

Approved: August 27, 2020

Posted: September 9, 2020



Special Town Council Meeting Minutes

Thursday, August 6, 2020 at 7:00 PM, in the Matthew Thornton Room

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

Pledge of Allegiance

Chairman Koenig led in the Pledge of Allegiance.

As Vice Chairman Boyd and Councilor Rothhaus were participating electronically, in accordance with the Right to Know Law, Chairman Koenig requested they state, for the record; where they were, why their attendance in person was not reasonably practical, who, if anyone, was with them, and whether or not they could hear the proceedings.

Councilor Rothhaus stated he was in New York, his attendance in person was not reasonably practical given his location, no one was with him, and he could hear the proceedings.

Vice Chairman Boyd stated he was quarantined at home, his attendance in person was not reasonably practical given that, no one was with him, and he could hear the proceedings.

Chairman Koenig stated, for the record, those present at the meeting were able to hear Vice Chairman Boyd and Councilor Rothhaus, and reminded the Council all votes would be taken by Roll Call.

Announcements

Regular meetings of the Town Council will be conducted on Thursday August 20th and September 10th and 24th at 7:00 p.m. in the Matthew Thornton Room. The Council's Annual Retreat will be conducted on Friday, August 21, 2020 at Buckley's Great Steaks, 438 D.W. Highway from 9:00 a.m. - 4:00 p.m.

The Parks and Recreation Department and the Merrimack Lion's Club invite you to join them Friday August 7th at 8:00 p.m. for the second free movie night of the summer. This year's movies will be held at Wasserman Park. Grab your blankets and lawn chairs and join us for a fun and socially distant night out in the park to watch Toy Story 4.

Comments from the Press and Public

Linda Theroux, 58 Patten Road

Spoke of the Proclamation designating August 7, 2020, as Purple Heart Day. Her Father served in WWII in the European Theatre, was wounded 3 times, and is a Purple Heart recipient. She expressed gratitude to the Council for its consideration.

Richard Maloon, 117 Amherst Road

Back in 2006, the Town organized a Watson Park Committee. Only a few members of that committee remain who can provide information on the history of the park. He can remember the park being crowded and the beach that was there. When the dam was removed all of the sand that had been accumulating over 100 years washed down and made a beautiful sandy beach, easy to get to. All of a sudden a large amount of trash has appeared. Unbeknownst to him, the Town Manager decided this should be on the Council's agenda bypassing the law which insists that first the two directors of the Parks and Highway Division make a recommendation to the Council with regard to park closure. He has been visiting the park in the past few days. Whatever the Town has been doing, the area is now clean. He would like to understand why closing the park would be considered.

There being no objection, the Council went out of the regular order of business to take up Item #3 under New Business.

3. National Purple Heart Day

Submitted by Town Councilor Barbara Healey

The Town Council to issue a Proclamation designating August 7, 2020, as "Purple Heart Day".

"The Town of Merrimack
Town Council
Proclamation
Purple Heart Day
August 7, 2020

WHEREAS the Purple Heart originally known as the Badge of Military Merit was established by General George Washington at his headquarters in Newburgh, New York on August 7th of 1782, and

WHEREAS the contemporary Purple Heart is a combat decoration awarded to military members of the United States Armed Forces who are wounded as a result of action by a hostile force and posthumously to the next of kin in the name of those who were killed in action or died from wounds received in action, and

WHEREAS Veterans have paid the high price of freedom by leaving their families and communities and placing themselves in harms way for the good of all, and

WHEREAS the Town of Merrimack has residents that have been awarded the Purple Heart for wounds received in combat or made the ultimate sacrifice; and

WHEREAS the citizens of the Town of Merrimack are honored to recognize all military members who have served or are currently serving in the United States armed forces, and are proud to dedicate August 7th as a special tribute to those brave service members who have received the Purple Heart.

NOW THEREFORE; be it proclaimed by the Merrimack Town Council that August 7th annually shall be known, designated, and set aside as Purple Heart Day in the Town of Merrimack New Hampshire, and added to the Town Calendar. We urge the people and organizations of Merrimack to display the American Flag as well as other public expressions of recognition of our Purple Heart recipients.

Proclaimed this 6th day of August 2020 by the Merrimack Town Council.”

MOTION made by Councilor Healey and seconded by Councilor Harrington to authorize the Proclamation designating August 7, 2020, as “Purple Heart Day”.

ON THE QUESTION

Councilor Healey spoke of prior action to proclaim Merrimack as a Purple Heart Community. In that light, we should be proud and honored to recognize our Purple Heart recipients within the Town on the National Purple Heart Day.

Chairman Koenig recognized in the audience were Paul Roy, Commander, VFW, Janet Foster, Quarter Master of VFW, and Linda Theroux, Treasurer, and past President of VFW Auxiliary. He spoke of others in the community, and stated appreciation for the sacrifices made.

Councilor Albert expressed his gratitude towards the veterans. Councilor Rothhaus stated appreciation for the sacrifices and service of all veterans. Vice Chairman Boyd echoed the sentiments of his colleagues.

A Roll Call vote was conducted, which resulted as follows:

Yea: Councilor Rothhaus, Councilor Albert, Chairman Koenig, Councilor Woods,
Vice Chairman Boyd, Councilor Harrington, Councilor Healey

7

Nay:

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MOTION CARRIED

The Council returned to the regular order of business.

