

Approved: July 23, 2020

Posted: July 27, 2020



## Town Council Meeting Minutes

Thursday, July 9, 2020 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.

Chairman Koenig noted the meeting was moved up a week due to the pressures and urgency associated with the closing of Wildcat Falls. The change also provided for a greater level of attendance. Councilor Albert was unable to attend; however, has provided written remarks, which he requested be read into the record.

### **Pledge of Allegiance**

Chairman Koenig led in the Pledge of Allegiance.

### **Announcements**

Regular meetings of the Town Council will be conducted on Thursday August 20<sup>th</sup> and September 10<sup>th</sup> and 24<sup>th</sup> at 7:00 p.m. in the Matthew Thornton Room.

The Library has moved everything for their Summer Reading Challenge online, including author presentations, book groups, watch parties and a murder mystery party for the teens. Each hour you read helps us reach our community goal of 8,000 hours read. If we reach this goal, the Friends of the Library will make a donation to the Humane Society for Greater Nashua, our summer reading partners. Thanks to our Friends Group for funding this year's gift card prizes.

The Library has also expanded curbside services to include checking out a laptop that can be used outside on the library property or in the comfort of your car. They will be adding curbside Notary, Justice of the Peace and Passport Acceptance services in the coming weeks. Check the Library's website at [www.merrimacklibrary.org](http://www.merrimacklibrary.org) for updates.

Town Manager Cabanel spoke of having received urgent emails from Steve Dembow, Rental Coordinator, John O'Leary Adult Community Center, questioning if the Community Center can remain closed for the time being for the protection of the seniors.

Councilor Harrington stated her belief the concern presented was how they would be able to guarantee correct responsiveness when they have various groups utilizing the facility, and there is not a person assigned to clean the facility. That situation remains unchanged.

Councilor Rothhaus noted Mr. Dembow indicated he has spoken with a good number of seniors who often use the facility, and that they expressed the opinion it should remain closed. He understands the concerns; however, he has heard from a few seniors expressing the desire for the facility to be open.

**Approved: July 23, 2020**

**Posted: July 27, 2020**

Vice Chairman Boyd stated the facility is closed. If there comes a call from the majority of the users to open it, he believes that is when the discussion should look in that direction. At this point, the facility is closed until such a time as the Council believes it is ready to be open.

Town Manager Cabanel noted the Council has rescinded its Emergency Ordinance, which addresses closings. That is the reason she questioned the will of the Council with regard to the facility remaining closed.

Councilor Woods stated agreement with the facility remaining closed.

Councilor Harrington stated the desire to explore what might be able to be done. Town Manager Cabanel stated that would be done.

Chairman Koenig noted Meals on Wheels continues to utilize the building. The building is not technically closed, it is simply being stated that it would not be open for the general public.

***The consensus of the Council was for the facility to remain closed to the general public.***

**Comments from the Press and Public** - None

### **Reorganization of the Town Council**

- Pursuant to Charter Article IV, 4-2, Organizational Meeting

Chairman Koenig called for nominations for the position of Chairman of the Merrimack Town Council for the 2020-2021 term.

**Councilor Rothhaus nominated Councilor Koenig**

*No other nominations were offered.*

**Vote on election of Thomas Koenig to the position of Chairman of the Town Council for the 2020-2021 term.**

**MOTION CARRIED**

**5-0-1**

*Councilor Koenig Abstained*

In his written remarks, Councilor Albert noted his support of Thomas Koenig continuing in his role as Chairman and Bill Boyd in his role as Vice Chairman.

*Thomas Koenig declared Chairman of the Town Council for the 2020-2021 term.*

*Chairman Koenig called for nominations for Vice Chairman of the Merrimack Town Council for the 2020-2021 term.*

**Councilor Rothhaus nominated Councilor Boyd**

Councilor Boyd expressed a willingness to continue in that role.

### **Councilor Woods nominated Councilor Harrington**

Councilor Harrington expressed a willingness to serve.

A voice vote was taken where each member was asked to identify the nomination they supported. The results were as follows:

Councilor Healey:	Bill Boyd
Councilor Woods:	Nancy Harrington
Councilor Rothhaus:	Bill Boyd
Councilor Boyd:	Bill Boyd
Councilor Koenig:	Bill Boyd
Councilor Harrington:	Bill Boyd

***Bill Boyd declared Vice Chairman of the Merrimack Town Council for the 2020-2021 term.***

### **Recognitions, Resignations and Retirements**

#### **1. Recognition of Town Committee Members**

Submitted by Town Council Chairman Thomas P. Koenig and Vice Chair Bill Boyd

The Town Council to present certificates to the following individuals for their volunteer service to the Town of Merrimack:

Don Miner – Agricultural Commission  
Adonis ElFakih – Technology Committee  
Peter Flood – Town Center Committee  
Leonard Worster – Zoning Board of Adjustment

Chairman Koenig spoke of committee members who have ended their term this year, and the desire of the Council to recognize them for their service to the community-at-large. He expressed gratitude to all of the individuals who volunteer to serve the community on the various boards, committees, and commissions.

