



## **Town Council Meeting Minutes**

Thursday September 26, 2019 at 7:00 PM, in the Matthew Thornton Room

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

### **Pledge of Allegiance**

Chairman Koenig led in the Pledge of Allegiance.

### **Announcements**

Regular meetings of the Town Council will be conducted on Thursday, October 10<sup>th</sup> and 24<sup>th</sup> at 7:00 p.m. in the Matthew Thornton Room.

The Thursday evening hours for the summer season at the Transfer Station have ended. The hours of operation are Tuesday through Saturday, 8:00 a.m. - 4:00 p.m.

The November New Hampshire Department of Environmental Services (NHDES) Public Hearing will be on air emissions for air stacks followed by the topic of remediation. The Department of Health & Human Services (DHHS) will conduct a meeting (date not yet determined) to discuss what the lowered number means for the average person.

### **Comments from the Press and Public** – None

### **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 Solid Waste Foreman Steven S. Doumas in recognition of his retirement after 30 years of full-time service with the Town of Merrimack Solid Waste Division of the Public Works Department. The engraved rocking chair will not arrive in time for the meeting, but will be shipped as soon as it is ready. A certificate is being awarded in its place at this time. January 14, 1989 – September 28, 2019.

Kyle Fox, Director, Public Works Department (PWD) spoke of Steve's retirement, his 30 years of consecutive service, and, at the end of the day on Saturday, his 38 years of service to the community.

His employment began in 1980 at the Wastewater facility as a truck driver and loader operator. After briefly leaving his employ, he joined the Town again in 1989 at the Solid Waste facility, and was soon promoted to the Foreman position, which he has held since.

During his tenure, he has overseen the closure of the two landfills, construction of the transfer station and recycling center, conversion from separated recyclables to the current single-stream operation.

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Every year, he and his crew have managed to receive, sort, and send out more than 19 million pounds of trash, recyclables, and other items.

More recently, he has implemented the Swap Shop, which is very popular, and has been instrumental in navigating the environmental requirements from the PFAS issues.

In 1999, Steve was recognized for his efforts at the recycling facility, by the Northeast Resource Recovery Association, by being named Recycler of the Year.

Director Fox remarked it has been a distinct pleasure and honor to have worked with Steve.

Mr. Doumas spoke of it having been a pleasurable experience working for the Town, and of the support he has received over the years.

Councilor Woods spoke of the years he spent with Mr. Doumas, in an area of about 120 sq. ft. when they first started out. He spoke of his appreciation of all those who serve the community. He specifically noted the work done by Steve Doumas that has resulted in the Town being in such great shape in regard to solid waste.

## **2. Recognition of Retirement of Town Employee**

Submitted by Human Resources Coordinator Sharon Marunicz

The Town Council will present an award to Police Captain Michael J. Dudash in recognition of his retirement after 36 years of full-time service with the Town of Merrimack Police Department. He will be awarded with a Boston Rocker. Captain Dudash retired on June 16, 2019.

Captain Michael Dudash retired on June 16<sup>th</sup> after 36 years of service to the community. Chairman Koenig noted Captain Dudash was unable to be in attendance. He spoke of great appreciation for his efforts and contributions to the Town of Merrimack. He will be awarded a Boston Rocker in recognition of his retirement.

## **3. Recognition of Retirement of Town Employee**

Submitted by Human Resources Coordinator Sharon Marunicz

The Town Council will present an award to Detective 1st/School Resource Officer Michael Murray in recognition of his retirement after 31 years of full-time service with the Town of Merrimack Police Department. Officer Murray retires on September 27, 2019. He has requested that the Town donate the cost of his recognition gift to Special Olympics.

Denise Roy, Chief, Merrimack Police Department, noted Detective Murray started in 1985 as a Dispatcher. In 1987 he became a Police Officer. In 1988 he came on full time.

Chief Roy commented when he started in patrol he came in every day with a lot of tickets; he wrote a lot of tickets. In 2000, he agreed to serve as a School Resource Officer. Through that role, he has had an influence on thousands of young adults. She spoke of the constant stories that have been shared since word of his retirement got out. So many have spoken of how he supported them.

Detective Murray was inducted into the MHS Hall of Fame, was Police Officer of the Year twice, won the Merrimack Police Department Distinguished Unit Award, and received a Lifetime Achievement

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Award through the NH Police, Fire and EMS Foundation in 2014. He won a National School Safety Award for the work he has done in the Merrimack school system.

He is a champion for Special Olympics. He has traveled the world. One of the most important things he has done is show those in the department how important it is to be part of a family.

Detective Murray spoke of having pride in his career, and of having had the desire to create a bridge between kids and cops. He admires policemen; they walk and work in the thin blue line that separates chaos and evil from good people.

Addressing his colleagues, he requested they get involved in Special Olympics and be there when that means attending the funerals of fallen officers.

He requested the public understand for every officer killed in the line of duty four take their own lives. It is a very difficult job and one that is under constant scrutiny. He requested the Town get behind its officers, emotionally, spiritually, and financially.

Chairman Koenig commented Detective Murray has requested, in lieu of being presented with a Boston Rocker, that the Town give the cost of the rocker instead to Special Olympics.

### **Appointments**

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

## **2. Rotary Club of Merrimack 4th of July and Great American Ribfest and Food Truck Festival**

Follow-up

Submitted by Neil Anketell and Robert Best

The Town Council will be presented with a review of the Rotary Club of Merrimack's 4th of July event and Great American Ribfest and Food Truck Festival.

Neil Anketell, Rotary Club of Merrimack, stated for 2019 the biggest change was location (moved to high school parking lot). With available power, vendors were able to simply plug into an outlet. Monies were expended on upgrading the power poles. The layout achieved the desired small feel. Feedback has been positive.

Mr. Anketell spoke of the number and variety of entertainment available and vendor participation. He suggested consideration be given to a later start time. As it is, vendors seem to experience a lull, which has been expressed as a concern.

One of the hurdles that continues to be experienced is the level of volunteer effort required. There is a great deal of effort that has to go into outreach for volunteers and coordination of requested volunteer times. Not only are there local communities that come in to help out, they outsource with People Ready, an employment agency. By utilizing paid help, they were able to man the bounce houses and not have the trouble of trying to balance the volunteers.

There were issues with the ATM, which will be worked out with the bank. The location and number of outhouses is another topic that continues to come up.

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Robert Best, President, Rotary Club of Merrimack, noted there are only 24 Rotarians. He spoke of the level of community involvement that takes place and is only possible through the assistance of community members and every department of the Town.

Attendance at the Pancake Breakfast was 525. Mr. Best commented on the community connection aspect of the breakfast, and the number of volunteers that assist with that endeavor.

He spoke of being proud the Rotary Club was able to put on the Great American Ribfest and Food Truck Festival noting it was a huge thing for the Town over the many years the Nashua Rotary Club had done such a great job of putting on the event. It was only with about 3 months lead time that a decision was made, and the particulars sorted out that allowed for the Rotary to put on the event. It took a tremendous number of partners and helpers to do that. Hosting the Ribfest and putting on the event is several hundred thousand dollars in expenses. A Club of 24 is not able to shoulder the risk of it. They had an event organizer who was not only willing to come do the work, but to bear the financial risk if things didn't go well.

Local organizations provided assistance e.g., Anheuser Busch was a tremendous partner in the event. In years past they had been the host site, but not so much involved in carrying it out. This year they were a partner in doing everything from the water and electrical infrastructure to frankly just being the actual vendor of the beer. Elbit Systems provided the location for parking. The parking fees were contributed largely to the Leukemia and Lymphoma Society. Some was donated to the Rotary Club. The school system was a great partner.