Public Hearing

1. Public Hearing – Consideration of Changes to Chapter 181, Traffic and Special Event Management, of the Merrimack Town Code

Submitted by the Merrimack Town Council

The Town Council will hold a public hearing to consider the acceptance of recommended changes to Chapter 181, Traffic and Special Event Management, of the Merrimack Town Code, amending Section 181-05, Violations and Penalties, pursuant to Charter Article V.

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Chairman Koenig noted the article allows the Council to define an emergency situation and control parking, foot traffic, etc. Originally, the parking violation fine was set at \$25. The proposed amendment would increase that to \$75.00.

Councilor Harrington asked for clarification, and was informed following the public hearing, the item would be moved to a 3rd reading.

Councilor Albert commented we have established emergency exceptions. We went through the process with Currier Road, and it was determined it was not an emergency. To him, it was a quality of life issue. He questioned if that wording can be added to the article prior to the final reading.

Town Manager Cabanel responded although the point being made is well taken, she does not believe it should look to be addressed through the language of the article. She will look into it further to identify where an appropriate place would be. The Town did collectively declare an emergency relative to those neighborhoods, but the emergency was that a fire truck could not get through and the Police Department, through no fault of their own, did not know that the violations were in fact enforceable, but at \$25. It was a miscommunication.

Chairman Koenig declared the Public Hearing open at 7:30 p.m.

Charles LaFond, 7 Linden Way

Beyond an emergency situation, he does not want anyone, outside of a guest of his, parking in front of his house. If someone continually parks on his front lawn, he will take issue with that, and is hopeful the Town would back him. He understands the need for signage, but stated, as a default, no one is allowed to park in his yard. He is aware of situations associated with the pandemic, but it is a common sense issue; you don't park in someone's yard or on the banks at Watson Park. When a situation gets out of control, he expects support be provided. He believes there to be existing laws to address that. He is supportive of the proposed increase to the parking violation.

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

Town Manager Cabanel clarified public streets are available to all. They cannot park on your lawn or your property. A public street needs to have some kind of regulation in order for the law to be enforceable.

MOTION made by Councilor Harrington and seconded by Councilor Healey to accept the recommended changes to Chapter 181, Traffic and Special Event Management, of the Merrimack Town Code amending Section 181-05, Violations and Penalties, pursuant to Charter Article V and move to a 3rd reading

A Roll Call vote was conducted, which resulted as follows:

Yea: Councilor Rothhaus, Councilor Albert, Chairman Koenig, Councilor Woods,
Vice Chairman Boyd, Councilor Harrington, Councilor Healey

7

Nay:

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MOTION CARRIED

2. Public Hearing - Consideration of Changes to Chapter 183, Vehicles and Traffic, of the Merrimack Town Code

Submitted by the Merrimack Town Council

The Town Council will hold a public hearing to consider the recommended changes to Chapter 183, Vehicles and Traffic, to revise the wording on Hadley Road to prohibit vehicles from parking on Hadley Road during school hours (7:00 AM to 3:00 PM) on school days, pursuant to Charter Article V.

The Council had requested notification be provided specifically to the residents on Hadley Road to ensure their awareness of this item. As the notification has not yet occurred, the request was made that the Public Hearing be postponed until the Council's next regularly scheduled meeting.

Vice Chairman Boyd questioned if a snow emergency is declared if and when school has to cancel due to snow or when there is the anticipation there will be snow exceeding a certain amount. He questioned if the language would read better to state "No parking during snow emergencies" versus "no parking during school hours".

Town Manager Cabanel requested the questions be posed at the time of the Public Hearing when representation from the Public Works Department (PWD) could be present. Councilor Albert spoke of the timing of completion of the process and the desire for there to be ample time for motorists to be made aware of the change prior to the start of the school year.

MOTION by Councilor Woods and seconded by Councilor Albert to table the Public Hearing until August 20, 2020.

A Roll Call vote was conducted, which resulted as follows:

Yea: Councilor Rothhaus, Councilor Albert, Chairman Koenig, Councilor Woods,
Councilor Harrington, Councilor Healey, Vice Chairman Boyd

7

Nay:

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MOTION CARRIED

3. Public Hearing - Discussion of Adoption of Parking Fine Schedule for Chapter 183, Vehicles and Traffic, of the Merrimack Town Code

Submitted by the Merrimack Town Council

The Town Council will hold a public hearing to consider the adoption of a Parking Fine Schedule for Chapter 183, Vehicles and Traffic, of the Merrimack Town Code.

Chairman Koenig commented on discussion that occurred at the last meeting regarding a parking fine schedule that would be associated with Town Code Chapter 183. Being separate from Town Code, it would not require the process of 3 readings in order for a change to occur. The intent of the Public Hearing is to discuss that fine schedule.

Chairman Koenig declared the Public Hearing open at 7:44 p.m.

No public comment was offered.

Chairman Koenig declared the Public Hearing closed at 7:45 p.m.

MOTION made by Councilor Harrington and seconded by Councilor Albert to accept the adoption of a Parking Fine Schedule for Chapter 183, Vehicles and Traffic, of the Merrimack Town Code

A Roll Call vote was conducted, which resulted as follows:

Yea: Councilor Rothhaus, Councilor Albert, Chairman Koenig, Councilor Harrington,
Councilor Healey, Vice Chairman Boyd

6

Nay: Councilor Woods

1

MOTION CARRIED

Town Manager's Report - None

Consent Agenda - None

Old Business

1. Consideration of Changes to Chapter 183, Vehicles and Traffic, of the Merrimack Town Code [Final Reading]

Submitted by the Merrimack Town Council

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 (A), Residents Only Parking Areas, pursuant to Charter Article V.