There remain openings on several of the Town's committees. The Planning Board has 1 full-time and 2 alternate openings. Vice Chairman Boyd spoke of the resources available to individuals considering volunteering. One of the key components of the Planning Board is in managing and developing the growth in the community. As the community is approaching buildout, work will pivot to a redevelopment phase, updating of the Master Plan, etc. Anyone having an interest in economic development, community development, urban land use planning, etc. will find it a great opportunity to be able to participate and have a substantive impact on the discussion of how Merrimack is going to grow. Chairman Koenig commented on the Ten-Year Plan, which is up for renewal in the next couple of years. The Planning Board is scheduled to begin that two-year process next year.

Town Manager Cabanel commented the only requirement is a sincere interest and desire to serve the community. Training is available. A list of openings is available on the Town's website.

Approved: July 23, 2020

Posted: July 27, 2020

## **2. Recognition of Volunteer Service**

Submitted by Town Councilor Barbara Healey

The Town Council to present a certificate to the Litter Crew, led by Merrimack resident Brendan DeKemper, that coordinates a group who travels to many different areas of the State to clean up litter, to include Wasserman Park, Watson Park and Wildcat Falls.

The Litter Crew was busy cleaning up a site at Hampton Beach, and unable to be in attendance. They work throughout the State doing litter cleanups. A cleanup is planned at the Horse Hill Nature Preserve next weekend.

*The recognition will be postponed until their attendance at a meeting is able to be coordinated.*

**Appointments** - None

**Public Hearing** - None

**Legislative Updates from State Representatives** - None

## **Town Manager's Report**

The Town currently has 3 pending actions with Saint-Gobain. The first is the air permit issued by NHDES. The Town appealed that decision primarily in regard to the scrubber that prevents hydrogen fluoride from getting into the air. Legal counsel was retained as was an expert to critique, review, and provide feedback on the data the Town produced for the State. The second issue related to the air permit relates to Saint-Gobain's request of NHDES to postpone the installation of the Regenerative Thermal Oxidizer (RTO) claiming a hardship related to COVID-19, and indicating the need for an additional year. A public hearing is scheduled to take place in Concord on August 5<sup>th</sup> at which the Town will provide comment. Town Manager Cabanel noted COVID-19 has not prevented projects from moving forward in Merrimack. If able to push the project out a year, it would begin in 2022, which is many years past the original date, and would result in their continuing to emit PFAS into the atmosphere. The third is the sewer permit appeal. Saint-Gobain did not come before the Council when they appealed the sewer permit issued by Wastewater Treatment to ensure the outflow into the Town's sewer system/interceptor, is not contaminated by PFAS from their facility. Saint-Gobain put the system in, and instead of using a scientific approach to reviewing and testing it on a regular basis, are looking to be permitted to change the filter after X number of gallons go through.

The system is inside the plant, water is tested at points before entering and upon exiting the filtration system as well as at manhole 8, which is right down by the interceptor by the river. The Council denied the appeal on the permit, and Saint-Gobain took the issue to Superior Court. Some of their reasoning why the Town should not need to impose this testing, violating notices, etc. on the wastewater coming into the Town's system is because the water originates from MVD. They have stated because their flow from their plant is so small, in terms of total amount of wastewater that goes to the plant, it does not make a significant amount of difference. As we know, because we sell compost and the requirements for compost in states that we sell to, we have to be mindful of the PFA as content of our compost. The sale of compost is a lucrative endeavor, and the Town has invested millions of dollars in the facility that enables that.

**Approved: July 23, 2020**

**Posted: July 27, 2020**

Assistant Director Croce has begun testing at manhole 8 rather than at the end of the filtration system outside of the facility. Although there needs to be a consistent pattern, the most recent testing at manhole 8 showed 500 ppt of PFOA and 500 ppt of PFOS. Saint-Gobain claims they do not use either one.

The Town has been inundated by a request for every single document that ever addressed the sewer permit or any sewer permit in the Town of Merrimack, which has cost the Town approximately \$7,000 in legal fees to review.

Sarita Croce, Assistant Director, Public Works Department/Wastewater, is working on a summary update to be presented to the Council.