There were 62 vendors, 28 of which were food vendors. The hours were adjusted so that the event ended at 10:00 p.m. on Friday and Saturday night (feedback from food vendors). They had intended to extend the Sunday hours until 7:00 p.m. (rained out).

There were 915 people in the Millennium Running 5K. Granite State Ambassadors provided a tremendous number of volunteers that helped with parking.

At the end, what they had was proof of concept; they can handle this with all of the partners and friendships they were able to make. When they first set out to do it they wondered if their little club could do what a bigger club was struggling to do, and with the right combination of help and the right approach to it, they did, and they want to do it again. Budweiser is on board as are others.

Councilor Rothhaus commented on how completely impressed he is with the Rotary. He thought the task would be impossible given the size of the group, and they pulled it off as if it was easy. Chairman Koenig spoke of appreciation for everything the Club does and contributes back to the community.

Mr. Best remarked costs of operations and utilization of space at the O'Leary Center, etc. all come out of members' pockets. Fundraising dollars that are used are directed back into a donation, contribution or a scholarship for kids, etc. There is zero overhead taken out of fundraising dollars to pay for anything. That is a pretty good place to be from a charity standpoint.

*The Council returned to the regular order of business.*

## **1. Annual Review with the Conservation Commission**

Submitted by Conservation Commission Chair Matt Caron

Per Town of Merrimack Charter Section 6-6, at least annually, there should be an annual review with the Conservation 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.

Matt Caron, Chairman, Merrimack Conservation Commission, noted the Commission has a full complement of members; something he is uncertain has ever been the case. He spoke of the newest members and the skillsets they bring to the Commission.

The Commission's mission is to care for the natural resources, particularly drinking water, and coordinate the use of the properties by others.

As part of its duties, the Commission reviews applications and forwards recommendations to the Planning and Zoning boards as well as Dredge & Fill permit applications to the New Hampshire Department of Environmental Services (NHDES). Its biggest responsibility is the management of the 1,600+ acres of conservation property in Town; done through the efforts of volunteers and with the assistance of Town personnel.

Since last before the Council, a great many Boy Scouts, Girl Scouts and private citizens have done work on the properties, most of which have come before the Council for approval. New trails and bridges have been completed in Grater Woods and the Horse Hill Nature Preserve (HHNP) as well as rerouting and maintaining of trails.

The Commission coordinated two clean-up events with volunteers from Fidelity Investment; one at Twin Bridge Park and the other at Wasserman. Matt Casparius, Director, Parks and Recreation wrote to the Commission expressing gratitude for coordinating the effort noting it would have taken his volunteers all summer to do what was done in an afternoon.

The 19<sup>th</sup> Annual Seedling Giveaway was conducted on May 11<sup>th</sup>. Currier Orchards hosts the event, which is well received by the community.

The Commission has been working with GZA Geoenvironmental Inc. (GZA). Successfully obtaining grant funding for the purchase of property or to finance projects is challenging. Properties have to have certain attributes to qualify, and application submission must be timely. GZA has been reviewing the properties to determine which would best meet the criteria. When completed, the list of properties can be looked to when seeking such opportunities.

The Commission participated in the Winter Carnival held at Wasserman Park. That participation increases the level of public awareness of the available trails in Town.

The Commission's website, Merrimackoutdoors.org has been built upon over the year to include information on sub-committees and various events that are hosted.

Jeff Littleton, Moosewood Ecological is performing an assessment of Grater Woods, which builds upon one done a few years prior (broad view) when the pipeline issue was impacting the Town. The

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assessment includes a natural community evaluation, mammal tracking, bird surveys, turtle tracking, etc.

Several species of concern have come out of the study such as the Prairie Warbler bird. Many moose have been tracked in Grater Woods as well as several rare reptiles, which won't be publicized because of their status. Once the report goes to NH Fish & Game, the Commission will receive their input on rare species.

The Commission currently has sub-committees for Grater Woods, the HHNP, and Wildcat Falls Conservation Area. Members take great care of their properties.

The Commission is seeking volunteers for three additional sub-committees; Sklar Waterfront Park, Wasserman Park, and Fields Farm.

Chairman Koenig clarified when speaking of Wasserman Park, what is being referred to is not the park itself that contains the structures, lakefront, etc., but the other parcel of land that can be seen to the left when facing the park.

Funds available to support, manage, maintain, and the potential expansion of the properties and their current balances were noted; Fund 51 - Special Conservation Fund \$47,787, Fund 53 - Land Use Change Conservation Fund \$795,579, and the Horse Hill Nature Preserve Fund \$571.

The Land Use Change Tax (LUCT) is imposed at a rate of 10% of the full fair market value of land (of 10 or more acres) when developed and thereby taken out of current use. Fifty percent of the funds captured through that tax are allocated to the Land Use Change Conservation Fund (until reaching a balance of \$1 million).

Councilor Harrington questioned the amount of land remaining in current use, and was informed there are approximately 1,000 acres.

Chairman Koenig noted current use is a classification property can be put into that allows it to be taxed as vacant or undeveloped land. There is a tax break provided for that. The property has to be put into current use, and has restrictions on how it can be taken out of current use. When the property is taken out of current use, there is a tax attached.

Goals for the coming year include the acquisition of property to create more connectivity between the parcels. Grater Woods stretches all the way out to Wilson Hill. On the other side of the Souhegan River there is the HHNP and now the Fields Farm property (across Amherst Road and along the Souhegan River). Were there a parcel of land in between Wilson Hill and the Souhegan River, connectivity could be achieved to attach the HHNP all the way to Grater Woods. It is a vision many of the Commissioners have; one bridge to connect those two parcels.

The Commission is looking to bring the Sklar Waterfront Park up to the standards of its other parcels. For many years, the property has been used as a dumping ground. A great deal of work has been done, with the help of the PWD and volunteers, to remove debris from the site. A volunteer with heavy equipment helped in the blocking off of certain areas. Signage has been erected, etc. Unfortunately, the undesirable behavior continues and has extended to the destruction of the signs and other improvement efforts. The Commission looks to the Council for assistance in this area.

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Councilor Rothhaus spoke of his recollection the Police Department was requested to conduct enforcement efforts in that area. Councilor Harrington stated her recollection of discussions that were to be held with the private property owners on either side of the parcel with regard to prohibiting access through their property. Mr. Caron stated the majority of the traffic is coming from the area of the boat ramp.

Councilor Rothhaus expressed support for additional enforcement in the area. Councilor Harrington questioned closing that access for a certain period to allow for remediation. Mr. Caron noted by closing that access point, individuals will simply find another way in, and access to those who respectfully utilize the area would be denied.

Large boulders were put in the area, which kept the behavior at bay for some time. The Police Department had a camera posted and visible. As soon as the camera was taken down the rocks were displaced, and the undesirable behavior resumed. Town Manager Cabanel suggested the camera be put back in place and indicated she would speak with the Police Department about that, and the PWD regarding replacement of the boulders.

Mr. Caron spoke of education efforts through partnerships with the NH Association of Conservation Commissions, the NH Cooperative Extension, and the school district.

The Commission continues its collaboration with the Nashua Regional Planning Commission (NRPC) to keep its maps updated. A great deal of positive feedback has been received on the maps.

