

Approved: August 27, 2020

Posted: September 9, 2020



## **Town Council Meeting Minutes**

Thursday, July 23, 2020 at 7:00 PM, in the Matthew Thornton Room

Chairman Tom 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, Councilor Albert, Town Manager Eileen Cabanel, and Assistant Town Manager/Finance Director Paul Micali.

### **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.

Retreat Meeting will be conducted Friday August 21 at Buckley's Great Steaks 438 D.W. Highway, this is an all-day event.

Additional meetings may be conducted as needed in regards to the opening of Wildcat Falls Conservation Area.

Town Manager Eileen Cabanel mentioned that Merrimack Lions Club and Merrimack Parks & Rec invite you to join them on Friday July 24<sup>th</sup> at 8:30 pm for the first free movie night of the summer. This year the movie nights will be held at Wasserman Park on the T-ball field next to the tennis courts. The first movie will be Star Wars the Rise of Luke Skywalker.

Town Manager Cabanel then went on to speak about the events going in town for the past month or so our in our parks such as defecation in the river, the poor condition of the port-a-potty, large amounts of trash and about the high E-Coli levels in the water.

Town Manager Cabanel has received complaints from local business owners of Watson Park visitors filling up their parking lots. Town Manager Cabanel wants residents to know that the town is aware that these things are happening and are doing their very best to stop this from happening.

### **Comments from the Press and Public**

Unidentified women asked about Currier Road and Chairman Koenig responded that there would be a separate session for that.

### **Public Hearing –** Chapter 183, Vehicles and Traffic, of the Merrimack Town Code

The Town Council will hold a public hearing to consider the acceptance of the recommended changes to the Chapter 183, Vehicles and Traffic, Article 3 Sections 24 (A) and 36 of the Merrimack Town Code pursuant to Charter Article V.

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Town Manager Cabanel explains that this is two parts. Section 24 (A) refers to a Merrimack Residents Only Parking Area, at the last council meeting several fines were added in. Manager Cabanel found out after the meeting that the Council didn't have the ability to do that. So going forward 24 (A) will not contain the fines, those will be addressed later. Part 36 will address the streets with resident only parking and which side of the street can be used in the one side only parking.

183-24 Discussion: The current packet does not include the need for a transfer station sticker or some other official Merrimack Resident Decal but will be added to it as discussed at the last meeting, basically saying that an official town sticker (decal) will be needed for residents to be able to park on these designated streets.

Councilor Nancy Harrington offers a suggestion that the no parking be seasonal, meaning it would only be effective April through October 31. This would help alleviate the residents from not being able to have visitors.

Councilor Lon Woods has concerns about the Merrimack resident designation language being too ambiguous.

Town Manager Cabanel addresses the confusion around the topic of creating one town decal in the future. She explains that it can be addressed at a later time and that the decal would be one official decal and not individual.

Councilor Albert has received emails from residents' regarding guests and information on how other towns handle the same issue. One of the suggestions that he liked was residents could give the police department a 24 hour notice of guests and have guests put a printout in their windows with the residents initials on it for that one day. This way if police get called out for a parking violation they would know the vehicle belonged to a guest and which home they were visiting.

Town Manager Cabanel expresses her concern, for the staffing issues this could cause. Right now we have limited police staffing per shift to handle 30,000 people. She goes on to caution the Council that by law they are required to give every resident the same level of services and asks them to think about this carefully. A discussion ensues on the topic of staffing levels.

Councilor Harrington understands what the neighborhoods are saying but also understands the ramifications that come later. She is looking for middle ground because we have to be able to control the situation. Offers up the idea of a placard that would have to be acquired by the resident in advance and expires after 24 hours. The placard would not be a continuous thing. It would be inconvenient but would offer the opportunity for guests to visit. A discussion ensues regarding placards.

Chairman Koenig brings up all the emails that are pro and con involving residents only parking. Then goes on to say that we would almost need a parking division at the police department if we get into placards and all that kind of stuff. An office and a program with a protocol would need to be established if this were to grow. This may need to be recommended to a committee as there can be large expenses associated with setting up a program like this.