Town Manager Cabanel spoke of how impressed she has been by how the staff and citizenry has dealt with Town Hall being closed to the public. People were respectful. There were a lot of phone calls with questions, but there was a lot of participation in online activities. She expressed great thanks to Paul Micali, Assistant Town Manager/Finance Director, for the yeoman's work in ensuring the facility was outfitted, everyone was separated, acquiring the PPE, etc.

She spoke of the enormous success of the election. The Tax Collector will provide a report at a future date. Multiple accolades were received from various State officials. Apparently, the Town of Merrimack was the only town that conducted a ballot vote during COVID-19. The Secretary of State and representatives from his office were present to see how it was done as they are looking for examples of the best way to potentially move forward in November.

Over the last 15 days, Merrimack Police Department Volunteers have helped facilitate the re-opening of the Merrimack Town Hall. The volunteers, Jane Hoover, Lynn Christensen, Rod Buckley, and Brian McCarthy, along with Merrimack Police Traffic Officer Bruce Moreau, have been present at town hall to assist residents coming in to conduct business. These volunteers have been present for approximately 115 hours over the 15 days.

Construction activity has begun at the Merrimack Park Place mixed-use project at the corner of Industrial Drive and Continental Boulevard. The first phase includes a restaurant, hotel, and multi-family residential. There is no estimated timeframe for completion at this time.

The Baboosic Lake Road Sewer project to replace the sewer along Baboosic Lake Road between McQuestion Road and Jessica Drive is progressing well. The dewatering efforts are working to keep the area workable and the contractor is able to install 20 to 40 feet of pipe each day on the 1,000 foot sewer project. To date, 1 of the 3 new manholes has been installed and the contractor expects to be at the next manhole sometime next week. The project is on schedule to be completed prior to school opening for the fall semester.

Eversource has contracted with 3 survey companies, Doucet Survey of Newmarket NH, SGC Engineering LLC of Westbrook, ME, and Vanasse Hangen Brustlin, Inc. of Bedford, NH to conduct monumentation survey work on various transmission lines across the state. About 10 years ago, Eversource began this effort to define and document the location of its transmission line easements and rights-of-way more precisely. When completed, the company's New Hampshire power line corridors will conform to the same mapping methodology used in Connecticut and Massachusetts.

**Approved: July 23, 2020**

**Posted: July 27, 2020**

To accomplish this, contractor survey crews will be working within and along certain Eversource power line corridors in southern NH this month, utilizing pole locations and boundary information to confirm the location of the easements. In Merrimack, the survey work will occur along and within Eversource's rights-of-way in the following locations:

- From Eagle Substation in Merrimack to Amherst Substation off of Route 101A
- Near Greenfield Parkway in Bedford to Reeds Ferry Substation in Merrimack
- From North Merrimack Substation in Merrimack to Greggs Substation in Goffstown

Eversource will be contacting property owners who we expect will have questions or concerns about this activity.

Councilor Harrington spoke of being the Council's Liaison to the State's Legislative Commission on the Environmental and Public Health Impacts of Perfluorinated Chemicals. The Commission will conduct a Zoom meeting on July 17<sup>th</sup>, during which she will present the information gleaned from Assistant Director Croce's update.

Vice Chairman Boyd questioned if the summary Assistant Director Croce will be providing will culminate in a recommendation as to the direction that should be taken relative to the air permit and sewer in terms of next steps. Town Manager Cabanel stated that would be the case. Assistant Director Croce along with legal counsel and the expert consultant will provide testimony during the August 5<sup>th</sup> public hearing on the extension for the RTO.

**Consent Agenda** - None

**Old Business** - None

**New Business**

**1. Committee Appointments**

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

The Town Council to consider appointing the following individuals to Town committees, pursuant to Charter Article 4-8:

Ron Miner – Agricultural Commission (Full member)  
Michael Boisvert – Conservation Commission (Full member)  
Cynthia Glenn – Conservation Commission (Full member)  
Michael Swisher – Conservation Commission (Alternate member)  
Anita Creager – Heritage Commission (Full member)  
Lynn Christensen – Planning Board (Full member)  
Paul F. McLaughlin Jr. – Planning Board (Full member)  
John Sauter – Technology Committee (Full member)  
Bill Wilkes – Town Center Committee (Full member)  
Richard Consecu – Zoning Board (Full member)  
Lynn Christensen – Zoning Board (Full member)  
Ben Niles – Zoning Board (Full member)

**Approved: July 23, 2020**

**Posted: July 27, 2020**

The requirement for individuals seeking another term on the Planning Board, Conservation Commission, or Zoning Board of Adjustment was fulfilled by Chairman Koenig, Vice Chairman Boyd, and the respective Chair. The individuals identified have been recommended for re-appointment.