The proposed addition reads as follows:

A. The following areas are designated as residents only parking areas from May 15th to September 15th inclusive with parking restricted to Merrimack residents, said residents to be identified by the Merrimack Transfer Station sticker or any other official decal designating Merrimack residency displayed on the vehicle that is available to Town residents; Birch Street, Currier Road, Fir Street, Hemlock Street, Pinehaven Drive, Souhegan Drive, Tiffany Lane.

Councilor Albert remarked during the last discussion he questioned the creation of a guest exception.

Town Manager Cabanel stated her opposition to the proposed change, and concern with the setting of precedent. The suggestion was for a laminated tag (having a yearly expiration date) that could be provided to residents (2 per resident) to share with guests. She suggested additional tags (whether lost or otherwise) not be issued until the following year.

Councilor Albert suggested residents intending to have a celebratory event provide 24 hours' notice to the Police Department. Town Manager Cabanel stressed there would be the requirement for a temporary day pass for instances such as those.

Councilor Harrington suggested language “two guest placards to be available upon request yearly for each resident on these designated streets from September 15th to May 15th.” She further suggested each placard include the address it is associated with.

Denise Roy, Chief, Merrimack Police Department, spoke of being adamantly opposed. She questioned if the placards could be given out when residents register their cars or a similar instance noting it would be burdensome on the Police Department to have to issue them. She can understand the department providing the temporary passes. She questioned what would occur if a resident of the Town, who does not reside in the neighborhood, wanted for themselves and a guest to park on the public streets to gain access to the public park.

Town Manager Cabanel suggested keeping it as simple as possible; there is a parking lot available for any member of the public at Wildcat Falls. There is also street parking for Merrimack residents only. This is to accommodate for people who have limited parking in their neighborhoods. The official nature of the placards/hang tags, and day passes makes it less cumbersome for the police department to pose any questions.

Noted was that there are different rules in place for Wasserman Park, e.g., a Merrimack resident can be present in any vehicle. Councilor Harrington suggested the rules be consistent from one location to another. At Wasserman Park there is an individual present who can check on residency, which would not be the case for Wildcat Falls.

Councilor Rothhaus commented at the public hearing he heard concern with not being able to host parties and small lots/short driveways. For has difficulty with making it a residents only parking situation, and will likely not support that action. He is uncertain of the solution, but believes it likely the size of the parking lot should be increased. He is relatively in favor of an attendant being located there for the weekends during this time. He is also hopeful it will settle back down to previous conditions when the current situation resolves. To expect any department to deal with guest tags and all of the associated issues, is really cumbersome at the least. He is concerned with setting precedent and the unintended consequences.

Chairman Koenig spoke with some of the neighbors and they all seemed to think resident only parking would be the solution, but then the law of unintended consequences got in the way and now we are starting to worry about guest passes and treating one neighborhood differently than another. He is receiving an equal number of emails from individuals not wanting this action as from those who do. He is uncertain he could support resident only parking on these streets as he does not believe we should move forward with guest passes as it would likely create problems that we have already started to see around Watson Park and other places.

Councilor Albert asked his colleagues to think about what got us to this point. That neighborhood was a mess and the Council heard from a great many people who wanted assistance. We have tried several things and hit roadblocks. He spoke of the temporary signs being unenforceable, manpower issues, etc. He was expecting more from the Town, and it has become the burden of the Council to find an answer. He does not wish to put resident only parking in these neighborhoods, but if that is done and we reach a point where these issues are no longer being experienced, a change could occur.

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If not passing this, he would want assurances from the Town Manager and Police Chief that if we open that park up and this mess occurs again those temporary no parking signs will go right out, and we will have an officer in the area. He would understand the financial impact of having an officer there at prime time to issue tickets for those who violate the law. He spoke of the impact on the residents' quality of life.

Councilor Woods stated his belief the Council has pointed itself in the direction of not passing this. We have listened to ourselves, the Town Manager, Police Department, Fire Department, and residents. We leave a meeting on a Thursday and by Friday morning our emails are lit up with "yeah but how about this" or "excuse me, I didn't mean that you should do this." We are no further ahead than we were at the last meeting in April. He stated he was not prepared to vote in support of the proposal.

Councilor Healey spoke of 11 letters received five of which were against resident only parking on the street and 6 were in favor. She questioned the definition of resident in this instance; Town or neighborhood. Everyone in Town pays for the upkeep of the streets. Everyone in Town has a right to park on those streets. Whether we go one way or the other, have we really solved the problem that brought us here other than the mess that was being created on the streets in the neighborhood leading to Wildcat Falls.

The issue is that emergency vehicles could not get through certain parts of the streets if there was double parking. Whether we provide resident placards or not, can emergency vehicles make their way through the area. That is the question we have not answered yet.

Town Manager Cabanel stated the intent was for all Merrimack residents. The placards being discussed would be for residents of that neighborhood, which is a new concept. As Chief Duke explained at the last meeting, the Fire Department will get through if there is an issue. When this was originally brought up efforts were underway to come up with a straight face emergency reason to put no parking on one side to give them some relief for now. She believes there to be areas where we could place no parking signs; where there are tight bottlenecks, curves, etc. that would address that.

Councilor Healey questioned, if not supporting this action, what would be the next step. Councilor Albert asked if the temporary no parking signs could be put up if Wildcat Falls was re-opened and the streets were once again overrun.