A Public Hearing on proposed changes to Chapter 111 of the Town Code, which covers conservation properties, has been scheduled for the Commission's October 7<sup>th</sup> meeting. Once feedback is received from the community and Town departments, a presentation will be made to the Council in search of feedback. In its current state, only 4 of the Commission's properties are covered under Chapter 111. The desire is for all major properties to be outlined and included in the Town Code. By doing so, enforcement capabilities will be available.

Councilor Healey commented on the statement that the desire is for all major properties to be included in the Code, questioned why not all properties, and was told some properties were donated and are very small in size. Used was the example of a strip of land located between two private residences and the requirement, if included in the code, for boundary markers to be in place as well as signage, etc.

Councilor Harrington stated her recollection some of the issues related to trying to get all of the major properties under Chapter 111 is the varying restrictions associated with each parcel whether identified by the Commission or included in the Deed when a property was purchased/donated. She spoke of restrictions relative to discharge of firearms, motorized use, etc.

Mr. Caron spoke of the four categories under Chapter 111 and the Commission's work to place properties within the categories, which identify uses and restrictions.

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The Commission is looking to create a more standardized forestry management plan on the properties. There are a few smaller parcels that are part of the Town Forest, some that have forest management plans, etc.

The Commission continues to implement water control activities; beaver management.

Historically, the Commission has requested the Town Council assist in the funding of the GIS system. The continued growth of that is helpful to the Commission in regard to mapping and property details.

**Public Hearing** - None

### **Legislative Updates from State Representatives**

Representative Nancy Murphy spoke of HB737; Establishing a commission to investigate and analyze the environmental and public health impacts relating to releases of Perfluorinated chemicals in the air, soil, and groundwater in Merrimack, Bedford and Litchfield. The Merrimack resident appointed is Rebecca DeVries who is an Epidemiologist/Environmental Scientist. She was the person that designed the ATSDR multi-site assessment protocol. The organizational meeting is scheduled for October 4<sup>th</sup> at 10:00 a.m. will be in the Legislative Office Building, Room 205.

A note received from a lobbyist working with her on HB737, read: "I wanted you to know that we at the Department of Health & Human Services are disappointed to learn that southern New Hampshire was not chosen for the ATSDR related health study. It makes the work of 737 commission that much more timely and important."

Representative Murphy spoke of a visit to DC, and the opportunities to meet with a lot of people around the issue of PFAS and general issues that impact the State. She spoke of a press conference on the Senate lawn and those who were in attendance, e.g., Union of Concerned Scientists, Environment America, Congressmen Dan Kildee and Carl Levin and Congresswoman Debbie Dingell, who are very involved and concerned about the PFAS situation, particularly as it pertains to the Department of Defense. She was able to share with them the community's support of their efforts. They have submitted a letter to the House on Services Committee with a goal to retain the provisions in the 2020 National Defense Authorization Grant (NDAA), address PFAS contamination challenges with a goal of reducing and eliminating pollution sources and remediation the contamination in Department of Defense impacted communities. Critical provisions would require ground and drinking water quality monitoring for PFAS, reporting of industrial discharges of PFAS, provide guidance on the destruction and disposal of PFAS waste, designate PFAS as a hazardous substance under the Comprehensive Environmental Response Compensation and Liability Act. It would require permits for PFAS discharges under the Clean Water Act, funding for additional studies, data sharing, and remediation, and require the EPA to set a sufficiently protective drinking water standard for PFAS compounds.

She testified in support of the work session for toll removal at exit 11. There was a lot of pushback from the Deputy Commissioner. Representatives Thomas and Barry testified as well.

Town Manager Cabanel forwarded a communication to Senator Shannon Chandley about the bill. She stated her understanding a lot of the discussion, particularly from the Commissioner of the Department of Transportation (DOT), surrounded a quid pro quo whereby the Town would take over Continental



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Boulevard. She sent Senator Shannon Chandley a copy of the minutes of the discussion that occurred when then Executive Councilor Wheeler and then Senator Daniels attended a Council meeting to discuss tolls, and the idea of taking over Continental Boulevard came up. Director Fox had prepared a cost analysis of the Town taking over Continental Boulevard (substantial cost). The Council was pretty strong in its position the Town would not take over Continental Boulevard and the large costs associated with that.

Representative Richard Barry wishes the Town Council to revisit that and do some kind of negotiation with the DOT. The last word from the Council, which was almost just a year ago, was no to taking over Continental Boulevard.

Representative Murphy stated that to have been Representative Barry's recommendation to the DOT.

Chairman Koenig stated his understanding, from his discussion with Representative Barry, was that if the Council met with DOT and discussed the condition of the road and got it into an acceptable state so that the Town could then maintain it rather than repair it, perhaps some negotiated settlement could be achieved in regard to what the State would do to ensure it was in an appropriate condition to turn over.

Chairman Koenig stated he invited Senator Shannon Chandley to attend a meeting. She is considering attending on the 10<sup>th</sup> presumably to talk about the toll issue from her perspective.

Representative Murphy commented she believes there was some renegotiation of the loan, which then included improvements to the turnpike that didn't specifically benefit Merrimack.

Councilor Healey questioned why DOT is so interested in dumping Continental Boulevard on the Town. The cost cited was \$183,650/year just to maintain; however, there are other cost factors such as maintenance of the traffic signals.

Vice Chairman Boyd commented the State is willing to give the Town an unfixed road, but cannot provide a light over at Executive Park Drive so that we can improve the quality of traffic between the hours of 4:00 - 7:00 p.m. Monday through Friday.

Town Manager Cabanel commented the minutes of October 11, 2018 are very detailed. During that time not only was Representative Barry offering up Continental Boulevard, he threw in Industrial Drive.

Vice Chairman Boyd remarked another issue discussed is that there is no guarantee the DOT would not move the tolling plazas from Bedford down beyond exit 10 to capture the lost tolls they are missing out on at Raymond Wieczorek Drive. From his perspective, it would be foolish to take those particular roads and give up the tolls at exit 11 knowing the DOT could potentially bring the tolls four miles south.

Representative Murphy commented she had suggested with MA residents coming to the State and gaining the benefits of no sales taxes, etc., it may make more sense to have tolls at the border.

Representative Rosemarie Rung provided a copy of the DOT Ten-Year Transportation Plan (Plan). There are two books; one comprises the complete list of all proposed projects in the State. Last

evening the Governor's Advisory Commission for Intermodal Transportation conducted a Public Hearing in Nashua on the Plan, which was run by Executive Councilor Debra Pignatelli. Representative Rung was in attendance as was Senator Shannon Chandley, representing Merrimack. Written comments were provided. She had solicited public comments from the Facebook forum; many were concerned with the synchronization of the lights at exit 11. She was told that would be straightened out by Monday evening. Another suggestion was to install a complete interchange at exit 12 and perhaps Baboosic Lake Road. Director Fox expressed his opinion the full interchange at exit 12 is a good idea to alleviate some of the traffic on Route 3.

Two other issues she shared were regarding the noise abatement barriers. Her written comment was to reevaluate and reconfirm, with engagement of the Town of Merrimack, the criterion results for determining sound abatement barriers. We have several impacted neighborhoods that did not qualify, and yet common sense suggests that they should have abatement from the increased noise. At the minimum, please come to Merrimack and meet with the Town Council to explain your results and listen to their concerns.