**MOTION made by Councilor Harrington and seconded by Councilor Healey to accept all of the proposed appointments as documented on the agenda and corrected to identify Ben Niles as an Alternate Member of the Zoning Board. MOTION CARRIED 6-0-0**

**2. Consideration of Changes to Chapter 183, Vehicles and Traffic, of the Merrimack Town Code [First Reading]**

Submitted by Town Manager Eileen Cabanel

The Town Council to consider the acceptance of recommended changes to Chapter 183, Vehicles and Traffic, of the Merrimack Town Code, to add Section 183-24, Residents Only Parking Areas, pursuant to Charter Article V.

Town Manager Cabanel remarked the proposed change to Chapter 183 was one of the suggestions made to her as part of the discussion and ongoing efforts to provide relief to the residents in the Wildcat Falls neighborhood. Legal counsel was asked to research the required language. It is a direction she has never seen taken in Merrimack. The language outlines parking for Merrimack residents only on all of the 7 streets in the Currier Road neighborhood.

She spoke of concern over setting precedent. However, noted there is a very specific reason why this action would be advisable in this particular neighborhood; there is an amenity in a good-sized parking lot that has been placed in a very tight residential neighborhood, it is excessively used, and is causing a hardship for the neighbors. She requested the Council, if deciding to move forward, clearly identify addressing of this individual neighborhood as a unique situation.

Councilor Rothhaus remarked the reason he can support the recommendation is because it is an old neighborhood, e.g., streets are not designed to today's standards (narrowness). He can see the difficulty with safety equipment access.

Councilor Harrington stated agreement, and suggested amending the proposed language by adding "or any other designated decal" following "to be identified by the Merrimack Transfer Station sticker" noting the possibility for a general decal used for multiple purposes in the future. She remarked the police department will be giving out tickets, and there will be an adjustment period. It will be necessary to both get the word out to inform the public and follow through with enforcement.

License plate #s are listed on the decals, which prohibits moving them from one vehicle to another. There is the need to establish procedures.

Vice Chairman Boyd suggested residents could receive decals when registering their vehicles. Chairman Koenig noted there is a box that can be checked on the form used for a new car registration indicating whether a decal is desired.

Transfer station decals can also be acquired at the transfer station, the Public Works Department (Admin.), etc. They are available in the Tax Collector's Office, and can be requested when registering a vehicle.

**Approved: July 23, 2020**

**Posted: July 27, 2020**

Chairman Koenig stated the only reason the Council is considering the streets identified in the proposed amendment is because of the existing situation at the Wildcat Falls Conservation Area parking lot. It is at the end of a fairly long street and in a neighborhood having one way in and out. In the last few months it has been a frequent occurrence that motorists are parking on the street because the parking lot is full. Were the parking lot to be made larger we would guarantee the overflowing of Wildcat Falls with erosion, trash, etc. The Conservation Commission has been careful in trying to size the parking for the area to ensure it is not overrun, wildlife is not chased out, etc. Because of the extreme situation of having that parking lot at the end of a residential neighborhood, it makes sense to go ahead and put something like this forward to provide relief to the residents.

Vice Chairman Boyd commented on there being various access points and ample parking for other conservation properties in Town. At Wildcat Falls, the parking lot is located within an older neighborhood.

Councilor Healey questioned the impact passage would have on the Police Department, e.g., workload, ability to patrol the area, etc. Denise Roy, Chief, Merrimack Police Department, noted the department has done everything enforceable that it can. Passage would make this easier for the department; if knowing they are looking for decals on a particular area of a windshield. She stressed this is for Merrimack residents only. In an instance where a resident has a gathering with 12 vehicles present, those 12 vehicles cannot park on the street. She suggested the language read “authorized sticker”. She noted the parking lot itself is not just Town residents. If someone comes up from another state and there is an opening in the parking lot that will be permitted. What is being discussed here is just the roadway portion.

Councilor Rothhaus wished to emphasize to the residents what passage would mean, e.g., visitor parking. He stated the desire to notify the neighborhood of the public hearing to ensure they have the opportunity to provide feedback.

Suggestions were made such as use of a NIXLE alert and notification to individuals who provided feedback at the last meeting.

Town Manager Cabanel addressed §183-5 Violations and penalties, which states “Any person, firm or corporation violating the provisions of this article shall, for each violation and upon conviction thereof, pay a fine of not more than \$500.” Chief Roy has requested the Council be more specific about this particular issue so that when they have a parking ticket to hand out there is a specified number.