Town Manager Cabanel spoke of the amount of time and effort that has gone into trying to resolve this issue. The Police Department cannot enforce laws that do not exist. She is willing to put up temporary emergency signs for the fire trucks if we open it up, but all that does is prevent people from parking on one side. She commented some of the residents were taking the signs off of their lawns and throwing them in the street. The Police Department has been going down there. They are helpful. They have been yelled at and treated badly by some people. It is a bad situation. It is bad down at Watson Park. There are things going on in this Town and around the Country due to the pandemic. People are just going crazy and doing things you would never expect. There is not a good solution to this. She has an opinion and has provided that, and at the same time offered suggestions and methods by which the Council can do what it wishes.

Councilor Harrington remarked she does not like a lot of government involvement, but we have to respond to situations that arise within the community. She respectfully disagreed with the remarks that we are no further along as there have been many discussions that have occurred, and a decision will be reached. She believes the Council has to do the one-side parking as she would not want to wait until an emergency occurs to address this issue. When the parking lot gets full, we can discuss the possibility of enlarging it. When full, parking spills out onto the street. She is of the opinion Merrimack resident only parking will help the situation. It is an additional task on the police department, but one she believes has to take place to be able to assist the community. Initially she did not like the idea of guest passes; however, finds it unreasonable to think you cannot have visitors at your home. If we don't pass this, we are literally at step 1, and in a position of opening Wildcat Falls or having it remain closed because we cannot reach a decision. She resents the fact that we have to do it, but is willing to make the decision. Should circumstances change in the future, she would be receptive to additional changes. She is supportive of the proposal with the addition of placards.

Councilor Albert questioned what would be done as a next step if not passing the proposal at this time.

Vice Chairman Boyd commented he started in April having something etched in his mind as to what he hoped would be accomplished. As he has engaged the neighbors and received and heard the testimony of residents, he has pivoted away from his original thought in search of trying to fix the problem. He is confounded by the lack of consensus in the neighborhood. He is empathetic to the idea if they have friends and family over for any type of gathering there is an expectation that they should be able to utilize the streets. He stated concurrence with the remarks of Councilor Harrington in part; there needs to be one side of the street with no parking. Emergency apparatus needs to have access. He encouraged looking at that portion of Hemlock Street that is perpendicular to the entrance to Wildcat Falls and consider no parking on both sides of the street strictly from an emergency access perspective. He spoke of navigating that turn with on-street parking and comments Chief Roy made at the last meeting regarding stop signs at that particular location. He questioned if the neighborhood and emergency personnel would be better served by having that section of Hemlock Street designated no parking.

He is inclined not to support the proposal based on the testimony that has been provided thus far. In terms of a short-term solution, he believes, at least through September 15th, we need to consider keeping Wildcat Falls closed. After that, a soft reopening could be considered. The Town is already paying a PWD employee and a Parks and Recreation employee to be in the area. There may be an opportunity for data collection in terms of the level of traffic in the area.

He suggested the Town Manager and Assistant Town Manager consider the concern the neighbors have had with the level of speed on Currier Road, and questioned if there is an opportunity for traffic calming measures.

If the proposed change to Chapter 183 is not supported by the Council, those who have been following the issue will at least be able to know we have given this an honest vetting.

Chairman Koenig remarked the concept has been brought up of creating guest passes. If the decision is to do that, he believes the matter needs to be sent back for another Public Hearing. He spoke of a letter received from 14 residents indicating opposition to this article.

Asked, Town Manager Cabanel stated her belief the last time this issue came up it was related to a fine, which is why it was considered a substantive change requiring a public hearing. Adding language around guest passes likely would not be considered substantive. She believes that would just kick the can down the road. Most of the people that are in favor of the change are in favor of guest passes and those against the change are also against the passes. Another communication was received regarding the diminution of real estate values due to signage.

Chairman Koenig commented he was simply suggesting, should the Council wish to consider this a 1st reading of a changed ordinance, we could go to a public hearing, which would be the second reading at the next meeting. That action would not be a complete reversal to the start. Councilor Harrington commented on the timing involved, e.g., could be September 15th by the time the process is completed.

Chairman Koenig remarked if it is believed changes could be made at this time that would not be substantive, and it is the will of the Council to pass, that action could occur as well. Councilor Albert stated concern with the amount of time involved. He questioned if language could be devised at this time. Chairman Koenig responded he is uncertain the answer to that is known.

Councilor Healey noted she had not seen the letter referenced, questioned what the neighbors expressed being against, and if they offered alternative solutions. Chairman Koenig stated, in his personal opinion, no one has offered reasonable alternative solutions. There have been solutions offered, which he felt were unreasonable, e.g., make the parking lot Merrimack only, which we cannot do, issue day passes for \$4 for 2 hours, etc. The letter he referred to came in at 4:32 p.m. this afternoon labeled Currier Road Neighborhood, and signed by Tiffany Cross with the names of 14 residents listed at the bottom. It starts out *"We are writing to you again regarding our strong opposition to both ordinance changes to make all the roads in Currier Road neighborhood"* and lists them all *"resident parking only. We empathize with and support our neighbors on the lower loop and on Currier Road who are impacted the most by the traffic and inconsiderate behavior of those visiting the conservation area. However, once opened, these ordinance changes will not stop the traffic or the misuse of the trails as out-of-town visitors can still park in the lot. As it was made very clear that the allowances for guests are not a consideration for compromise, we would like to reiterate that we, as a group, are asking you to please vote no on these ordinance changes. We ask you take into consideration the unfair restrictions they put on us as residents of the neighborhood, the difficulty they may make for us to sell our properties or property value decrease, not to mention the unsightly signs in our neighborhood. We feel most of the problems will not be solved by the residents only parking ordinance. As Watson Park has shown us, once Wildcat Falls is opened many of the problems will resume with or without the ordinance changes."*

Chairman Koenig stated it sounds as though they are in favor of guest passes, but it is not clear that would solve all of their problems. In a lot of the letters he received, individuals expressed being happy with the concept of the number of signs that would have to go out. The number of signs is required by law to make it legal and enforceable.

