

Approved: January 24, 2019

Posted: January 25, 2019



Town Council Meeting Minutes

Thursday January 10, 2019 at 7:00 PM, in the Matthew Thornton Room



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

Pledge of Allegiance

Girls Scouts, Troop 10762 led in the Pledge of Allegiance.

Announcements

Budget meetings will be conducted at 6:30 p.m. on Wednesday, January 16th, Thursday, January 17th, and Wednesday, January 23rd. A regular meeting of the Town Council will be conducted on Thursday, January 24, 2019 at 7:00 p.m. All meetings will be in the Matthew Thornton Room.

The New Hampshire Department of Environmental Services will be holding office hours on Monday, January 14th from 11:00 a.m. - 1:00 p.m. in the Memorial Room at Town Hall to review a technical report that documents the science and process the DES used to create their initial proposal for the PFAS MCLs.

The New Hampshire Department of Environmental Services will be holding a public hearing session on Thursday, March 7th at 5:30 p.m. in the Campbell High School Auditorium located at 1 Highlander Court in Litchfield. This public hearing session is regarding formal rulemaking to set contaminant levels (MCLs) for 4 PFAS compounds: PFOA, PFOS, PFHxS and PFNA.

The Division of Public Health Services (DPHS) / NH Department of Health and Human Services (DHHS) will be holding a PFAS Community Fair in Merrimack on Wednesday, April 3rd from 5:00 - 8:00 p.m. The exact location will be announced. The purpose of the fair is to respond to community concerns by providing an opportunity to meet with State agencies, local providers, PFAS experts, legislators and advocacy groups. This event will be informal where people are encouraged to walk around and ask questions of the various potential participating groups to include:

- DPHS Cancer and Chronic Disease Program
- DES Waste, Water and Air Division
- NH State Cancer Registry
- DPHS Biomonitoring
- Environmental Public Health Tracking Program
- DPHS Public Health Lab
- NH Medical Society
- Boston Children's Hospital Pediatric Environmental Health Research Program
- Dartmouth Children's Environmental Health Research
- Silent Spring Institute

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There are still openings for the Merrimack Police Department's Citizen Police Academy. This program highlights the daily operations of the Police Department and will give participants an inside view of what your police officers do every day. The classes are Wednesdays from 6:00 p.m. to 9:00 p.m. beginning January 23rd for a ten-week period.

The Media Division will be covering two meetings of the MVD for our channels and online:

- Monday, February 25th at the Little Theater in the High School at 7:00 p.m. (Public Hearing)
- Tuesday, March 26th at the James Mastricola Upper Elementary School (JMUES) in the All-Purpose Room at 7:00 p.m. (Annual Meeting).

Highway Garage Project Update

Assistant Town Manager/Finance Director Micali stated engineers conducted a walk-through of the facility earlier in the day and formulated a punch list. A few items remain on backorder. Building and Fire Inspectors are expected to conduct a walk-through, and the hope is that a temporary Certificate of Occupancy will be issued. The project is on budget.

The committee met and all agreed, once the punch list items are addressed, operations can move into the facility.

Comments from the Press and Public - None

There being no objection, the Council went out of the regular order of business to take up Item #1 under New Business.

1. Consideration for Donation to Watson Park

Submitted by Parks and Recreation Director Matthew Casparius

The Town Council to consider the acceptance of donation from Girl Scout Troop 10762, who would like to build and install an outdoor hopscotch court at Watson Park valued at \$100.00, pursuant to RSA 31:95-e and Charter Article 8-15.

Scouts from Troop 10762 spoke of the desire to construct two hopscotch courts at Watson Park. "The Agent of Change Journey is all about helping out the community. We can do this by building two hopscotches at Watson Park to make it more kid friendly and entertaining for everybody."

The location was chosen as an area that could benefit from such an amenity. Hopscotch courts were chosen as they are not present in most areas in Town. The scouts noted hopscotch does not need any additional equipment. The ice rink and volleyball are seasonal. Hopscotch can be used any time unless there is snow on the ground.