Chairman Koenig suggested the particular fine could be called out in the amendment, e.g., “section B could read “Any violation of this resident only parking area will result in a fine of X”.

Chief Roy provided an example of the Town specific parking tickets on which each violation is assigned a fine. She indicated information on the origin of the identified fines could be provided for the next meeting.

Assistant Town Manager/Finance Director Micali commented a lot of that language was in the original Code. When it was re-written, the fines were removed and the language “up to \$500” added. There was a separate sheet created identifying the amount of the fines so that a change in the penalty would not be subject to the same procedure required to amend an Ordinance.



**Approved: July 23, 2020**

**Posted: July 27, 2020**

Town Manager Cabanel requested the opportunity to have the language reviewed by legal counsel to ensure it is in the proper form. Chairman Koenig remarked it could be moved to a public hearing and, if necessary, amended at that time.

Chairman Koenig suggested fines in the range of \$25 for the 1<sup>st</sup> offense, \$50 for the 2<sup>nd</sup> and 3<sup>rd</sup>, and \$100 for any additional. Councilor Healey stated the need for larger fines such as \$50 for a 1<sup>st</sup> offense, \$75 for a 2<sup>nd</sup> and \$250 for a 3<sup>rd</sup>. The fine needs to be sufficient to curtail the activity. Vice Chairman Boyd and Councilor Harrington stated agreement.

Chairman Koenig and councilor Rothhaus spoke of concern that a Merrimack resident could be hit with this fine. Councilor Harrington reiterated the need to take every step to notify residents. Councilor Rothhaus stated the desire to see the fine start off a little gentler, e.g., \$25 for 1<sup>st</sup> offense, and on the 3<sup>rd</sup> offense be harsher. Chief Roy stated there will be Merrimack residents who park there, and suggested in the first few weeks she instruct officers to give warnings. Town Manager Cabanel disagreed with that approach. She agreed with the warning, but not for out-of-state vehicles. Chief Roy remarked the officers will not be able to just address out-of-state vehicles; it would be every vehicle. Town Manager Cabanel suggested, for a brief period, residents receiving tickets who were unaware of the change, would need to go to the police station and request a one-time abatement. When asked, Chief Roy stated often times people come to the department and make such a request. What we do for one we need to do for another. If the department issues tickets they cannot say we will give a particular individual a break and take the ticket back. It is understood there will be residents who, although having decals, will park in front of people's homes. There will still be those who leave trash behind or drink on the property. Those things will not stop because of resident parking on the street.

Town Manager Cabanel questioned if it is possible to give out tickets, have residents go to the station for an abatement (for a certain period of time), and erect signage stating resident parking at the entryway to the neighborhood. Chairman Koenig stated the need to post "resident parking only" throughout the neighborhood. Chief Roy agreed with a large sign at the entrance to the neighborhood and signage throughout indicating "parking by permit only". We will make it abundantly clear to the residents of Merrimack that a permit is the transfer sticker.

Chairman Koenig stated his opinion ticketing should begin from the start. He does not agree with warnings. The first ticket ought to be a softer hit as he believes it will impact residents. He is supportive of a \$25 1<sup>st</sup> offense, and would support raising the amount of a 2<sup>nd</sup> offense at \$75, and offenses beyond that to something extreme like \$150.

Town Manager Cabanel suggested the Council look at an Ordinance that is permanent. To concern ourselves with how people are learning about this by modifying the first fine down is not accomplishing what is desired. She is in favor of good sized fines, and if residents are ticketed during the first few weeks they need to take the action to go down to the police station and ask for an initial ticket to be waived. Asked if that would be viable, Chief Roy responded she does not believe the Prosecutor would be in favor of that. It is possible, and she can figure out the logistical part. If an initial ticket were waived, it would still be considered the 1<sup>st</sup> offense.

Chief Roy remarked in an instance where the fine is not paid, the Town would have to send letters to the registered owner, and at that point, if refusing to pay the fine, they would have to go to court. They can fight it no matter what.

Chief Roy commented when the decision is reached to re-open the park, the implementation portion will have to be discussed. There has to be a process as she has to give direction to the people she works with.

Town Manager Cabanel stated the amended language would be vetted by legal prior to the next meeting.

