language for plaques that will be given to the entities that provide ongoing support to the Town.

Chairman Harrington remarked at the December 21, 2017 meeting, the Council discussed presenting recognition plaques to entities such as the Digital Federal Credit Union who provide ongoing support to the Town. An example was provided of the type of plaque being considered (\$60/ea.).

Chairman Harrington suggested the Council identify criteria for when such a recognition would be provided, whether they would be done yearly, etc. Councilor Albert suggested this type of recognition

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could be utilized for monetary contributions as well as other actions that benefit the citizenry. He suggested the engraving could be customized based on the nature of the recognition.

When asked, Town Manager Cabanel stated the Council was being asked to approve the procedure of acquiring the plaques. Regarding who would receive them, she stated that would be determined by recommendation and approved individually at a Town Council meeting.

Councilor Flood commented on the potential for a public discussion that could lead to a no vote on presenting a plaque to an individual/entity that was recommended for one and questioned whether this type of discussion could be held in non-public session.

Councilor Flood stated she has hung all the photos she has in the Memorial Room. She is seeking additional photos. The criteria for a photo of an individual is that the individual has passed more than five years prior and did a lot for the Town.

Councilor Albert commented he likes the idea of the photos, and suggested they be hung where they can be viewed by residents waiting in line to register their car(s).

Chairman Harrington suggested the concern raised regarding public discussion of a recommended recipient/entity could be addressed by utilizing a yes/no sheet the tally of which would be made public.

6. Revised Fund Balance Policy

Submitted by Town Manager Eileen Cabanel and Finance Director Paul T. Micali

Town Council to accept the updated Fund Balance Policy to include new definitions as it relates to the Governmental Accounting Standards Board (GASB) Statement No. 54

Assistant Town Manager/Finance Director Micali stated the Town has always has a fund balance policy (previously called the unreserved fund policy). Through GASB Statement No. 54, some of the definitions have changed; expanded the number of categories of fund balance to include non-spendable, restricted, committed, assigned, and unassigned. To get the policy up to date with the auditors, he has made the changes to the definitions. The policy itself does not change. The recommended maintenance level of 4-8% remains the same. The recommended utilization remains the same.

What had to be added was the paragraph on spending prioritizations.

MOTION made by Councilor Thornton and seconded by Councilor Koenig to accept the updated Fund Balance Policy to include new definitions as it relates to the Governmental Accounting Standards Board (GASB) Statement No. 54. MOTION CARRIED 5-0-0

Minutes

MOTION made by Councilor Albert and seconded by Councilor Thornton to accept the meeting minutes of the Town Council budget meeting of February 15, 2018, as presented. MOTION CARRIED 5-0-0

Comments from the Press - None

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Comments from the Public - None

Comments from the Council

Councilor Koenig noted the Planning Board met recently and spoke with 1 commercial property owner who they are working with to get the Site Plan into compliance.

Councilor Flood spoke of an Eagle Scout project to construct an overlook at Grater Woods. Because it is land owned by the School District, the project is not required to come before the Council.

Adjourn

MOTION made by Councilor Thornton and seconded by Councilor Koenig to adjourn the meeting. **MOTION CARRIED** 5-0-0

The March 22, 2018 special meeting of the Town Council was adjourned at 8:55 p.m.

Submitted by Dawn MacMillan