The desire is to place it behind the gazebo to the right-hand corner of the park. A handout was provided for visual representation. Twelve x 12 patio pavers would be painted and sealed. They will dig down about 2" and place the pavers at ground level. Supplies will cost \$70.00 - \$80.00. The project will be funded through sales of cookies from last year and fall product this year.

The plan is to complete installation in the spring when the ground thaws.

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Councilor Boyd thanked the scouts for their presentation, and commented hopscotch courts will be an invaluable amenity to Watson Park. He stated his full support of the project. He questioned the location believing it may be a little too close to the tree line. He encouraged the scouts to work with the Directors of Parks and Recreation and Public Works Department (PWD) in determining the exact location.

Councilor Healey questioned the badge that was being worked on with the project, and was informed it is the “Agent of Change”. She stated agreement with Councilor Boyd’s remarks regarding the proposed location.

Councilor Thornton suggested the location could be where the ice rink is currently located understanding that to be a temporary location for the rink.

MOTION made by Councilor Boyd and seconded by Councilor Healey to approve the acceptance of a donation from Girl Scout Troop 10762, to build and install an outdoor hopscotch court at Watson Park valued at approximately \$100.00, pursuant to RSA 31:95-e and Charter Article 8-15, and furthermore that the Town Manager or her proxy be authorized to sign any and all documents necessary, and that the Scouts work with Directors Fox and Casparius to identify a location that addresses safety concern

ON THE QUESTION

Councilor Koenig questioned the reasoning behind the choice of Watson Park versus Wasserman Park.

The location was chosen because of the lack of activities for children at Watson Park. The desire is to draw the community into the park. Initially, there was consideration of a playground.

Councilor Koenig agreed it is a great place to have the hopscotch courts, he suggested the location be near the pergola in the front area.

MOTION CARRIED 7-0-0

The Council returned to the regular order of business.

Recognitions, Resignations and Retirements

1. Recognition of Retirement of Town Employee

Submitted by Human Resources Coordinator Sharon Marunicz

The Town Council will present an award to Police Lieutenant Dean Killkelley in recognition of his retirement after more than 29 years of full-time service with the Town of Merrimack Police Department. Dean retired on December 29, 2018.

Lieutenant Killkelley was unable to be in attendance. He will be presented with a plaque in recognition of his loyal and dedicated full-time service to the Town.

Councilor Albert commented Lieutenant Killkelley recently retired from the department as Detective Lieutenant. He had the pleasure of working with him for 30+ years. He spoke of the dedicated service he has provided the community. He was a consummate community service police officer; involved in

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every aspect of the community not only as a Police Officer, but in the High School assisting with Robotics, Boy Scouts, etc. He was what we would like to see from all our Police Officers. He was also an excellent accident reconstructionist. He wished him luck.

Chairman Rothhaus echoed the comments noting Lieutenant Killkelley and his family have been involved in the community for a very long time. He wished him well.

Appointments - None

Public Hearing

1. Public Hearing – Recommended Changes to Charter Article VIII, Section 8-4 (H.) – “Operating Budget”

Submitted by Town Council Chairman Finlay Rothhaus and Vice Chair Tom Koenig

The Town Council will hold a public hearing to consider recommended changes to Charter Article VIII, Section 8-4 (H.) – “Operating Budget” of the Town of Merrimack Charter – All Capital Reserve Fund deposits (RSA 35:5) will be included in the Operating Budget for the Town and be voted as part of the Operating Budget Warrant Article.

Assistant Town Manager/Finance Director Micali stated he approached the Department of Revenue Administration (DRA) with legal counsel. When doing a Charter change three (3) State organizations must be informed; DRA, Attorney General, and Secretary of State. Believing the DRA to be the entity to contact, he had approached them. The representative who came before the Council to speak on the issue back in May has left the organization. He received comments from an attorney at DRA having several questions. He explained to him the Town’s process, e.g., how Capital Reserve Funds have been presented during his 14 years with the Town and how the Finance Administrator before him did it for 23 years. He did not see the process as proper. He took it upon himself to contact the Attorney General and Secretary of State. They all concluded to allow the Town of Merrimack to do this would be against State law.