*The consensus of the Council was to amend the proposed §183-24 Residents Only Parking Areas, by adding “or any other official decal designating Merrimack residency” following “to be identified by the Merrimack Transfer Station sticker” and by adding “B. Any violation of this residency parking Ordinance listed in A above will pay a fine of \$50 for the first offense, \$100 for the 2<sup>nd</sup> and \$150 thereafter.”*

**MOTION** made by Vice Chairman Boyd and seconded by Councilor Healey to move acceptance of recommended changes to Chapter 183, Vehicles and Traffic, of the Merrimack Town Code, to add Section 183-24, Residents Only Parking Areas A and B to a Public Hearing on Thursday, July 23, 2020 at 7:00 p.m. **MOTION CARRIED** 6-0-0

### **3. Consideration of Changes to Chapter 183, Vehicles and Traffic, of the Merrimack Town Code [First Reading]**

Submitted by Town Manager Eileen Cabanel

The Town Council to consider the acceptance of recommended changes to Chapter 183, Vehicles and Traffic, of the Merrimack Town Code, to amend 183-36, Schedule IX: Parking Prohibited at All Times, pursuant to Charter Article V.

Town Manager Cabanel spoke of this being a section in the ordinance relative to prohibiting parking at all times. The language identifies the individual streets and which side of the street parking is prohibited. Should the Council wish to permanently prohibit parking on one side of the streets in addition to identifying the area as residents only parking, the proposed language would be the mechanism to do that.

Chairman Koenig stated there is the option for both of these amendments to be put in place, neither, or one or the other. The decision is that of the Council, but it is also up to the public to make the Council aware of what is desired. In the absence of public input, the Council would take what it believes to be the appropriation action. Receiving a good deal of public input in support of a particular direction would be a determining factor. All residents were encouraged to participate in the process, and make their wishes known.

Each of the proposed amendments address a particular action; one addresses resident only parking and the other would prohibit parking on one side of each of the streets identified. Were the Council to approve resident only parking and not restricting parking to one side of the street people could park on both sides of the street again, and in theory, there would still be the potential of blocking the street restricting access to safety vehicles.

Councilor Harrington stated the impetus for restricting parking to one side of the street was emergency access. That situation still exists, and is the reason she supports the proposed amendment. Vice Chairman Boyd and Councilors Rothhaus and Healey echoed her remarks.

**Approved: July 23, 2020**

**Posted: July 27, 2020**

The amendment would add to the list of streets identified as “parking prohibited at all times” under §183-36 the entire length of:

Birch Street; North side  
Currier Road; East side  
Fir Street; South side  
Hemlock Street; North side/West side  
Pinehaven Drive; East side  
Souhegan Drive; North side/West side  
Tiffany Lane; East side

**MOTION made by Councilor Harrington and seconded by Vice Chairman Boyd to move the proposed changes to Chapter 183, Vehicles and Traffic, of the Merrimack Town Code Section 36, as presented, to a Public Hearing on Thursday, July 23, 2020 at 7:00 p.m. MOTION CARRIED 6-0-0**

Chairman Koenig noted that Councilor Albert expressed, in writing, his adamant support of each of the efforts.

Councilor Harrington questioned the penalty for not adhering to the ordinance, and was informed the ticket references a fee of \$10. Town Manager Cabanel noted the Ordinance language states: “Any person, firm or corporation violating the provisions of this article shall, for each violation and upon conviction thereof, pay a fine of not more than \$500.”

Chairman Koenig stated the desire for the Council to be provided with the referenced sheet that identifies the fines for each violation under this chapter. Assistant Town Manager/Finance Director Micali stated that information would be provided in time for the next meeting.

**4. Consideration of Changes to Chapter 181, Traffic and Special Event Management, of the Merrimack Town Code [First Reading]**

Submitted by Town Manager Eileen Cabanel

The Town Council to consider the acceptance of recommended changes to Chapter 181, Traffic and Special Event Management, of the Merrimack Town Code, amending Section 181-5, Violations and Penalties, pursuant to Charter Article V.

Town Manager Cabanel noted §181-04 - Emergency Exceptions states “After consultation and when deemed necessary by the Police Chief, Fire Chief, Director of Public Works, and the Town Manager, whether during emergency conditions or otherwise, shall temporarily allow for specific traffic, parking and pedestrian exceptions until such time the Town Council may be afforded an opportunity to vote on a Traffic and Special Event Management Plan if applicable.”

The language provides the identified individuals the authority to put in place an emergency order. Being proposed is a change to the penalty for parking violations listed under §181-05- [Violations and] Penalties from \$25.00 to \$75.00.

Approved: July 23, 2020

Posted: July 27, 2020

**MOTION** made by Vice Chairman Boyd and seconded by Councilor Woods to move the proposed changes to Chapter 181, Traffic and Special Event Management, of the Merrimack Town Code, amending Section 181-5, Violations and Penalties, as presented, to a Public Hearing on Thursday, July 23, 2020 at 7:00 p.m.