MOTION made by Councilor Albert and seconded by Councilor Harrington to accept the final reading of the recommended changes to Chapter 183, Vehicles and Traffic, of the Merrimack Town Code, to add Section 183-24 (A), Residents Only Parking Areas, pursuant to Charter Article V, with the addition of language indicating residents will be allowed to request two (2) guest placards to be issued annually by the Town, and may be issued special day passes, by the

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Police Department, for a large event (to be displayed by guests parking on the street), if providing a 24-hour notice to the Police Department

ON THE QUESTION

Councilor Harrington remarked, if the motion is defeated, she would like to understand the consensus of the Board relative to whether the park will remain closed until September.

Chairman Koenig noted the proposal for resident parking only identifies the period of May 15th and September 15th.

Vice Chairman Boyd asked for clarification, should the motion pass, the proposal would go to another reading. Chairman Koenig clarified passage of the motion would move the proposal forward as this is the third reading.

A Roll Call vote was conducted, which resulted as follows:

Yea: Councilor Albert, Councilor Harrington, Councilor Healey, Vice Chairman Boyd

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Nay: Councilor Rothhaus, Chairman Koenig, Councilor Woods

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MOTION CARRIED

Vice Chairman Boyd commented he changed his mind as he is trying to determine how to solve the problem. He did not feel he would be doing it justice if not supporting the motion to give the proposal a chance to see if it works out.

Councilor Rothhaus stated the desire to see the written language relative to guest passes prior to its publication.

Councilor Albert stated a desire to see a sample sign and understand the number of signs required to be posted. Town Manager Cabanel noted when reference is made to 76 signs it is related to resident only parking as well as no parking on one side of the street. There is no Statute dictating the number of signs. Director Fox utilized information available from the State regarding best practices for signage.

Councilor Albert suggested utilizing a minimum amount of signs with respect to concerns expressed. Town Manager Cabanel spoke of the need to speak with Director Fox with regard to a comfort level in regard to the number of signs, and she would certainly be willing to minimize the number of signs to address the concerns of neighbors.

Chairman Koenig remarked he is confident the Town would place the minimum number of signs it can, but there is the need to realize if there is only one sign on the street someone will take it to court. There has to be some quantity of signs around for people to be able to see them. He suggested Chief Roy and her staff can aid in that regard.

Councilor Healey stated the desire for an alternative entrance to be sought in a less populated neighborhood so that the Wildcat Falls entrance within the Currier Road neighborhood could be closed. Town Manager Cabanel stated that was looked at. The river surrounds most of Wildcat Falls,

the State owns the land on either side, and the remaining area is surrounded by other fairly congested neighborhoods. Chairman Koenig noted a bridge has been considered at a cost of \$1.5 million as a way to get around the water.

Councilor Harrington questioned when the Council would consider opening the park. Assistant Town Manager Micali stated the PWD will need 7-10 days of lead time to have the signage made. Town Manager Cabanel spoke of the need for policies to be put in place, and stated the hope the Council will be able to have the discussion at its next meeting.

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

2. State Primary Election Discussion

Submitted by Town Moderator Lynn Christensen

Town Moderator Lynn Christensen to provide the Town Council with an update on the upcoming State Primary Election scheduled for Tuesday, September 8, 2020. The Council will discuss any further actions that should be taken to protect the health and safety of voters and election workers, to include urging people to apply for absentee ballots.

The Town mailed out absentee ballot request forms to residents for the last election to provide an opportunity for residents to request absentee ballots by mail in order to reduce the number of in-person voters. Chairman Koenig asked Moderator Christensen if she believes it appropriate to do that again for this election cycle. The Secretary of State has stated people can request absentee ballots and can request them for both the Primary and General elections at the same time. Both elections he believes would have a larger turnout than the Town election.

Lynn Christensen, Town Moderator, stated she is not certain they would have larger turnout. Traditionally, with the State Primary in September we get 3,000 - 3,500 voters, which is what we had at the past 2 town elections whether in person or combined. When you look at the volume, you look at what is on the ballot. If you look at both the Republic and Democratic ballots, there isn't much contested in the Primary. The most contested would probably be the Democratic race for Governor.

Chairman Koenig commented if we have as great a turnout, and given the success of the last election, would it not be prudent to go ahead and request people use absentee ballots this time, if possible. Moderator Christensen responded "It doesn't hurt". The fact that we did it the last time made people more aware of the ability to request them. About half of those who requested them actually turned them back. That tells her that people were made aware and just decided, for whatever reason, they weren't going to be bothered with it. She personally does not see a need to do it. She might consider it for the November election.

Questioned if the 800-1,000 people that voted by absentee would cause any strain on our voting the way we ran it this year, she stated she did not believe so. Asked if it would be best to send out the ballot forms for the November election or send them out for the September election offering to do both at the same time, Moderator Christensen stated that could be done, but questioned if people would forget about it by November. She commented on the time required to get the notices out and the requests back to the Town Clerk. She does not believe it to be productive for the Primary.