Her other comment was "Merrimack bears a disproportional cost of the F.E. Everett Turnpike through the tolls at exit 10 and 11 especially when considering no one pays a toll to use the first 15 miles of turnpike from the MA border, which is the most heavily used portion. That being said, it is clear to me that DOT has no interest in seeking fairness when it may cause a decrease in revenue. This is unfortunate. However, I ask, as a resident and State Representative of Merrimack, that any open road tolling to the south of Merrimack that is included in this Plan be contingent on the removal of all Merrimack tolls. This is especially important for exit 11 where the Town agreed to the toll to raise funds for the construction of the exit. That bond should have been paid years ago had it not been refinanced to include other projects.

After the Hearing Commissioner Sheehan approached her and said that is not true, that bond would not have been paid off, it doesn't matter that it has been refinanced, the term was the same.

Representative Rung commented the advocacy she has done in Concord regarding the toll issue has not been received as enthusiastically as she would like. They have been working with Public Works & Highways, the House committee, to get behind Senator Chandley's bill to remove the exit 11 toll. She is uncertain how that will go, but has no reason to be optimistic.

With regard to the Plan, public comment is being accepted through November 12<sup>th</sup>. She spoke of the importance of providing comment. She noted she could not find in the Plan the proposal of introducing open roll tolling north of exit 8. She remembers hearing the Turnpike Authority is going to put in open roll tolling north of exit 8. No one at the public hearing would confirm that, but she does believe it will go in. In that case, the tolls would have to be removed.

Representative Rung stated support for the Town's position to not assume ownership of Industrial Drive or Continental Boulevard commenting when you look in the Plan, the projects they have for 101A from Craftsman Lane to Continental Boulevard, they are having major projects along 101A. They have authority for most of Route 3 that connects. It doesn't make sense for the Town to take over ownership for either of those roads when they are main arteries connecting two major State roads.

She spoke of a conversation she had with Sarita Croce, Assistant Director of Public Works/Wastewater, regarding wastewater that comes from car washes, and that the Town no longer accepts that because of the level of PFAS. She had a conversation with Clark Freise, Assistant Commissioner, NHDES, about that. She questioned if legislation is needed to help understand and support regulation of wastewater that contains PFAS going into municipal waste treatment facilities. He indicated it would be very very difficult to enforce because many people use PFAS containing products and don't know they contain PFAS. She submitted a bill that has bipartisan support, to set up a study committee to look at requiring PFAS labeling for products sold in the State. The State does not have a large enough economy and she is uncertain of the impact on commerce. One of the goals of the legislation she would hope would come out of the study committee would be that labeling would help be a foundation for a PFAS inventory that municipalities could use to understand where PFAS products are in Town. It would give businesses the opportunity to either find an alternative product or at least be able to accommodate the increased cost of alternative waste treatment.

Vice Chairman Boyd questioned if it would be worthwhile for him to attend the meeting scheduled in Bedford in October to reiterate the need for the sound barriers along the turnpike. Representative Rung responded the more they hear from us the better. Last night's hearing was held in Nashua and was attended primarily by Nashua residents and Representatives.

Councilor Harrington spoke of discussions around the need to recapture toll revenue, but that tolls would have to be placed further down the turnpike so that it is unrelated to the airport. Representative Rung stated her belief that is correct. She spoke of the public hearing on the turnpike widening project during which she believes it was mentioned.

The Council expressed interest in being made aware of the scheduling of hearings on matters impacting Merrimack.

### **Town Manager's Report**

Lori Barrett, Operations Manager, PWD, has been selected to receive a Gold Circle Award from NH Partners in Education. Lori was nominated by the teaching staff from Mastricola Elementary School for her work in introducing first grade students to the Public Works world through annual field trips to our highway facilities. The highlight of the field trips is when the children get to put their handprints on our plows with different paint colors. Congratulations to Lori on this achievement.

The Police Department's canine, Pluto, was euthanized on July 21<sup>st</sup> as he became ill with Cancer. The department is in the process of purchasing another K9 from Fox Hill Farm & K9, LLC in Amesbury, MA; 1½ year old male German Shepherd current named Baggins. The cost is \$7,500 and is the same amount that was fully refunded to the Town from the previous seller. Seller guarantees the dog to complete/certify via the Boston K9 Academy and also guarantees his health for a year.

Vice Chairman Boyd spoke of having served on the Board for the NH Partners in Education in the past noting the Gold Circle Award is their pinnacle award.

**Consent Agenda** – None

**Old Business**

**1. MYA Follow-up Discussion**

Submitted by MYA President Brian Harris

The Town Council to be presented with an update from the Merrimack Youth Association.

Brian Harris, President, Merrimack Youth Association (MYA), stated since last before the Council, the MYA has taken steps and moved forward with suggestions offered by the Council to try to rectify the concerns expressed by the audit team and Council. All programs are in the process of reconciling all registrations (some remain open). Per the agreement with the Town, they have reached out to Merrimack Tax (bookkeeper) who has agreed to take the MYA on as a client. Although at a significant cost, it is viewed as necessary. Items they will work on will be account services such as reconciling checking and credit card accounts, journal entries into the Quickbook files, and providing quarterly P&L statements.

As suggested, they reached out to the non-profit organization SCORE. and made contact with Roman Galaconich, a retired high-level executive from Velcro USA. Roman has been to several meetings with the MYA and is working with them to put better processes and procedures in place. It has been recommended by him and the Board that a finance committee be formed to create better processes and update the Treasurer's handbook and roles and responsibilities for any position/individual (on each board) who is involved with any of the financials.

The MYA reached out to the firm that conducted its audit. The desire was to hear why they walked away from the audit. They provided their reasoning. Asked if they would take the MYA back on, their response was they would, provided they fix 3 items; reconciling registrations, fixing PayPal accounts (not accounted for properly), and being able to show net of transactions.

After the last meeting, it was suggested the Executive Board become sterner with the programs, which is precisely what they have done. They took all checkbooks and debit cards. A process was put in place, and Holly Golden is now the one individual writing checks. She reviews requests to ensure expenses are accounted for in the budget, that there is backup for the request, and that board approval was gained. The President, Vice President, or Treasurer will sign the checks after verifying the three steps are in place.

Paul Micali, Assistant Town Manager/Finance Director attended the August meeting and was able to explain to the Board what was needed/missing.

Currently they are on an accrual basis for budgeting, etc. The desire is to move to a modified cash basis. He stated his belief that is agreeable as long as they provide pro forma statements.

Short-term goals are to clean up all of the books and have better processes and procedures in place. Mr. Harris stated his goal to be to pass an audit and forward it to the Town. He is hopeful they could come back before the Council to amend the agreement and return to receiving an allocation from the Town. The timeframe for that is prior to December of this year.

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Chairman Koenig commented on being pleased to receive the update. He stated appreciation of the fact the MYA is stepping up and paying attention to the concerns raised. Councilor Harrington stated appreciation for the efforts being taken.

Rick Grenier, Vice President, MYA, stated the hope to improve transparency, and perhaps have a member of the Council attend the Executive Board meetings.

## **PFAS**

### **a) Saint-Gobain Site Status**

Town Manager Cabanel remarked approx. 1 year ago, Sarita Croce, Assistant Director of Public Works/Wastewater, prepared a map for the Council that showed the various groundwater wells on the Saint-Gobain property and their test results. The Map showed the amount of PFAS in the groundwater at a well site, a sewer line, and at the outfall, which is the Merrimack River, etc. Councilors requested an update be provided.

She and Sarita Croce, Assistant Director of Public Works/Wastewater, met and began the process. Her first blush report showed a very alarming number in a groundwater well, which lead them down a different path. Rather than recreating the map and dealing with all of the various components of it, they started with that particular groundwater well and took it to the places where they thought it would lead them.