In talking with the Town’s legal counsel, it was stated the Town could fight this because it is a Town Charter and different. However, the Town Charter is a Town Charter with SB2 and SB2 is ballot vote in April. We are different than most Town Charters out there. They will not allow the Warrant Article this year regardless of what action the Town decides to take.

Legal counsel was asked to research similar communities. Other Town Charter/Town Council forms of government do not have the SB2 aspect; they have other forms of Town Council responsibilities, e.g., one has the Town Meeting process, in another, the Town Council can vote on the budget itself.

At this moment, this Town Charter amendment will not serve its purpose.

Asked where that leaves things, he explained that leaves the Town with following RSA 35:5; Capital Reserve Funding Article. It states any deposits made into Capital Reserve Funds have to be put on a Special Warrant Article; individually or grouped together. Every year going forward, for all the deposits the Town does into the Capital Reserve Funds there would have to be a separate warrant article, and the voters would vote on it. Withdrawals must also be voted on, but since the Town Council is agents to expend, they can be put in the budget. The only CRF that Town Council is not the

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agent to expend on is the Fire Capital Reserve. A warrant article will go forward this year to address that.

At its meeting on January 17th, the Council will discuss how to present the article(s) this year.

Councilor Harrington commented the only concern she has is with getting information out to the public to ensure a clear understanding of the benefits of the Capital Improvement Plan (CIP), the necessity of Capital Reserve Funds to carry out that long-term planning, and how that planning process helps avoid large variations in the tax rate.

Chairman Rothhaus spoke of the fluctuations in the total amount of the budget given how allocations to and expenditures from CRFs are captured and how they can appear to represent large increases.

Chairman Rothhaus declared the Public Hearing open at 7:32 p.m.

No testimony was offered.

Chairman Rothhaus declared the Public Hearing closed at 7:33 p.m.

Legislative Updates from State Representative

Representative Wendy Thomas provided the committee assignments for Merrimack's Representatives. Representative Stack is on Fish & Game and Representatives Thomas and Rung (Clerk) are on Resources, Recreation & Development.

Representatives Thomas and Stack have co-sponsored a Senate Bill, sponsored by Senator Shannon Chandley, to remove the toll booth in Merrimack.

It was noted Representatives will attend the Public Hearing conducted by the New Hampshire Department of Environmental Services on March 7th. Their attendance was requested to respond to a request they sent to NHDES for the data used and rationale to determine the MCLs. There is some concern the data used was from Texas and Florida.

Representatives Thomas and Murphy will meet next week separately with Police Chief Roy and Fire Chief Currier to discuss the Opioid situation in Merrimack, and see if there is anything, they can do at the State level.

Representative Thomas was elected to the Hillsborough County Executive Council.

Representative Nancy Murphy noted she is on the Criminal Justice and Public Safety Committee. House Bills have been filed. Senate Bills were due to be signed off by the next day.

At the Council's last meeting, Town Manager Cabanel spoke of situations where representation may be needed. She spoke of having just left an event where she was able to sit down with the Chairman of the Public Works and Highways, Representative John Cloutier, and the Vice Chair, Representative Mike Edgar. They discussed the Merrimack tolls, Continental Boulevard, etc.

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She stated the desire to sit down with the Town Manager and discuss the issues, and commented on wanting to have hard copies of information.

Representative Murphy spoke of advocating with the Governor for the NHDES meeting to be held in Merrimack. She was surprised to hear the meeting is scheduled to be held in Litchfield. Assistant Town Manager/Finance Director Micali stated the location is due to the desire to hold the meeting at the same time Deliberative Session is being held. They were asked to move the meeting to Monday when a meeting location could be made available, and were unable to. NHDES indicated the meeting had to be conducted within a certain timeframe.

Vice Chairman Koenig questioned the discussion Representative Murphy spoke of around Continental Boulevard and the tolls. Representative Murphy stated she would have to review it thoroughly, but she does not believe the stipulation of Merrimack taking over the portion of Continental Boulevard as a condition of the tolls being removed was included in the Bill Senator Chandley sponsored.