#### **ON THE QUESTION**

Chief Roy remarked this ordinance is for special events or emergencies, and, under those circumstances, she would recommend the more substantial penalty.

Town Manager Cabanel noted what was viewed as the emergency situation in the Currier Road neighborhood was that of emergency vehicle access. Chairman Koenig remarked the chapter is also for special event management, and were the individuals listed to deem a particular happening as a special event the parking violations would apply.

**MOTION CARRIED 6-0-0**

#### **5. Discussion of Speed Limits in Residential Neighborhoods**

Submitted by Town Manager Eileen Cabanel

The Town Council to discuss speed limits in residential neighborhoods.

Town Manager Cabanel stated the lowest speed limit that can be established is 25 mph, which can only occur after conducting a traffic survey, and meeting all required criteria. She recommended the Council refer the matter to the Highway Safety Committee for review and recommendation.

Vice Chairman Boyd spoke of the need for a greater presence of speed limit signs. Councilor Rothhaus commented on there being a few roads in Town that have a 35 mph speed limit. There is signage at every entrance into Town noting the speed limit to be 30 mph unless otherwise posted. Director Fox and legal counsel have advised 30 mph is not enforceable in the absence of an engineering study. Director Fox was uncertain as to whether an engineering study was performed when the speed limit was set.

Councilor Healey stated support for referring the matter to the Highway Safety Committee.

Vice Chairman Boyd questioned the amount of work involved in acquiring an engineering study. Director Fox responded there are nearly 500 roads in Town; an engineering study of the entire Town would be a major task. He is technically opposed to lowering the speed limit to 25 mph. [RSA 265-60](#) sets the rules of speeds for municipalities and the State. Even with the development that has occurred in Town, we would not qualify for the 30 mph limit. He spoke with the Administrator of the Bureau of Traffic earlier in the week, and was informed the definitions in the RSAs are not clear. He suggested, for the urban density, to think of downtown Concord or downtown Manchester. When asked about the D.W. Highway he indicated that is not the intent of the urban classification. Director Fox stated signs do not work. He provided the example of driving in another town in another state, and how often you think to yourself what is the speed here; you do not know. Most people do not know. They drive to the condition of the road, which is the core of what RSA 265-60 says; you drive to the condition of the road and the obstacles in the road. What has been found through the Highway Safety Committee is the 85% speed is about 25-27 mph. He suggested engineering studies would not recommend a 25 mph speed. The Administrator of the Bureau of Traffic offered to attend a Council meeting. He will see if Chief Roy will invite him to attend a Highway Safety meeting.

*The consensus of the Council was to request the Highway Safety Committee review the issue, with the knowledge the Council is considering lowering the speed limit to 25 mph in densely packed residential neighborhoods, and provide recommendations.*

Chairman Koenig noted the comments provided by Councilor Albert “I am in favor of lowering the speed limit in neighbor or subdivision to 25 mph. I would recommend 20 but law does not allow us to do so. 30 mph on streets like Curried Rd, Woodland Dr., Danbury Dr, Belmont Dr, Brookside Dr., or any of these neighborhoods where homes are situated closely, is not reasonable or prudent.

Chairman Koenig noted Councilor Albert indicated his support of all of the other actions the Council has taken, but has stated he is not in favor of opening Wildcat Falls until we have completely addressed all of the issues to include the question of making it residents only, and we have some type of enforcement strategy not only regarding parking, but traffic enforcement in the neighborhood and rules enforcement within the Wildcat Falls Conservation Area from the Town and the Police Department.

#### **6. Capital Reserve Fund Withdrawal Request – Replacement Truck for H-35 Dump Truck**

Submitted by Public Works Director Kyle Fox and Operations Manager Lori Barrett

The Highway Division of Public Works is requesting permission to withdraw up to \$175,000 from the Highway Equipment Capital Reserve fund for the purpose of replacing H-35, 6-wheel dump truck.

Director Fox spoke of the change in the rules around withdrawal from capital reserve funds. Where previously Merrimack residents voted on the equipment purchases as part of the budget, there is now the requirement to come before the Council with each request for withdrawal.

The request is for authorization to withdraw up to \$175,000 for the replacement of the H-35, 6-wheel dump truck. The current truck is a 2009 International 6-wheel dump truck, and is part of the winter maintenance fleet. It is the last 6-wheel dump truck in the Capital Improvement Program (CIP) that is on a 10-year replacement cycle. With the ability to house the equipment in the new garage, the remaining 6-wheel dump trucks either have 11-year or 12-year replacement cycles.