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Asked who has the responsibility for making the decision of whether to send out requests for absentee ballots, she stated it to be the decision of the Town Council. She noted the Republican Party could decide that they were going to send out request for absentee ballots to every registered Republican. Anyone can do it.

Town Manager Cabanel remarked we had a very easy way for people to look at it; had a good letter and put it prominently on the website. Currently there is a link to the State's website. People who want an absentee ballot appreciate receiving the letter and being informed of how to get access to the form.

Moderator Christensen remarked the last election was a town election. It was not a State or Federal election. The Town took the opportunity to advise people that they could do this. This is not even really a State or Federal election, it is a Primary that is run by the political parties. It has nothing to do with the Town officially. The Town can do this. She has no issue with the Town doing this, if desired.

Town Manager Cabanel remarked getting 1,000 people, which was maybe 1/3 of the voting population, to not come to the polls during a pandemic was a good idea, and she believes everyone that participated did a fabulous job.

Moderator Christensen reiterated it is the decision of the Council, although she believes the timing to be late. Town Manager Cabanel remarked she asked about it last week, and the Clerk's Office said no. Moderator Christensen remarked the Clerk's Office opted not to, but that doesn't mean the Council couldn't do it, or the political parties couldn't do it. Anyone can do it. At this point, to spend that amount of money sending things out, she does not believe to be cost productive as she does not believe there is time to get the requests made and the forms out and returned.

Councilor Albert questioned the cost of the last mailing, and was informed there was no cost to the Town as CARES Act funds were utilized. That would be the case again. The cost was in the area of \$6,000-\$7,000.

Councilor Albert agreed voters are aware of the ability to utilize mail in ballots. He suggested another public campaign utilizing social media, electronic signs, etc.

Moderator Christensen remarked she would encourage the Council to move forward in this regard for the November election well ahead so that people have time to think about it, send in their request, receive the ballot back, and then get it back to the Town Clerk's Office.

Councilor Harrington agreed it is too late for the September election, and she feels less of a need. She wholeheartedly agrees with sending out the absentee ballot request form for the November election. We need to reflect that we are demonstrating as much as we can do to be able to facilitate voting.

A discussion entailed as to the appropriate timing for sending a letter out, the result of which was 2 months in advance (late September/early October for the November election).

Councilor Rothhaus remarked he understands the desire to avoid the large numbers of in-person voting because of the pandemic. For the General Election he supports sending the letter out 4-5 weeks in

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advance. Regarding the Primary Election, he believes it will be more lightly attended, and does not feel this would be a good use of the CARES Act funding.

Chairman Koenig noted the intent was to have the discussion in a public setting so that residents were aware of the interest in having residents apply for absentee ballots if they so choose to vote in that manner. Efforts will be made to publicize that, but the Town will not mail out specific letters requesting residents consider it. If voting in person, a mask will be required.

Asked if there are other changes or additional information that was put out by the Secretary of State, Moderator Christensen stated there to be a number of changes being considered. Guidelines have not been published. With regard to absentee ballots, she expressed concern with the postal response and how long it takes to get things back and forth.

For the General Election, a provision has been made to allow absentee ballots to be dropped off at the polls should voters decide they wish to utilize an absentee ballot, and there is not sufficient time to mail that in. There is the ability to pre-process absentee ballots Thursday, Friday, and Saturday prior to the election; can open the outer envelope only, which will provide an opportunity to examine the Affidavit to see if it is there and signed. If there is a way of contacting those who did not follow the instructions, there will be an opportunity for them to come to the Town Hall and remedy it.

Moderator Christensen spoke of the level of support received, and the success of the last election.

The Council returned to the regular order of business.

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

Submitted by the Merrimack Town Council

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.

Chairman Koenig stated the amendment adds the streets in the Currier Road neighborhood and defines one side or the other to be no parking. On Souhegan Road, instead of identifying north, south, east, or west, it identifies odd numbered side of the street.

The amendment adds the restriction of no parking any time (year round) on the entire length of Birch Street/north, Currier Road/east, Fir Street/south, Hemlock Street/northwest, Pinehaven Drive/east, Souhegan Drive/odd numbered side, and Tiffany Lane/east.

Councilor Rothhaus remarked for him the only street that he believes needs to be addressed is Hemlock; allowing for safety equipment to make that turnaround near the entrance to Wildcat Falls. The others are no longer necessary, and will be accommodated by the resident only parking component. He suggested amending the language.

Chairman Koenig noted Hemlock goes along the bottom and then up the right side of that block. Councilor Rothhaus commented the only real concern he has heard from police and fire was safety equipment negotiating that end of Hemlock that abuts the Wildcat Falls entrance (piece that runs east

to west). They seem to think the north side of the east/west part of Hemlock would be the appropriate no parking area.

Councilor Harrington stated her belief the original rationale still exists. The Fire Chief indicated he could not guarantee that they had room, but could express some concern. She is of the opinion the Council should move forward with prohibiting parking on one side of the named streets.

Town Manager Cabanel suggested the language be reconfigured with a recommendation from the Fire Chief. She noted the issue of the emergency ordinance was to give the neighborhood relief. She believes a good point was made to only restrict no parking on the side of the street that inhibits a fire truck. This was really a method by which to limit the amount of parking in the neighborhood rather than specifically to address the narrowness of the streets. If this isn't an urgent matter, she suggested moving it to the next meeting.