Assistant Director Croce provided a presentation. She explained Polyfluoroalkyl substances (PFAS) are a group of chemicals that have a lot of fluorine atoms attached to them. They are carbon and fluorine. They have been released to the environment through industrial manufacturing and use and disposal of PFAS with general commerce products.

The two most widely studied compounds are PFOA and PFOS. These compounds are very persistent in the environment (don't biodegrade). As a result, what has been seen is contamination in soils and in groundwater. Because they are so persistent and do not degrade, there is toxicity associated with them both because of their life in the environment as well as human risks associated with them.

The products that contain PFAS include popcorn bags, polishes, waxes, cleaning products, etc. When thinking of schools cleaning and waxing their floors, that typically contains PFAS, and they are discharging that to a sewer system.

On May 19, 2016, the EPA issued a lifetime health advisory for PFOA and PFOS. A lifetime health advisory is not a limit, it is just a recommendation that the EPA makes to say you don't want to take anything more than what we are recommending over a lifetime as sensitive receptors so that you don't have a health impact.

States are allowed to look at what the EPA has done and develop more stringent standards/advisories. The NHDES implemented drinking water standards to protect sensitive populations over a lifetime of exposure to PFAS – PFOA; 12 parts per trillion (ppt), PFOS; 15 ppt, PFHxS; 18 ppt, and PFNA; 11 ppt. The PFOA and PFOS health advisory adopted by the EPA was 70 ppt.

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Groundwater sampling started in March of 2016 and has been ongoing since. In March of 2019, groundwater monitoring well (MW) 4S contained 69,500 ppt of PFOA. The previous sample collected on November 16, 2018 was 3,300 ppt of PFOA. The highest concentration of PFOA prior to this most recent sampling was 8,200 ppt of PFOA (collected in October of 2017). A review of the map and other samples showed most of the other sampling results stayed with the original sampling.

Wanting to identify the causes for the elevated concentration, they looked at a Barr Engineering Company (Barr) report that had been issued in May 2019. In that report, they sampled the chemicals from their process operation (dip pan sampling; dip pan contains chemicals used to coat their fabric). A feed roll of fabric goes through the dip pan where the chemical is placed on it. It then goes through the process of drying and baking. A fan allows the air emissions from that drying and baking to travel out through the stack. Depending on the type of product they are making and the type of coatings they will have, they can do this up to five times on one fabric.

A sampling of the dip pan done April 30, 2018 contained 25,600 ppt of PFOA and 160,000 ppt of PFNA. Another on May 1, 2018 contained 21,100 ppt of PFOA and 128,000 ppt of PFNA. In communications with Saint-Gobain and NHDES, they indicated they were no longer using any products that contain PFOA. Also notable is that PFNA, by virtue of the Maximum Contaminant Level (MCL) that was issued, was lower than the MCL for PFOA. That would suggest it is more toxic.

Reviewed next were roof drain samples. In a sample collected during a period of rain, the highest concentration of PFOA found was 52,000 ppt. That same roof drain contained PFOS at 6,300 ppt.

Assistant Director Croce remarked through their discussions with Saint-Gobain she does not believe they mentioned using any products containing PFOS. The fact that it is present is surprising.

When water rolls off the roof and through roof drains such as a gutter, it goes to two manholes, which then transfer the water, through a pipe, to the Merrimack River. That is called Outfall 001. At Outfall 001, during that same sampling event (September 2018), the PFOS concentration ranged between 7,900 ppt to 9,400 ppt. That MCL was 12 ppt.

When looking at the history of what has been going on at Saint-Gobain what we do know, from the Barr reports and the modeling that was done, is that the primary source of groundwater contamination was what was coming out of the stacks. Looking back at the process operation you see everything that is going on results in a stack emission. It became important to know what was coming out of those stacks.

Saint-Gobain again hired Barr to do stack test sampling. Sampling was done at the same time they collected samples of chemicals from the dip pans. They sampled for all the PFAS compounds as well as ammonia and fluoride. The results from stack testing were compared to ambient air limits, which are limits DES has developed to ensure that the emissions that occur are protective. You can't emit something above an ambient air limit.

There are only 3 ambient air limits they were looking at; ammonia, fluoride, and PFOA. The stack testing did show compliance with the ambient air limits for those three compounds. At the time they did this evaluation, the only standard they were looking at was that health advisory, which was 70 ppt.

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Now we're looking at an MCL of 12 ppt. The Town Manager has questioned if the Ambient Air Limits should be looked at again and NHDES should be looking at lowering the limits because of the potential groundwater contamination. Ambient Air Limits do not exist for PFNA, PFHxS, and PFOS.

However, when the Senate passed SB309 one of the things they said was that if there is a potential to discharge any PFAS compounds that would cause groundwater contamination, that company would have to install pollution control equipment. In this case, they required Saint-Gobain to submit a permit application for the installation of pollution control equipment to treat the emissions from these stacks.

At this point, there is going to be a Public Hearing for the draft permit. Once issued, they will have 12 months to construct and install a thermal oxidizer to destroy PFAS from their stack emissions.

Saint-Gobain worked with the Town to install a wastewater treatment system to remove the PFAS compounds from their process operations. That system has been installed and is currently operating. Based on the analytical results received, all results are below detection limit for the 23 PFAS compounds typically tested for as well as the one GenX compound they use. They are changing out their carbon after every 7 batches.

The treatment system is great, and we are very happy they have installed it and that it is operational, but we have to realize that for many decades they were discharging these compounds to the sewer system, so it is very likely these compounds are very present in the interceptor between Saint-Gobain and the wastewater treatment plant, which is about 6.5 miles. It would take a long period of time for that to flush out on its own.

Asked to explain what AFPO is in relation to PFOA, Assistant Director Croce stated what Saint-Gobain uses in their process is an ammonium salt of PFOA. When it is discharged and hits the water, it produces the PFOA. The APFO, Ammonium pentadecafluorooctanoate (APFO), is the same thing as PFOA.

Town Manager Cabanel quoted from a confidential email to NHDES from Saint-Gobain dated April 12, 2016 where they say "No AFPO after 2014." During a meeting conducted on October 13, with NHDES, Clark Freise, Assistant Commissioner, NHDES, stated "The last AFPO containing dispersion was used on December 2014." They go on to say "The NH DES went to suppliers of all the chemicals they use, they provided their proprietary information all of which have provided written statements that none of the chemicals contain any PFOA any longer." Town Manager Cabanel referred to the dip pan chemical sampling results.

Councilor Healey commented on Assistant Director Croce having put all of this information together (gathering information from numerous sources) to figure out what is occurring. She noted Assistant Commissioner Freise had indicated to the Town Manager that this could not be done.

She remarked even the EPA's website states PFOA is being phased out. Yet we have a dip pan system that has increased to this degree. We're being told by our State Government there is no PFOA and they have PFOS. This cannot be permitted to pass; action needs to be taken.

Councilor Harrington stated the Council was notified by the Town Manager and Assistant Director Croce. The request was made that the data be compiled into a document, which has been received by

the Council. The debate to be had is what is the summary in terms of what the expectations are and other expectations that will be carried as a result.

A letter to NHDES was drafted by Town Manager Cabanel and Assistant Director Croce, which Vice Chairman Boyd and Councilors Harrington and Healey added comments to. A copy of the draft letter to NHDES, inclusive of the attachments (proof) was provided. The Council was provided with two additional draft letters; one that incorporated the amendments recommended by Councilors Boyd and Harrington and the other amendments recommended by Councilor Healey.