Councilor Harrington commented on the Ten-Year Transportation Plan indicating removal of all the tolls and placing one south of Exit 10 in Nashua. She stated concern they could agree to remove the toll at exit 10, have the Town take over the portion of Continental Boulevard, and then turn around and open at toll at exit 8.

Representative Murphy remarked in the discussion, Representative Cloutier was receptive to removing the tolls; particularly at exit 11. He commented they might have to increase the major tolls.

Councilor Albert stated surprise there was even discussion of Continental Boulevard believing the Council made it very clear it wants nothing to do with that deal. Representative Murphy stated she has not heard anything at the State House about it.

Vice Chairman Koenig remarked whenever there is discussion of tolls, there is still the discussion they are having of trying to move the main line tolls at Bedford south into Merrimack so that they can capture people going to the airport.

Town Manager's Report - None

Consent Agenda - None

Old Business

1. Wastewater Infrastructure Upgrade – Phase III (Follow-up from the November 15, 2018, Town Council meeting)

Submitted by Public Works Director Kyle Fox

Town Council to be presented with rate data and to determine the amount of the bond to be placed on April 2019 Warrant.

Assistant Town Manager/Finance Director Micali stated the Council was provided a hard copy of the presentation and a memorandum (copies attached).

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The project consists of two phases. Phase III provides a new Influent screenings building and upgrades to main pump station, instrumentation, Souhegan pump station, and Thornton's Ferry pump station, and the design of both the Phase III and Phase IV projects. Phase IV provides upgrades to headworks building, primary clarifiers, primary sludge handling, tank drain pumping, sludge holding tanks, secondary clarifiers, activated and waste sludge handling, chlorinated building, compost facility, and instrumentation upgrades.

The PWD provided a detailed presentation on the project at the Council's November 15, 2018 meeting (can be viewed [here](#)).

Phase I was completed in FY06 at a cost of approx. \$5 million. Phase II was just completed a few years ago at a cost of approx. \$7 million (upgrades to plant and compost facility). Phases III and IV were projected back in 2007 when discussions began around the results of the Rate Study Report. Phase I was paid with cash. After receipt of the rate study, the decision was made to bond for the projects rather than raise rates to cover the cost of the needed upgrades.

Project goal is to renovate the current facility, replace aging equipment with more energy efficient equipment, and provide continued stability to the Waste Water Treatment Facility Fund while trying to maintain close to the \$2,000,000 recommended fund balance.

There are three options for consideration:

Option 1

- Two 30-year bonds in back to back fiscal years
 - \$13,100,000 (FY20) at an estimated interest rate of 2.704% for Phase III
 - \$9,520,000 (FY21) at an estimated interest rate of 2.704% for Phase IV
 - Sewer rate increases from the 5th to the 7th lowest (out of 85) for sewer rate in the State
 - Allows for economies of scale during bidding process
 - Fund balance would fall below \$2,000,000 recommended balance

State Revolving Loan Fund money would be used (through sewer fund). The interest rate is set in October of each year. The interest rate is estimated given construction would occur in 2020.

Economies of Scale could be achieved by bidding two projects instead of 1.

The current rate is \$242. Rate increases are as follows: 12% in FYs 20 (bringing the total to \$271), 22 (\$304), and 24 (\$340), and 5% in FY26 (\$357).

In FY23, the fund balance would fall below \$2,000,000 and remain until rising above in FY27. The balance drops below because of the two bonds and the \$500,000 set aside for the Executive Park Sewer Repair project. Currently the Town is using a culvert to run sewer through. State law now prohibits that. The Town is waiting on the final design of the Route 3 expansion project. If the project includes relocation of the culvert, the Town will have to provide funding as the sewer pipe will run across. If the sewer pipe must be relocated, it will be at a cost much greater than \$500,000.

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In 2007, the Council received a presentation on the Rate Study. At that time, a \$2 million fund balance (representative of an approx. 6-month operating cost of the fund) was discussed.