Councilor Rothhaus commented on there being a number of other areas in the community that have the same situation. He had viewed this ordinance as one method to try to tackle some of the overcrowding that had been brought on related to Wildcat Falls. If the residents only ordinance had not passed, he might have been more inclined to support this ordinance as a means of easing the situation in that area. He no longer sees this, as necessary.

Chairman Koenig requested the Chief provide additional information on parking regulations on streets; how close you can park to a corner, a stop sign, in front of a driveway/mailbox, etc.

Chief Roy stated you cannot park within 30' of approach to a stop sign. You cannot block driveways. You can't park in front of a fire hydrant. There is nothing saying you cannot park in front of a mailbox. You can park across the street from a driveway. There are no restrictions on parking all the way up to a corner. Chief Roy stated the suggestion of the Highway Safety Committee was prohibiting parking on the apex of the curve, e.g., you go all the way down Currier Road; that curve on Hemlock (left hand side) being the apex on both sides, would prevent a fire apparatus from clear passage were someone to be parked there. On the south (right) side of Hemlock Street there are spaces that are pushed off toward the wood line that are good parking spaces as they allow the truck to come through and are far enough off the road.

Town Manager Cabanel questioned if the Fire Chief is on the Highway Safety Committee, and was informed he is. Asked if he agrees with the recommendation regarding the apex of Hemlock Street, Chief Roy indicated she does.

Councilor Albert stated his belief the ordinance could be amended to state the southernmost intersection of Currier and Souhegan and continuing it south to the loop. It would go from the Currier Road and Souhegan intersection and be carried down to Fir Street and Hemlock Street.

Councilor Harrington commented it sounds as if the language needs to be amended to define the exact area. Chairman Koenig stated a willingness to amend the language to include only Hemlock Street on the north side. He is not prepared to support any of the other streets at this time because the neighborhood does not want it, and he does not believe it will provide a lot of value.

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Councilor Rothhaus questioned if it should be wrapped up Currier 30' or so. The intent is to keep that free and clear; north side of the east/west section of Hemlock Street and around the corner on both sides could possibly be appropriate. The impact is minimal (perhaps 1 home). Coming down Souhegan would impact a number of homes. There was quite a bit of correspondence about that and people opposed to the no parking.

Chairman Koenig suggested the best way to handle that wrap around the corner would be to add in a "no parking here to corner" sign to take off that last section of Currier Road on the east side. On Currier Road it could be limited to 30' north of Hemlock Street.

Vice Chairman Boyd remarked for the streets in the subdivision that run east/west, he thinks you pick a side. He believes there should be no parking on Hemlock Street on both north and south on the west side. That would allow emergency apparatus to make the turn. If no parking on the south side of Fir Street and the east side of Currier Road. He envisions the apparatus coming north/south. For them to go south/north they have to make that loop and that loop needs to be clear. The only way to accomplish that is to ensure that egress is completely unimpeded.

Town Manager Cabanel suggested the Fire Chief be requested to attend a meeting to provide clarification of his concerns. He is a member of the Highway Safety Committee, which made a recommendation with regard to Hemlock Street.

Councilor Healey stated the Council already decided it would go with one sided parking, and this is rather redundant.

MOTION made by Councilor Harrington and seconded by Councilor Woods to table the third reading until The Town Council's August 20, 2020 meeting

A Roll Call vote was conducted, which resulted as follows:

Yea: Councilor Albert, Councilor Woods, Councilor Harrington

3

Nay: Councilor Rothhaus, Chairman Koenig, Vice Chairman Boyd, Councilor Healey

4

MOTION FAILED

Chairman Koenig remarked the Highway Safety Committee has recommended limiting parking on the north side of the east/west section of Hemlock Street. The Police Chief has indicated her belief parking on the south side of Hemlock Street where it is east/west will not be a problem.

Councilor Rothhaus stated the committee had a conversation on Hemlock Street prior to the discussion of one-sided parking on the whole neighborhood. It was never brought up to do the street paralleling Hemlock Street.

MOTION made by Councilor Albert and seconded by Councilor Woods to amend the article to read that one side is street parking for Currier Road south to include Fir Street and Hemlock Street

ON THE QUESTION

Councilor Albert stated it would be one-sided parking from the southern most intersection of Currier Road and Souhegan Drive to the end of Currier Road and the loop around Hemlock and Fir Streets. This would cover the concerns expressed by Councilor Rothhaus and those mentioned by the Fire Chief. He spoke of what he witnessed on weekends and busy times he visited the area. Those were the most impacted areas. That would be the most need to help fire get any equipment through that section of roadway.

Chairman Koenig remarked that is in opposition to what the Town Manager asked for in regard to allowing the Fire Chief to make the decisions.

Assistant Town Manager/Finance Director Micali stated he had Chief Duke on the telephone, and he has stated going around the curve from just before the park entrance to after the park entrance should be no parking on both sides. When Hemlock Street straightens out, there could be parking on the right hand side into the woods, but then again it needs to stop because further down on Hemlock Street is another curve where there would need to be no parking on both sides.

Councilor Harrington suggested the Council permit the Fire Chief to make a recommendation. Chairman Koenig stated the reason he voted no on the motion to table was because he believed the Chief had spoken through the Highway Safety Committee recommendation. If there is confusion, he is willing to reconsider tabling.