Councilor Barbara Healey thanks everyone who has sent emails to the Town Council. She visited Wildcat Falls Conservation Area with the Litter Crew and while they were all parked in the parking lot, she saw two

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trucks from out of state show up wanting to move the barricades so that they could come in as well. She mentions that they need to be prepared for people that will not respect the residents only parking on the street and park there anyway. States that the solution needs to not only work at Wildcat Falls Conservation Area but at all areas within town.

Town Manager Cabanel reminds council that they have two options tonight; the residents only parking and/or parking on one side of the street. Assistant Town Manager Paul Micali will show what the streets will look like with all of these signs via photographs.

Chairman Koenig brings up concerns that if two residents on either side of the street have a party we are going to have the same problems we have now with the streets being too narrow.

Councilor Peter Albert mentions that this is only the second meeting about these ordinances and that they can extend it out another meeting if need be giving them a couple of more weeks to work on it.

### **Chairman Koenig opens the public hearing at 7:36 pm.**

Thomas Doucette of Pine Haven Drive, explain it's a narrow street with 3 houses and has an entrance to Wildcat Falls Conservation Area that no one can ever find. He is concerned that the resident only parking will leave them nowhere to park and suggests closing the entrance to Wildcat Falls Conservation Area permanently. Other suggestions were to have people park at the high school or build another entrance somewhere else.

Chairman Koenig explains why the high school is not an option.

Paul Marone of 29 Currier Road appreciates all the attention this is getting. Claims the parking issue has come up as a way to resolve the volume of people as well as the parking problems. Makes mention of the issues at all of our parks not just Wildcat Falls Conservation Area. He likes Councilor Albert's idea of assessing town parking issues on a case by case basis. He suggests being able to call the police department when they will be having a party/guests to alleviate any parking concerns.

Leah St. Laurent of 32 Currier Road found the temporary parking on one side of the street to be a problem. Her driveway is small and when trying to go up the street would have difficulty because now traffic was coming at her head on to get around the cars parked on the other side as well as pedestrians. She brings up issues with statements made at the previous council meeting about how creating a bigger parking lot would create more trash and erosion within the park. She feels that resident only parking is discriminatory and does nothing to alleviate the number of visitors to the park. She then mentions the negative effects she believes this ordinance would have on the ability to sell a home in these neighborhoods. Leah also voiced concern for lack of advertisement of tonight's meeting and suggests notifying residents in writing of the meetings. Discussion ensues over the parking issue and resale ramifications.

Chairman Koenig responds saying that if visitors don't go away and park on the street anyway, without resident only parking an officer has no way of enforcing parking.

Councilor Finlay Rothhaus speaks to the benefits of social media and nixle to make residents aware of council meetings. It was determined that the meeting was published on social media but not via nixle.

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Chairman Koenig reads a letter from Grace Fairbairn of 35 Currier Road that says the resident only parking will not work for her family. Claims it is discriminatory and wants exceptions made for out of town guests via signage. Suggests an alternative parking lot, fees and suggests a fundraising committee.

Vice Chair Bill Boyd reads letter from Tiffany Cross of Currier neighborhood writes to express the neighborhoods opposition to the parking ordinance due to it being unfair. The letter was signed by multiple residents from the many streets within the neighborhood.

Chairman Koenig reads a letter from Rich Schroll of 6 Hemlock Street which questions the reason for the trail, who the intended user of trail is and what is a reasonable number of visitors in a day? Makes mention of high traffic volume and undesirable behaviors. Suggests offering alternative access points to reduce traffic.

Vice Chair Boyd reads letter from Ursula and Hubert Gall please consider the one side of the street parking and for residents only.

Vice Chair Boyd reads letter from Diane Hancock of 9 Souhegan Drive do not support resident only parking for the neighborhood.

Chairman Koenig reads letter from Shannon Lazarro who does not support the ordinance change 100%. She would like it to be restricted to April to October with exceptions for out of town guests. She also suggests an alternate entrance.

Vice Chair Boyd reads a letter from Pamela Soucy that discusses why the current version of the ordinance won't work. She would like parking for Wildcat Falls Conservation Area to only be in the lot and street parking for neighborhood residents.

Chairman Koenig reads a letter from Amy Simoneau who spoke to the Police Chief in Deering that has dealt with a similar problem. She included the ordinance from Deering with the letter for review. Her letter to the Conservation Committee was also read. She is in support of the ordinance.