Chairman Koenig remarked it was stated back in 2016 that they stopped using PFOA in 2014. They did allude to the point they were going to a different compound C6 carbon chain or something similar, which was supposed to degrade faster. He questioned if any of those compounds are present. Assistant Director Croce responded none of the compounds being seen are those compounds. They went to a GenX type compound. Chairman Koenig remarked with the statement they would cease utilizing PFOA in 2014, any reasonable person would expect that concentration levels would start to drop over time. What Assistant Director Croce has indicated is that not only did the concentrations not drop, but in some cases they went up by an order of magnitude 10 times or more. They obviously are using them; its in the dip pan, roof drains, and stacks. It is being seen pour out into the Merrimack River untreated off the roof. Assistant Director Croce stated that to be correct.

Assistant Director Croce commented there is one hypothesis that the roofing material itself also may have absorbed some of these compounds and as it rains could be leaching these compounds. To date, Saint-Gobain has not taken a sampled/analyzed their roofing material.

Chairman Koenig stated his understanding they “cleaned their roof drains” at one point in the hope they would get out the sediment and things like that which might have PFOAs. They still have significant amounts of PFOA being measured in the water out of the roof drains. Either they didn’t clean it, or they didn’t do a very good job, and they need to go back.

Assistant Director Croce remarked when they viewed with the roof drains with cameras after the cleaning, they found that sediment still existed in all the roof drains. They realized the cleaning process was not adequate.

Councilor Healey commented even if they had cleaned the drains and the roofing material, understand that in their daily production with the chemicals in the drip pan, they are still actively using it.

Chairman Koenig spoke of being appalled. He noted they are theoretically putting in a filtering system to deal with the air emissions. As was stated, even following approval of the permit, they have another year to install that. They are still emitting PFOAs into the air and still contaminating our groundwater, and it has been a year and a half, two, or three years that they have known about this and have been working at it.

Vice Chairman Boyd noted they recently received a waiver for an additional 6 months for their soil sampling plan. It is just another means of bobbing and weaving and trying to obfuscate the real truth that they are not complying with what the State has asked them to comply with. It is a complete disregard of the 28,000 people that live in Merrimack alone.



They self-disclosed at the onset and got DES involved in what appeared to be a genuine attempt to remediate the situation, which has turned into some 3-year process of not saying a darn word about what they are doing or what they are not doing. Numbers don't lie; they are continuing to use PFOS in their product despite telling us that they haven't. The genesis behind the letter is to get DES to temporarily shut the doors at Saint-Gobain until such time that they are able to clean up their act and be good stewards of not only their own property but the community and environment of Merrimack and surrounding communities.

Councilor Harrington remarked we need to be prepared that DES and Saint-Gobain will respond with things they are doing or remediating. The bottom line is we are prioritizing at the source of the contamination. We're not talking about everything else they are doing and are not suggesting they stop surveying, testing, etc. The Council's priority, with this action, is the source of the contamination to stop. It is up to them to identify where the source is. We are going to hear all type of peripheral kinds of discussions and all we need to do is focus on our priority with this action. We're talking about the source; stop the contamination.

Councilor Healey echoed the remarks regarding the expectation the Town will get the bob and weave from both parties. Saint-Gobain will come back and tout what they have done, and DES will say we didn't have the regulations in place, etc. It has been 3 years. If you have to close them down, close them down and pay the employees. It is not their fault you have been using these chemicals.

Town Manager Cabanel stated the magnitude of what the Council is saying and the actions it will take will be a surprise to Assistant Commissioner Freise. She spoke with him last week on another matter and questioned what they are doing about the 69,000 ppt of PFOA in groundwater monitoring well 4S, and he said I don't know anything about that. She had responded there aren't that many wells, I don't know how you don't know about that, I know your staff knows about it. She questioned the dip pan sampling showing the chemicals of PFOA and PFNA are so exorbitant; 160,000 ppt of PFNA; it is so toxic at 11 ppt, that is in their chemical tray, what are you doing about that. He responded he knew nothing about that.

Councilor Harrington noted a suggestion that the numbers be removed from the letter commenting on the individuals the letter is being copied to and the desire for that information to be shared. Councilor Healey agreed with the numbers remaining.

Councilor Harrington remarked the suggestion of isolating out the dates and concentrations of the sampling is something she agrees with.

Upon review of the options for the opening, the Council agreed to utilize the original language proposed by Town Manager Cabanel and Assistant Director Croce.

A line was deleted under the chart; began "We find it deeply disturbing that rather than focusing on eliminating the source of contamination ....". The decision was reached to leave the line in.

Councilor Healey noted she had confusion with page 2, section 3, e.g., roof drains, and suggested the language be left as it was originally. Councilor Harrington agreed. Town Manager Cabanel remarked we will be pulling out the 52,000 ppt in the roof drain and the 7,900 – 9,400 ppt in the outfall. The Council stated agreement.

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On page 3, under #4, Councilor Healey suggested removing her remarks about it being unacceptable. Chairman Koenig commented it is unacceptable they continue to pollute the area, and could continue for another year. He suggested the language puts a little more meat on the statement. The Council agreed with the language remaining.

Councilor Harrington stated a preference for the ending remarks she and Vice Chairman Boyd put forth. Councilor Healey agreed. Councilor Rothhaus is in favor of the ending remarks. Councilor Harrington commented it puts the responsibility back on them that they are the ones who set the limit.

Town Manager Cabanel noted the last paragraph states “It is obvious that previous remediation methods have been insufficient.” There have been no remediation methods.

Vice Chairman Boyd suggested the statement simply read: “It must be noted that no remediation measures have been taken, and the site’s staggering continued contamination must be corrected prior to restarting operations.”

Town Manager Cabanel read the entirety of the paragraph: “The Council expects that since the NHDES has designated that PFAS compounds are so toxic that MCL standards are the lowest in the nation, that the information presented in this letter provides more than sufficient evidence of non-compliance and continual contamination. It is time that the source of the contamination be the priority, and that Saint-Gobain’s operation be immediately stopped in order to determine and stop the sources of continued contamination. It is also obvious that previous remediation methods have been insufficient, and the site’s reflecting staggering contamination be remediated prior to restarting operations.”

Town Manager Cabanel suggested utilizing the phrase “immediately suspend operations”, which the Council was agreeable to.

**MOTION made by Councilor Harrington and seconded by Vice Chairman Boyd to accept the revisions already determined by the Council and authorize the Town Manager to phrase the remainder of the letter in a manner reflective of the intent discussed**

#### **ON THE QUESTION**

Vice Chairman Boyd read, into the record, comments provided by Councilor Albert:

*“Where I am out of State for this meeting, I am requesting the following brief statement be read into the record when Councilors are asked for their opinions.*

*“At this point in time, I am appalled and angered by the continued polluting of Merrimack’s groundwater, soil, and air by Saint-Gobain. I’m also troubled by NHDES’ lack of an appropriate response. I am in favor of a letter being sent to the CEO of Saint-Gobain and NHDES demanding the ceasing of operations at the plant until such time they have cleaned up all emissions.*

*Saint-Gobain has clearly demonstrated that they are not good neighbors, and have no concern for Merrimack.”*

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Chairman Koenig noted Councilor Albert's remarks also stated concurrence with the letter to the CEO.

**MOTION CARRIED 6-0-0**

Chairman Koenig spoke of the desire to send another letter directly to Saint-Gobain.

The draft letter was prepared by Vice Chairman Boyd and Councilor Harrington. The addressee has been changed to Robert Thomas Kinisky, President and Chief Executive Officer of Saint-Gobain Corporation, and the current operations managers.