Option 2

- One 30-year bond
 - \$22,620,000 (FY20) at an estimated interest rate of 2.704% for Phase III
 - Sewer rate increases from the 5th to the 7th lowest (out of 85) for sewer rate in the State
 - Allows for economies of scale during bidding process
 - Fund balance would fall below \$2,000,000

Rate increases are as follows: 9% in FY 20 (\$264), 12% in FYs 22 (\$295) and 24 (\$331), and 8% in FY26 (\$357).

In FY23, the balance would fall below \$2,000,000. It would go back above in FY24, fall back down in FYs 25-27 and rise above again in FY28.

Option 3

- Two 30-year bonds
 - \$13,100,000 (FY20) at an estimated interest rate of 2.704% for Phase III
 - \$12,600,000 (FY22) at an estimated interest rate of 2.50% for Phase IV
 - Sewer rate increases from the 5th to the 7th lowest (out of 85) for sewer rate in the State
 - Does not allow for economies of scale during bidding process
 - Would cost an additional \$5,405,936 (interest & principle cost)
 - Fund balance would fall below \$2,000,000

Rate increases are as follows: 9% in FY 20 (\$264), and 12% in FYs 22 (\$295), 24 (\$331), and FY26 (\$371).

In FY23, the balance would fall below \$2,000,000. It would go back above in FY24, fall back down in FYs 25-27 and rise above again in FY28.

Town Manager Cabanel was the one who suggested the back-to-back bonds to achieve the economies of scale. A concern noted was if the Council were to put forward a \$22 bond request, and it failed, the Town would be stuck scrambling if something were to happen to the plant. Whether moving forward with a bond request or not, there will be a rate increase (9 or 12%).

Asked how long the facility could run if the fund balance were to drop below the recommended \$2 million, Assistant Town Manager/Finance Director Micali spoke of each phase of the project resulting in updated equipment. If something were to occur while the contractor is onsite, costs would be lessened. It is believed, for the four-year period where the fund balance would dip below the recommended \$2 million, the fund will survive.

It was noted the rates are not just those of residential properties; they encompass industrial and commercial properties as well. A review was done of what would prevail as the best option for each of

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the classes of ratepayers. Option 1 is the best for industrial and commercial and a breakeven (in long run) for residential.

Councilor Healey commented the reason she questioned how long the facility could operate with a fund balance below the recommended \$2 million was the idea of stretching the window out a little. From a household perspective, the MVD is planning two rate increases over the next several years. That, on top of an increase in the tax rate and the potential for an increase in the sewer user fee is a lot for the residents to absorb. She suggested the increase to the 8% could be pushed out a little further. Assistant Town Manager/Finance Director Micali stated the increases to be projected as being necessary. Actual rate increases would depend on revenue gained.

The recommendation of the Administration is Option 1. The presentation will be provided to the Lions Club, Rotary Club, Senior Center, and any other group that would welcome it.

Chairman Rothhaus commented on the importance of getting Phase III completed. He questioned if the rate increases could be stretched out or if that would present too much difficulty. Assistant Town Manager/Finance Director Micali stated when looking at doing that to Option 1, the result was that it drove the fund balance much lower than he felt comfortable with (approx. \$1.3 million).

Councilor Boyd stated the desire to see another option that mitigates the rate increase for sewers in the residential neighborhoods. He commented on the rate increases that will be instituted by the MVD. He spoke of the hook-ups that will occur on the construction off Wire Road. Some of the people in the abutting neighborhood will be hooking up to sewer, and could experience an additional hook-up charge.

Assistant Town Manager/Finance Director Micali stated the additional sewer connection fees the fund is receiving are from existing homes. For the project going on down the road, the increase will be in the price of the home they are buying.

He stated rate increases could be stretched out. However, that will result in an increased cost, and the fund will not recover as quickly. Vice Chairman Koenig responded it won't cost more, the fund will just go a bit lower. Told that it is climbing, he questioned if there would be a rate reduction down the road. Assistant Town Manager/Finance Director Micali stated the potential of a rate reduction noting there are a lot of factors involved.