The proposed replacement is a 2021 International HV507, 6-wheel dump truck with a stainless steel body, new front, and wing plows, and all of the mechanics that go with that. It is a unibody spreader meaning it has a mechanism inside the dump body that allows it to spread right out of that. A separate spreader inside the truck is not needed.

There is a two-step process for dump truck purchases. The first is to purchase the cab & chassis, which is done under a State bid. The second step is to send it to a second company that puts the dump body and all of the hydraulic controls on. The lead time is usually 3+ months. The purchase was in the approved CIP at \$180,000. The current truck will be used as a trade-in. Generally trade-ins are in the area of \$25,000. The figure of \$175,000 does not include the amount of the trade-in. A 7-year engine warranty would be sought. One of the things found 5 or so years ago when engines were changing to meet new emission standards, is that they were blowing turbos quite frequently. For \$4,500, there would be a 7-year warranty (standard is a 3-year warranty) on the engine, turbos, and everything that goes with it.

Asked about the condition of the existing truck. Director Fox responded it is serviceable at a cost. A number of years ago he plotted all of the vehicles with the maintenance and did a regression of where the

Approved: July 23, 2020

Posted: July 27, 2020

line is of repair cost versus replacement cost, and the sweet spot was 10 years. If we kept it another year, we could keep it going, but the reliability would not be there. This particular vehicle is a 2009.

**MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to approve the withdrawal of up to One Hundred Seventy Five Thousand Dollars (\$175,000) from the Highway Equipment Capital Reserve fund for the purpose of replacing H-35, 6-wheel dump truck. MOTION CARRIED 6-0-0**

#### **7. Town Council Retreat / Goal Session**

Submitted by Town Council Chairman Tom Koenig and Vice Chair Bill Boyd  
Town Council to decide when and where their Retreat / Goal Session will be held.

*The consensus of the Council was to look to hold the Retreat at Buckley's Great Steaks on August 21, 2020.*

Councilors were asked to submit recommendations for discussion topics prior to July 31, 2020.

#### **8. Town Council Committee Assignments**

Submitted by Town Council Chairman Tom Koenig and Vice Chair Bill Boyd  
The Town Council will determine committee assignments for the current year.

Adult Community Center; Councilor Harrington  
Agricultural Commission; Councilor Rothhaus  
Conservation Commission; Councilor Albert  
Heritage Committee; Councilor Healey  
Highway Safety Committee; Councilor Rothhaus  
Nashua Regional Planning Commission; Councilor Boyd  
Parks & Recreation Committee; Councilor Woods  
Planning Board; Councilor Boyd  
Planning Board, Alternate; Councilor Koenig  
Technology Committee; Councilor Healey  
Town Center Committee; Councilor Rothhaus

#### **9. Town Manager Annual Evaluation**

Submitted by Town Council Chairman Tom Koenig and Vice Chair Bill Boyd  
Town Council to discuss result of recent evaluation.

Chairman Koenig stated the Council has discussed the Town Manager's evaluation and reviewed her self-evaluation.

**MOTION made by Vice Chairman Boyd and seconded by Councilor Rothhaus to approve the Town Manager's evaluation for 2019-2020. MOTION CARRIED 6-0-0**

Approved: July 23, 2020

Posted: July 27, 2020

## **Minutes**

June 11, 2020

*The following amendments were offered:*

Page 4, Lines 6, 15, 17, and 20; put quotation marks around “use of force”

Page 19, Line 17; “MOTION CARRIED” should appear after “Councilor Rothhaus Abstained”

**MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to approve the meeting minutes of the Town Council meeting of June 11, 2020, as amended. MOTION CARRIED 6-0-0**

**Comments from the Press** - None

**Comments from the Public** – None

### **Comments from the Council**

Councilor Harrington thanked Town Manager Cabanel for the amount of work she and her staff do on behalf of the Council and Town.

Vice Chairman Boyd remarked those that he speaks with in other communities want Eileen Cabanel to be in their communities; that is how great she is at her job. He referred to her as one of the top 3 Town Managers in the State.

Chairman Koenig commented COVID-19 is still with us, and encouraged residents to continue to maintain social distancing, hand washing, and wearing masks to keep themselves and those they come in contact with safe. He echoed the remarks of his colleagues regarding his appreciation of the job the Town Manager has done. He spoke of the tremendous job she has done leading the Council through the numerous situations that have come before it over the past year.

Chairman Koenig spoke of the remarkable staff in the Town of Merrimack, and the appreciation of the Council.

## **Adjourn**

**MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to adjourn the meeting. MOTION CARRIED 6-0-0**

*The June 25, 2020 meeting of the Town Council was adjourned at 9:54 p.m.*

Submitted by Dawn MacMillan