Chairman Koenig read the draft letter into the record:

*"Dear Mr. Kinisky,*

*The Town Council are public servants who are responsible for decisions of policy including many that ensure safety for our citizens. It is with this sense of responsibility to our citizens that the Council address the continued profoundly alarming testing results associated with Saint-Gobain's operations. We have written a letter to the New Hampshire Department of Environmental Services (NHDES) regarding these concerns, and actions that should be taken.*

*At the onset of this issue, the Council was buoyed by your willingness to self-disclose the problem as well as your initial voluntary remediation measures. We were hopeful that we would continue to see a corporation who would take responsibility and work collaboratively with the Town of Merrimack and the NHDES to address and remediate the contamination.*

*Three years later, the data reveals that the contaminating compounds are still being used, and that test results are getting worse. It is particularly concerning that PFOA is continuing to be utilized in the operational process (see dip pan test results of PFOA at 25,600 ppt on 4-30-18) even though it had been previously stated that this chemical had not been used in the last four years. Outflow results of 7,900 to 9,400 ppt into the Merrimack River is also alarming.*

*It would be beneficial if the Town Council, the State, and Saint-Gobain could work cooperatively to correct and prevent the environmental impacts and health threats imposed on the Merrimack community. However, recent evidence appears to indicate that Saint-Gobain has not and is not acting in good faith to protect the citizens of Merrimack and other surrounding communities.*

*It is in the light of these concerns and events that the Town Council has expressed an expectation that Saint-Gobain will suspend its Merrimack operations until the source of continued contamination is identified and corrected and remediation measures are completed."*

**MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to approve the letter**

**ON THE QUESTION**

The recommendation was made to amend the last sentence of the third paragraph to read "Outfall results of PFOA 7,900 to 9,400 ppt into the Merrimack River are also alarming."

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Town Manager Cabanel spoke of citing the 25,600 ppt of PFOA and of the 160,000 ppt of PFNA when the NHDES standard is 11 ppt.

Councilor Woods commented on the lack of mention of PFNA four years ago. Councilor Harrington stated concern with losing focus noting although an argument can be made that it should be, PFNA is not the issue right now.

**MOTION CARRIED 6-0-0**

*There being no objection, the Council took a five-minute recess at 11:00 p.m.*

*The Council reconvened at 11:05 p.m.*

### **New Business**

#### **1. Proclamation for Detective / School Resource Officer (SRO) Michael Murray**

Submitted by Town Council Chairman Tom Koenig and Vice Chair Bill Boyd

The Town Council to consider the request to proclaim September 27, 2019, as Detective Michael Murray, High School SRO Day.

*Chairman Koenig read the following Proclamation into the record:*

**“WHEREAS** the functions of a school resource officer (SRO) is to provide a visible law enforcement figure on-site to deal with law-related issues, work hand in hand creating a partnership between the school district and the local law enforcement agency to provide a safe learning environment, law related education, and the expertise of a trained law enforcement officer on premise; and

**WHEREAS** Detective Michael Murray has been with the Merrimack Police Department since September 1988 and he started as the High School SRO in 2000; and

**WHEREAS** he has touched the lives of many students and has been a trusted face for the students of Merrimack High School to reach out to in their time of need or if they feel a friend needs help; and

**WHEREAS** he has made the students feel comfortable enough that when they see or hear something they let him know right away; and

**WHEREAS** during his tenure, Detective SRO Michael Murray has set many students on a straight path to help them become successful once leaving the Merrimack High School;

**NOW THEREFORE IT BE RESOLVED**, that we, the Town Council of the Town of Merrimack, New Hampshire hereby proclaim September 27, 2019, as **Detective Michael Murray, HS SRO Day**.

**Dated** this 26<sup>th</sup> day of September 2019”

**MOTION made by Vice Chairman Boyd and seconded by Councilor Woods to approve the Proclamation, as read**

**ON THE QUESTION**

**Approved: October 23, 2019**

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Councilor Healey questioned if it is felt what Detective Murray has contributed to the school district is overwhelmingly different than any other policeman or fireman who retires. She noted Proclamations are not done and a day proclaimed for any other officers who have retired.

Chairman Koenig responded, in his opinion, the answer is yes. What he has done for the students goes above and beyond. All police and fire do great things for our Town. He spoke of what Detective Murray has been able to do working directly with the students; in their building with them to respond to, consult with, and console. He has done a great job, and has set an extreme example for anyone following in his footsteps.

Councilor Healey commented her desire was to ensure that was clarified.

Vice Chairman Boyd spoke of the experience his Daughter had, and of the SROs at the middle and high schools having earned her respect for being people in law enforcement students could go to and be able to share information with, in a confidential manner.

Chairman Koenig remarked what got this going was a request from the school with a description of how Detective Murray has impacted the school district. The request was read into the record:

*“Mike has been with the Merrimack Police Department since 1988. He started as a High School SRO in 2000. During this time, Detective Murray has touched many student lives. He has been a trusted face by our students to reach out to in their time of need or if they feel a friend needs help. He has made the students at the high school feel comfortable enough; when they see or hear something they let him know right away. There are many students during his time that Mike has set on a straight path to help the students become successful once leaving the high school.*

*At the end of September, Detective Murray is retiring from the force, which also means the high school must say good-bye to him. We are having a farewell school-wide assembly to send him off on September 27<sup>th</sup>. We’re hoping the Town Council could be kind enough to issue a Town Proclamation making that day Detective Mike Murray High School SRO Day.”*

**MOTION CARRIED 6-0-0**

## **2. MS-434 Discussion**

Submitted by Finance Director Paul T. Micali

The Town Council to be presented with the details of the MS-434 (Revised estimate of the 2019-2020 revenues).

Paul Micali, Assistant Town Manager/Finance Director, stated as an integral part of setting the tax rate, the Town Council has an opportunity to review revenues and Undesignated Fund Balance (UFB). An Audit was conducted in August, which showed, as of 6-30-18, the UFB was \$7,563,366. Increases due to excess revenues (beyond what was budgeted) of \$1,114,600 and unexpended appropriations of \$1,457,452 result in an UFB of \$10,135,408 (as of 6-30-19).

During the FY20 budget process, the Council approved the use of \$666,588 to offset the tax rate. The projected UFB is \$9,468,820.

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Unanticipated revenues over actuals were due to building permits (additional \$75,700), ambulance (\$124,000 increase), interest (\$388,000 more than anticipated), insurance rebate (\$110,900), Highway Block Grant (\$72,000 higher), motor vehicle permits (\$280,000 higher than anticipated), and tax overlay (\$87,700 less expended). Interest was \$60,700 under budget.

Unexpended appropriations resulted from fire wages (\$228,000 savings), police wages (\$323,000 savings), PWD wages (\$121,000 savings), and other wages (\$167,000 savings).

Savings in the area of wages result from retirements, resignations, etc. However, beyond that is the amount of time required to fill vacant positions, e.g., the Fire Department, during the year, took 52 days to fill open positions, Police Department 105 days, PWD 110 days. Savings are also achieved by filling positions with individuals on the lower end of the salary scale (replacing individuals on the higher end of the salary scale).

Coinciding with savings in wages are savings in benefits; Worker's Comp (\$57,000), Dental (\$25,000), health (\$389,000), retirement (\$125,000), and Social Security and Medicare (\$17,000). Compensated absences saw a savings (\$134,824) as did gasoline & diesel (\$13,000), education (\$27,500), MYA (\$43,000), and other (\$32,128).