Vice Chairman Koenig stated the issue to be the need to spend funds at this time to maintain, manage, and control our Waste Water Treatment Plant.

Asked what would happen if no funds were expended, Assistant Town Manager/Finance Director Micali stated the Town would run the risk of catastrophe with one of the major pumps failing. Councilor Thornton asked if that would potentially cost more than \$22 million, and was told it could.

Kyle Fox, Director, Public Works Department, commented they have been going over the numbers since the presentation, trying to be as thoughtful as they could to the ratepayers and the fund, the most important takeaway is the project being discussed is replacing equipment that is 48 years old; long beyond its useful life. The risk of putting it off could be catastrophic.

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Asked for his opinion of the fund balance being in the area of \$1,300,000 for a longer period, he stated it to be a matter of risk. If going the two-bond route, which is difficult in that you are asking voters to pass bonds in back to back years, we could go down to \$1.5 million. Because there would be a contractor in place, the Town could respond to any emergency failures rapidly, and there would be a design in place to renovate. Not having the bond in place is a scary thought. Whether the Council decides to go forward with the project or not, it is agreed there is the need for the rate increase at whatever level that may be just to be able to either fund the project on a designed basis or respond to an emergency basis.

Councilor Thornton questioned, if utilizing Option 1, the \$13,100,000 bond passed, and all major items addressed, could catastrophic affects be avoided.

Director Fox stated the entire \$22,600,000 is major. The \$13,100,000 is for the most critical items. There are three pump stations; the two outside ones take about 75% of flows from the system. Every drop of wastewater goes through that main pump station. Of the whole project, those are the most critical parts. Councilor Thornton commented hypothetically if the \$13,100,000 passes and if the second bond doesn't pass, that could be put on the next year.

MOTION made by Councilor Albert and seconded by Councilor Harrington to approve Phase III - Wastewater Infrastructure Upgrade, and utilize the Option 1 funding mechanism

ON THE QUESTION

Councilor Albert spoke of the importance of the service within the community. He is not comfortable taking the risk. He agrees with the desire to keep rates down. Proposed is a five-year, slow/gradual impact that tops out at \$115 over the current rate. It is the cost of doing business.

Councilor Harrington spoke of the Town being the 5th and becoming the 7th lowest rate in the State. That is indicative of the Town being very frugal. Noted was the rate increase being in small increments. Councilor Harrington commented she previously agreed with doing both phases in a single bond, but that was based upon the cost being much more when it was separated out. Option 1 has back to back bonds, which minimize that cost. She stressed the importance of informing the residents.

Councilor Harrington commented the MVD should have raised their rates long ago. The Council cannot make decisions based upon theirs.

Chairman Rothhaus suggested the information provided and discussions had around the bond in the current FY should include the bond in the 2nd year.

Councilor Healey agreed the project must be done. However, she is concerned with what another addition means for the average Joe. She noted the rate is not based on individual consumption. She questioned if there is a commercial rate, and was informed commercial users pay a great deal more than \$300. The example provided was Anheuser Busch, which pays between \$1.8 million to over \$2 million. Over the past three years it was \$2.1 million, \$2 million, and this year at \$1.9 million.

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Kyle Fox stated the residential user pays a flat fee regardless of use. Commercial and Industrial users pay per gallon. The current rate is \$3.41/thousand gallons. Anheuser Busch is in a separate category from the rest of the industrial and commercial.

Chairman Rothhaus noted they have been able to get water out of their process to a high degree. They push out a lot more solids. Director Fox stated the concentration of their flow is a lot stronger.

Councilor Harrington spoke of efficiencies gained. Sarita Croce, Assistant Director, Public Works/Wastewater, stated the plant is designed for 5 million gallons/day. Currently it is operating at between \$1.8 million and 3.3 million gallons/day of which Anheuser Busch is about 600,000 gallons/day on average.