Vice Chair Boyd reads a letter from Brenna Hanson of 3 Currier Road who wants Wildcat Falls Conservation Area kept closed until enforceable ordinances are in place and wants the neighborhood resident only parking and provides a fine schedule. She discusses guest parking options and suggests a possible speed limit reduction.

Jerry St. Armand of 31 Currier Road discusses the recent increases in traffic and activities. Requests additional traffic data, more trash cans, parking lot expansion, more signage, etc.

Councilor Albert discusses the streets in town that have no parking and the lack of issues.

Paul Marone of 9 Currier Road again discusses his feelings on the ordinance and the lack of options. He suggests permanency vs. temporary.

Councilor Healey and Vice Chair Boyd question if the Currier Road neighborhood traffic picks up in April or closer to Memorial Day. They also discuss the types of visitors in April vs. May.

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**Chairman Koenig closes the Public Hearing at 8:35 pm.**

Vice Chair Boyd asks Town Manager Cabanel if we have a legal opinion on the use of Wildcat Falls Conservation Area or if we are just using the language in the deed. Legal opinion is public use, however, deed does not specify restrictions on resident vs general public. The discussion led to questions on if we should dig deeper into our options; specifically resident only.

Assistant Town Manager Micali brings up insurance liability issues if Wildcat Falls Conservation Area becomes resident only due to loss of State Protection.

Councilor Harrington agrees with Vice Chair Boyd about asking the AG to offer an opinion on the Wildcat Falls Conservation Area Deed language.

**MOTION made by Councilor Albert and seconded by Councilor Harrington to move the proposed ordinance ahead to the final reading but with the additional wording regarding resident only parking allowing guest parking with prior notice and placard for discussion.**

Chairman Koenig opens the motion for discussion and asks Town Manager Cabanel if the change or guest parking would be an issue. The answer was no.

Chairman Koenig asks Chief Roy to respond to the guest parking addition. Chief Roy discusses the strain the process would add to the staff of the police department. Discussion ensues over the details among council members, Town Manager Cabanel and Chief Roy.

Town Manager Cabanel goes on to discuss the additional staffing that the town has already had to add due to the current situation at all of the town parks.

Councilor Albert called the vote for the guest parking addition. **Motion Failed 1-6-0**

**MOTION made by Vice Chair Boyd and seconded by Councilor Harrington to amend 183-24 (A), the resident only ordinance to be effective May 15<sup>th</sup> to September 15<sup>th</sup>. Clarification questions are asked. Motion Carried 7-0-0**

**MOTION made by Councilor Harrington and seconded by Councilor Healey move ordinance 183-24 (A) to a third meeting. Motion Carried 6-1-0 with Councilor Rothhaus opposed.**

Chairman Koenig begins a discussion about ordinance 183-36, one side of street parking. The streets and designated sides are introduced and explained. Councilor Rothhaus expresses concern for the Souhegan Drive area and Assistant Town Manager Micali provides an explanation of the decision. A discussion ensues. Pictures are provided of the signage that would be needed, estimated need of 72 signs.

The discussion expands to cover the possibility of 183-36 being seasonal May 15<sup>th</sup> to September 15<sup>th</sup>. Then goes on to cover the need for one sided parking to provide room for emergency vehicles to pass. Fire Chief Duke provides input.

**Chairman Koenig opens the public hearing at 9:20 pm.**

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Leah St. Laurent of 32 Currier Road questions emergency vehicles being able to pass safely through the neighborhoods even with one sided parking. Fire Chief Duke and Police Chief Roy provide input.

Paul Marone of 29 Currier Road speaks about the temporary no parking signs and the impact.

**Chairman Koenig closed the public hearing at 9:30 pm.**

**MOTION made by Councilor Albert and seconded by Councilor Harrington to move 183-36 forward with the addition of Souhegan Drive being the odd numbered side. Discussion ensues about the need for it. Motion Carried 7-0-0**

Councilor Healey asks about Town Manager Cabanel looking into options for other entrances into Wildcat Falls Conservation Area, which would be the ultimate solution.

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

Town Manager Cabanel has nothing to add.