Overages included maintenance equipment & vehicles (\$12,000), elections (\$12,000; police details), telephone (\$11,000; most due to new system in Police Department), Outside Services (\$59,000; MS4 related/skatepark camera equipment/filtration system in a home/brush grinding) solid waste disposal (\$14,000), computer services (\$52,000; ransomware, new phone system, and finance software), maintenance building/grounds (\$53,000 almost \$20,000 of which allocated to roofs at Watson Park and nearly \$16,000 for critter remediation at Station 3; in process of awarding bid), natural gas (\$18,000) and equipment & vehicles (\$14,000).

The percentage of UFB is 9.80%. The Fund Balance Retention Policy identifies usage of UFB for emergency appropriations, capital projects, transfers to capital reserves, reduction of tax rate for ensuing year, and any other nonrecurring appropriation as deemed appropriate by the Council.

The UFB is at \$10,135,408. There was an offset to reduce taxes (\$300,000), paving (\$200,000), and one-time insurance rebate (\$166,588). The Town Manager recommends the use of an additional \$300,000. **Total reduction of UFB would be \$966,588**, which would result in an UFB of \$9,168,820 at the end of FY20.

Assistant Town Manager/Finance Director Micali reviewed the progression in the out years that result in a UFB percentage of 4.88% by FY23. Details included the use of \$950,000 in FY21 and 22 (\$950,000) and in FY23 (\$750,000). In each of the outyears the projection was the continued use of UFB to offset taxes (historical \$300,000 plus additional \$300,000).

Changes have been made to the amount of revenue identified at the time of the April ballot. Based on projects coming to fruition, revenue estimates for building permits was increased (\$150,000 to \$175,000), revenue from motor vehicle permits was increased, based on historical (\$5,200,000 to \$5,425,000), other licenses was identified (\$27,000), interest received was increased (\$500,000 to \$775,000), Rooms & Meals Tax estimate was reduced based on information that would be flatlined (\$1,314,837 to \$1,308,111), Highway Block Grant shows an increase (\$590,197 to \$607,053).

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A miscellaneous adjustment (\$302) and an increase in ambulance revenue (\$775,000 to \$850,000) results in a total increased revenue amount on the MS4 of \$636,828.

The 2018 municipal tax rate was \$5.10. During the budget process the projection was \$5.11. The increased revenue is a \$0.19 savings. The increased value was a \$0.03 savings. If utilizing \$300,000 of UFB it would result in a \$0.09 savings. The result is the \$4.89 tax rate.

Requested of the Council is a determination of the total amount of UFB to be utilized to offset the tax rate. Recommended is the \$966,588.

Vice Chairman Boyd questioned the impact of \$500,000 to the tax rate, and was informed it would result in a \$0.05 reduction.

Chairman Koenig spoke of the intent of utilizing the UFB to offset taxes; however, noting the desire to avoid having the tax rate fluctuate continually. If reaching a point where the amount of UFB available to be used to offset the tax rate is less, the result would be an increase in the amount needed to be raised through taxes.

Councilor Rothhaus stated agreement with the concern for the potential of an increase in future years(s). He spoke of being shocked to learn of the current balance. He is supportive of an even larger allocation.

Town Manager Cabanel disagreed noting she had originally considered a \$500,000 allocation. In FY20 you can see the continued use of \$300,000/year. There was a decision to utilize another \$200,000 to roads, which is an allocation that does not have to be sustained in order to keep the tax rate from fluctuating. The reduction of \$166,588 was due to a one-time rebate. Now a precedent has been set where you are counting on \$800,000 of UFB every year in order to keep the tax rate from fluctuating greatly. She does not believe that to be a wise decision. She would like to see additional amounts utilized to reduce the cost of one-time expenses such as additional road work. Director Fox has spoken of the need for additional funding for roads noting we are behind in that area. Were it a different time of year, she would recommend allocating an additional \$500,000 towards roads.

Councilor Rothhaus stated appreciation for that opinion as he generally concurs. He would like to see the UFB around 6%. He is supportive of the additional \$300,000 allocation. He is supportive of additional funds allocated toward paving. With the UFB being where it is, there is the opportunity to have a larger allocation and room to wean off of that use.

Chairman Koenig spoke of talk of a recession coming. Interest rates are dropping back again with the Federal Reserve. Interest incomes could reduce instead of increase. The Town is a trailing indicator of recessions. We're not going to see problems there until after it hits everybody else, but we will still see it if it comes.

With the recommended additional \$300,000 and the increased estimated revenue estimates, we're starting to push those limits on motor vehicle registrations, interest rates, etc. just enough that he is a little less comfortable than he was last year when he suggested the use of UFB be increased. That additional \$200,000 might be the buffer that will allow us to slip through that without any problem.

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Councilor Rothhaus reiterated that is generally where he is. Because it is always about the stability of the tax rate, with that monstrous cushion he can see there is opportunity he was not previously imagining which would soften that blow; instead of all of a sudden not being able to allocate any funds to offsetting the tax rate and having that spike of \$0.10.

Councilor Harrington remarked although she would like to see the tax rate as low as possible, she is concerned with the inability to sustain that level of offset. She spoke of the ability to allocate more funding towards paving resulting in the prevention of an increase in the tax rate in that area. She was agreeable to an increased allocation of \$400,000.

Chairman Koenig noted the progression provided recommends a significant increase in the amount of UFB allocated towards projects such as paving in the outyears.

**MOTION made by Vice Chairman Boyd and seconded by Councilor Harrington for a total reduction to the Unreserved Fund Balance of One Million Sixty-Six Thousand Five Hundred Eighty-Eight Dollars (\$1,066,588)**

#### **ON THE QUESTION**

Vice Chairman Boyd noted the result would be an allocation of \$400,000 towards reducing the tax rate to around \$4.78.

**MOTION CARRIED 4-0-2**

*Councilors Woods and Rothhaus voted in opposition*

Town Manager Cabanel stated she does not endorse the additional use of UFB; however, it will not cause harm. She does not like having to face a \$700,000 cut every single year.

#### **Minutes**

September 12, 2019

**MOTION made by Vice Chairman Boyd and seconded by Councilor Harrington to table acceptance of the meeting minutes of the Town Council meeting of September 12, 2019 until the meeting of October 10, 2019. MOTION CARRIED 6-0-0**

**Comments from the Press** - None

**Comments from the Public**

Rosemarie Rung, 21 Ministerial Drive

Remarked she has resided in Merrimack for 36 years, and has never been prouder of our Town leadership as she is tonight. The strength, determination, and commitment to what is best for the Town is very admirable. She commended the professionalism of the Town staff.



**Approved: October 23, 2019**

**Posted: October 24, 2019**

Nancy Murphy, 20 Brenda Lane

Echoed the remarks of Representative Rung thanking the Council for its efforts over the past three years in recognition of the situation the Town finds itself in with Saint-Gobain and the health risks that are associated. She stated she is personally grateful to each of the Councilors for making the efforts they did this evening, and spoke of the work of Assistant Director Croce.

She thanked Detective Murray who has been a Godsend to so many children in Merrimack. His impact in this Town on all of the youth has been phenomenal.

**Comments from the Council** - None

**Adjourn**

**MOTION** made by Vice Chairman Boyd and seconded by Councilor Healey to adjourn the meeting.

**MOTION CARRIED** 6-0-0

*The September 26, 2019 meeting of the Town Council was adjourned at 11:55 p.m.*

Submitted by Dawn MacMillan