When the plant was originally designed, it was designed for Anheuser Busch. We had a different style of operation, and we absolutely needed their load to operate. We have since changed the style of operation, and would not be as impacted, e.g., would still meet permit limits, etc. The economies of scale would probably not be there. A pump can only be turned down so much, and you would have a minimum cost. That would not be the same as the lack of that water.

Assistant Town Manager/Finance Director Micali stated the rate increases are not 12% year after year. The proposed rate increases are every other year. It is an eight-year period going from \$242 to \$357.

Vice Chairman Koenig stated the importance of understanding we're not looking at a fixed rate increase. The Administration alluded to the fact that the fund balance will be monitored, and efforts made to keep it where it needs to be.

Option 1 keeps it as high as \$1.6 million. Depending on the cost of the project with the State (Route 3), and when that comes through, it could impact the 12% that year as well. We're not looking at fixed known numbers, we're looking at a fluid thing. We need to raise \$22 million for the sewer plant upgrades in order to keep it running correctly. Whether we raise it all at once or in two different steps he does not believe would have a serious impact. He cannot see what argument people would have one way or the other. It will not hit the property tax rate. The Waste Water Treatment Fund is a self-supporting fund; it is paid for by rate payers/users.

This is an asset of the Town and it cannot be ignored. We need to collect the money to be able to do the upgrades. If one or two of the bond requests fail and the project must be pushed out a year, we're looking at losing the advantage of economies of scale, etc. There are a lot of factors that go far beyond the sewer rate increase. It is critical the Council support this, come forward with a positive note on it, and help people understand the impacts to the Town.

MOTION CARRIED

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New Business

2. Ratification of Collective Bargaining Agreement(s)

Submitted by Town Manager Eileen Cabanel

Council to consider ratification of tentative collective bargaining agreement(s).

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Town Manager, Eileen Cabanel, Assistant Town Manager/Finance Director Micali, and Human Resources Coordinator, Sharon Marunicz negotiated the tentative Collective Bargaining Agreement (CBA) with IAFF Local 2904 (Firefighters). It includes a four-year contract from July 1, 2019 through June 30, 2023, two percent (2%) wage adjustment for each of the four years of the contract, and other small benefit and language changes specific to the needs of the group as well as the Town.

Contract cost breaks down as follows:

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>
Wages	\$42,662	\$44,320*	\$44,320	\$45,179
Steps	<u>10,749</u>	<u>18,276</u>	<u>20,961</u>	<u>36,510</u>
Total	\$53,411	\$62,596	\$65,281	\$81,689

Total Contract Cost: \$262,977

*53 weeks

Assistant Town Manager/Finance Director Micali noted one of the reasons for the jump from year 3 to year 4 is related to steps. Nine new firefighters were hired last year. By the end of the contract they will be moving up to being five years on the job.

Councilor Albert noted savings achieved on the pension side as a result of the new hires.

Assistant Town Manager/Finance Director Micali stated his belief the impact on the tax rate is \$0.02/year.

MOTION made by Councilor Thornton and seconded by Councilor Boyd that the Town Council ratify the tentative agreement reached with the IAFF Local 2904, Firefighters' Union, which includes the net cost of Fifty-Three Thousand Four Hundred Eleven dollars (\$53,411) in the first year, so that the tentative agreement may be put on the Warrant for voter approval at the Town Meeting

ON THE QUESTION

Councilor Thornton reiterated remarks made by Councilor Albert regarding the work the Town Manager does with the contracts and unions.

Councilor Boyd thanked the Firefighters' union commenting on the beautifully written email, which illustrated there was a very strong working and cooperative relationship to get this agreement done.

MOTION CARRIED 7-0-0

Minutes

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The following amendments were offered:

Page 2, Line 32; replace "Detected" with "Detective"

MOTION made by Councilor Boyd and seconded by Councilor Thornton to approve the minutes of the December 20, 2018 meeting, as amended. MOTION CARRIED 5-0-2
Councilors Albert and Koenig Abstained

Comments from the Press - None

Comments from the Public - None

Comments from the Council

The Planning Board met on Tuesday. There was a great deal of discussion on the Edgebrook project in the south part of Town where they want to put in multiple multi-family units and an assisted-living facility. There was discussion on Flatley's property in the north part of Town. They extended the acceptance of the NeighborWorks program in the vicinity of Horseshoe Pond. They have gotten their funding, but not quickly enough to be able to meet their deadlines for the acceptance of their project. They expect to finalize their funding early this year, get State approvals, and be able to move forward with the project.