### **Old Business**

#### **1. Review of updated Covid-19 Guidance for Amateur & Youth Sports**

*Submitted by Parks and Recreation Director Matthew Casparius*

The town Council to review the update of Governor Sununu's COVID-19 guidance document for Town Amateur and Youth Sports.

Governor Sununu's updated document had two changes. The first being that full contact sports are now allowed. Participants must social distance when possible and wear cloth masks when not possible. The second change is that all of the New England States can now participate in games.

The Council discusses the difficulty in having contact sports while maintaining 6 feet apart.

**MOTION made by Councilor Albert and seconded by Vice Chair Boyd to follow Governor Sununu's updated recommendations on youth sports. Motion Carried 6-1-0 with Chairman Koenig opposed.**

Chairman Koenig does not state why he is opposed to the Governor's updated guidance.

#### **2. Saint Gobain / NH Department of Environmental Services (NHDES) Air Permit Approval of Consultants**

*Submitted by Assistant Public Works Director/Wastewater Croce.*

The Town Council to consider the approval to pay certain consultants to assist the Town with challenges to Saint Gobain's NHDES Air Permit.

Saint-Gobain was granted a temporary Air Permit on February 11, 2020, after almost four years of research into ground water contamination. The stacks are emitting chemicals into the air contributing to the contamination. The permit requires that they install a Regenerative Thermal Oxidizer (RTO) to treat emissions.

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The Town submitted an appeal on March 10, 2020, because the permit doesn't control the emission of PFAS, Gen-X or Hydrogen Fluoride (HF).

On June 4, 2020, Saint-Gobain filed for an extension, claiming if it had to control pollution as requested by the town they would require a drastic remodel.

The appeal was accepted in April of 2020. A conference call was set up with all concerned parties on June 23, 2020, but the issues were unable to be resolved. The first hearing date has been set for December 13, 2020, with expert witness lists and exhibits needed to be turned in prior to the hearing. The Town will need expert witnesses to analyze the data and breakdown the highly technical information such as our 4,000 page stack test report.

Councilor Healey asks why the Town struggled to find expert witnesses. The issue was primarily conflict of interest but in some cases appeared to be fear.

Vice Chair Boyd questions if this is potentially a landmark or ground breaking appeal. The answer is possibly, it could set mandates on how BACT (Best Available Control Technology) is applied.

Councilor Albert expresses his disappointment with community partner Saint-Gobain and their lack of willingness to work with the Town on this issue forcing us into legal proceedings.

**MOTION made by Vice Chair Boyd and seconded by Councilor Healey to approve up to \$35,000 in funds to help with the Saint Gobain/NHDES Air Permit Approval Appeal. Motion Carried 7-0-0**

### **New Business**

**1. "The Longest Day" 2020 Proclamation / 5<sup>th</sup> Annual NH Hot Dogz**

*Submitted by Robert Bergin (not in attendance) read by Councilor Albert.*

The Town Council to issue a proclamation designating August 6, 2020, as the "Longest Day" to promote efforts of raising funds and awareness for the care and support of those facing Alzheimers Disease.

The definition of Alzheimer Disease and facts about the disease were provided along with the date and location of the event. This disease is the 6<sup>th</sup> leading cause of death in the U.S. Every 65 seconds someone develops Alzheimer Disease. The event is scheduled for August 6, 2020, at Our Lady of Mercy Church to be held outdoors under tents.

Chairman Koenig shares how Alzheimer's disease has touched his family and the daily struggles that they faced. He hopes that the town will be supportive of the event.

**Vice Chair Boyd moves the proclamation forward and is seconded by Councilor Healey. Vice Chair Boyd explains that this is a great opportunity for the public to be educated and show support at the same time. Motion Carried 7-0-0**

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

*Submitted by Town Manager Eileen Cabanel*

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

Councilor Koenig explains that this is being revisited after a lengthy discussion at the last meeting about adding fines into the code. The fines would be 1<sup>st</sup> offense \$50, 2<sup>nd</sup> offense \$100 and 3<sup>rd</sup> offense \$150.

Town Manager Cabanel moves the meeting forward with Council's approval as this is covered in the fine schedule to be discussed next.