He noted discussion of HB104, to establish a housing appeals board within the Attorney General's Office.

Councilor Boyd commented on having emailed the Town Manager concerning this, requesting legal counsel be asked to review the bill as it would dramatically impact our ability regarding zoning. It would be a dedicated three-person board established "to hear appeals of final decisions of municipal boards, committees, and commissions regarding questions of housing and housing development."

"The members of the board shall be appointed by the governor, with the advice and consent of the executive council, for a term of 3 years and until their successors are appointed and qualified."

Vice Chairman Koenig noted the make-up of the board; "At least one member shall be an attorney licensed to practice law in the state of New Hampshire, one member shall be a retired judge, and at least one member shall be a professional engineer." He commented it seems odd to limit membership to these specific functions and be able to find people who want to do this as it is considered part-time (20 hours/week maximum), salary is not defined. The fee to file an appeal would be \$500 where the Superior Court charges \$225.

There are other areas of the language in the Bill, which made it very untenable. They could only hear one appeal at a time and would have to adjudicate that appeal before taking the next. In theory, the way it is worded, 4-5 people could line up with appeals that they all filed in 20 days, but one at a time would be dealt with taking anywhere from 30-90 days, which could delay someone if they are trying to get it passed. If the person is trying to get something passed the Planning or Zoning Board did not agree with, then there are other issues where it takes away local control because now instead of the current judicial system, we have these three people defining how things are going to go.

It seems like it puts in a lot of baggage that is not necessary. The system we have today seems to function well; it allows the Town to have some control. Typically, the judicial remands it back to the board and the board has some input whereas this committee could simply accept or pass it without it

Approved: January 24, 2019

Posted: January 25, 2019

remanding back, and therefore things could go forward without the planning or zoning board having a say in it.

Councilor Harrington questioned the rationale for the Bill. Councilor Boyd commented on their being a Union Leader editorial, an article in the Patch and an article by Tom Taylor at the BIA. They are saying that this impacts economic development. Councilor Boyd remarked we have a judicatory process in place that works. We have been on the losing end of stuff that has come out of the Planning and Zoning Boards; we made our case and did not prevail. He would rather lose the case in front of a Judge than three political appointees who will take a length of time. It is not going to be a matter of law, it will be wetting your finger and figuring out which way the wind is blowing on a particular issue.

Vice Chairman Koenig stated the Planning Board is effectively not in favor of moving this forward.

Councilor Boyd stated he is pleased our Representatives are aware of it. He had wanted to get a legal opinion, and for the discussion to be placed on the Council's agenda for the meeting of the 24th so that the Council could publicly take a position on the Bill and get our Legislative Delegation involved.

Chairman Rothhaus stated it should be an agenda item.

Councilor Albert requested the Representatives be invited to attend the meeting for the sake of the discussion.

Councilor Boyd noted he spoke with Jay Minkarah, Executive Director, Nashua Regional Planning Commission, who indicated the New Hampshire Housing Finance Authority is supporting the Bill. There are a few commissioners on the NRPC that support it. It is something the NRPC will discuss at some point.

Councilor Boyd stated Senator Margaret Hassan nominated Merrimack High School Senior Jonathan Peters for a Service Academy Nomination to the U.S. Air Force Academy. He congratulated Jonathan and extended his best wishes.

Chairman Rothhaus spoke of the community's loss with the passing of Frank Lagana. Frank loved to go to Foxwoods. He made his last trip there 6 weeks ago, and he was thrilled to have been with him that day. He will be missed.

Adjourn

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

The January 10, 2019 meeting of the Town Council was adjourned at 8:50 p.m.

Submitted by Dawn MacMillan