Town Manager Cabanel begins a discussion explaining that her office found a way for the Council to implement a parking fine schedule in two meetings without an ordinance change. The law allows for the fine schedule via a clarification clause. The council must hold a meeting to read it, discuss the fine schedule, then move it on to a second meeting with a public hearing. At the same meeting as the public hearing the Council can then vote on it if they should choose to. The same process can be used to update the fees later on.

Town Manager Cabanel then provided a proposed fine schedule to the Council members that was generated after research and consideration by Town Hall and the Police Department. The fine schedule amounts are all automatic unless specifically outlined by the Town. The resident parking fine on this schedule is \$50.

A discussion of Chapter 183-19, Handicap Parking was brought up. There is an option to have a town fee or use the State of NH fee. It was decided that the Town would use the State fee.

Chairman Koenig mentions adding the second and third offense fines previously discussed to the proposed fine schedule, fine amounts are discussed. The fine schedule for 183-24 (B) was outlined as follows, 1<sup>st</sup> offense \$50, 2<sup>nd</sup> offense \$100 and 3<sup>rd</sup> offense \$150.

Town Manager Cabanel mentions replacing 3<sup>rd</sup> offense with subsequent offenses when adding it to the fine schedule they have been provided. The parking fine schedule was read by Chairman Koenig.

Councilor Albert, Chairman Koenig and Town Manager Cabanel quickly mention winter parking fees and if they should be increased as well. The option of towing cars was mentioned and it was ultimately decided to leave the winter parking fee alone for now.

Chairman Koenig reads the parking fine schedule.

**MOTION made by Councilor Harrington and seconded by Councilor Healey to move the fine schedule to a public hearing. Motion Carried 7-0-0**

Public Hearing for Chapter 181 and the Fine Schedule for Chapter 183 will be held on August 6, 2020.

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

*Submitted by Deputy Public Works Director Dawn Tuomala*



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The Town Council to consider the recommended changes to Chapter 183, Vehicle and Traffic, to revise the wording on Hadley Road to prohibit vehicles from parking on Hadley Road during school hours (7:00 AM to 4:00 PM) on school days.

Dawn explains that they are looking to prohibit parking of vehicles on both sides of Hadley Road during school hours, 7 am to 4 pm on school days. It is explained that Hadley Road is a small, narrow road off of McElwain Street. High school students have been parking on the already narrow road making it difficult for emergency vehicles to pass. The Highway Safety Committee was consulted before presenting this to the Council. Maps and photos were shown to the Council Members to provide a better visual.

Clarification was needed because the street already has a no parking at all times section on the south side. This consideration would not change that it would simply add no parking the entire length of the street during school hours on school days.

Councilor Albert asked if residents were consulted about this and they were. One even spoke at the Highway Safety Committee Meeting. He also asked roughly how many signs would be needed for this and the answer given was about 12 signs.

Councilor Rothhaus questions why the time is until 4:00 PM. Mentions that in the past the time frame would end at 3:00 PM and suggests bringing the time to 7:00 AM until 3:00 PM.

The Fire Department weighs in on the narrowness of the road and how beneficial the parking restriction would be especially in the winter months.

Councilor Albert mentions notifying Hadley Road residents of the public hearing. Chairman Koenig and Councilor Harrington agree. The possibility of mailing a note to residents is mentioned.

**MOTION made by Councilor Rothhaus and seconded by Councilor Harrington to move the Hadley Road parking changes of Chapter 183 to a public hearing on August 6, 2020. Motion Carried 7-0-0**

### **Minutes**

**MOTION made by Councilor Harrington and seconded by Councilor Albert to accept the minutes from Thursday, June 25, 2020, as presented. Motion Carried 7-0-0**

**MOTION made by Councilor Harrington and seconded by Councilor Albert to accept the minutes of Thursday, July 9, 2020, as presented. Councilor Healey calls for the extra spacing to be removed. Motion Carried 6-0-1 Councilor Albert abstains.**

**Comments from the Press** - None

**Comments from the Public** - None

**Comments from the Council**

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Chairman Koenig makes mention of COVID-19 and not wanting to see NH with an increase of cases and commends people for their efforts in social distancing and staying healthy. Thanks everyone for their patience and cooperation.

**MOTION made by Councilor Harrington and seconded by Councilor Healey to adjourn. Motion Carried 7-0-0.**

*Meeting adjourned at 10:48 pm.*

Submitted by Shannon Saari