MOTION WITHDRAWN

MOTION made by Chairman Koenig and seconded by Councilor Albert to reconsider the motion to table until the Town Council's August 20, 2020 meeting

A Roll Call vote was conducted, which resulted as follows:

Yea: Councilor Albert, Chairman Koenig, Councilor Woods, Councilor Harrington,
Councilor Healey

5

Nay: Councilor Rothhaus, Vice Chairman Boyd

2

MOTION CARRIED

MOTION made by Councilor Harrington and seconded by Councilor Woods to table the third reading until The Town Council's August 20, 2020 meeting

A Roll Call vote was conducted, which resulted as follows:

Yea: Councilor Albert, Chairman Koenig, Councilor Woods, Councilor Harrington,
Councilor Healey

5

Nay: Councilor Rothhaus, Vice Chairman Boyd

2

MOTION CARRIED

3. Annual Town Council Retreat / Goal Session Discussion

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

The Town Council to discuss the status and plans for the upcoming Retreat/Goal Session scheduled for Friday, August 21, 2020.

Chairman Koenig noted the Council was provided a potential schedule for the upcoming Retreat.

Councilor Albert requested adding an update on the F.E. Everett Turnpike tolls and widening project.

Vice Chairman Boyd requested a debrief on service delivery and accessibility to Town Hall when we were not allowing the public into the building and were forced to utilize alternative methods to conduct Town business, e.g., what was learned from that time.

In addition, he requested discussion around the capability of town-wide broadband.

Councilor Harrington questioned a policy or procedure with regard to social media, e.g., Town Facebook page.

Councilor Woods' participation ended.

New Business

1. Temporary Closure of Watson Park

Submitted by Town Manager Eileen Cabanel

The Town Council to consider the temporary closure of Watson Park for the remainder of the summer.

Town Manager Cabanel stated the impetus for placing the item on the agenda was the amount of disruption occurring in the area, e.g., parking lot disruption, fire pits, people not utilizing the port-a-potties, trespassing on private property. When the Police Chief informed her a woman who was trying to park in the Lobster Boat parking lot and was told she could not park there, actually hit the employee with her car, she had had enough. The individual was arrested.

Town Manager Cabanel spoke of having heard from the surrounding neighbors regarding the level of rudeness and despicable way in which visitors to the area are conducting themselves (primarily on weekends). She wanted the topic to come up to ensure an understanding of just how bad the situation is. She requested Chief Roy inform the Council of the complaints she has received, and that the Assistant Town Manager and media staff visit the area to be able to depict through visual aid the steep topography of the area. The footage recorded also shows signs of littering.

Town Manager Cabanel spoke of individuals parking in front the Geaumont Law Office driveway. When requesting they move, the owner is told where to go. The owner of the spa at Connell's Plaza has placed chairs outside as they are limited with regard to the number of patrons that can be inside at any one time. People come in, park their cars in front of the business, sit in the chairs, and wait for their parties to arrive so they can walk across and to Watson Park. Once they get down to the area of

the river it is not visible. We can enforce activities such as fires, but the river is not owned by the Town.

Councilor Rothhaus questioned if any events, e.g., weddings, are scheduled over the next couple of months. Town Manager Cabanel spoke of issues with volleyball, etc. Since this has all happened fairly recently, she has reconsidered her thoughts, and is in favor of blocking off the entryway to the river from Watson Park because of the dangerousness of the slope and the conduct of those utilizing the area.

Councilor Rothhaus remarked in order to do that a fence of some sort would be required. If not permanent it would not work well. Noted was the cost of a permanent fence would be \$25,000. Councilor Rothhaus stated opposition to the fence. He questioned of those who have had their vehicles towed, been arrested, and others the police department has had interactions with, how many are residents. Chief Roy stated they have been both. The person that was arrested is from Massachusetts, but cars that have been towed have been both from Town, other areas in New Hampshire, and Massachusetts.

The problem seen is the increase in people. It started out with the parking, and has mushroomed. People were starting to park along the entrance/neck. Cars have been hit. People have been parking on the sides by that fence where the no parking signs were posted. Someone tried to squeeze through and creased a car going in. There have been people blocking other people in even after being told they could not do that. That was one of the cars that was towed. People are now loading and unloading at the entrance to the park stopping the flow of traffic on D.W. Highway, which is causing a problem.

Because the lot is full by 11:00 a.m., people are parking everywhere else and are now just randomly walking across the street (in front of traffic). There have also been parking complaints at local businesses to include Rivet Funeral Home, Geaumont Law Office, Lobster Boat, Connell's Plaza; people are parking there, changing into bathing suits on the chairs. Last weekend the department arrested the woman from Massachusetts for hitting the employee of Lobster Boat. The employee first tried to nicely notify the woman she could not park there; the woman still unloaded stuff and gave her lip. The employee left went around the corner and back again, and stood in front of the spot and said you can't park here, which is when the driver hit her, and took off.

There have been 3 unconfirmed reports of people utilizing the park and area as a bathroom. There have been reports that people are defecating in the water, that they are using the backside of what we refer to as the island (where the sand is) as a bathroom and reports of feminine products being left behind. Mr. Rivet would say that he has found that on his property. The department has not seen anyone drinking on the property, but apparently there has been.

Chief Roy noted she visits the area twice a week. She commended the Highway Department and the volunteers for the incredible job they are doing with the cleanup. Her big concern is getting to the area is dangerous, and people have started pulling the picnic tables (staked/chained in the ground) out of the ground and bringing them down to water. There were 4 the first time the department went down. It is only a matter of time before someone gets hurt.

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She stated her belief 75% of the draw to that location is the water. To her understanding, it was never meant for that purpose. She believes if the water were blocked off it would reduce the number of people that go there, and those who do would use the park as it was intended for picnics, etc.

Mr. Rivet's property is on the other side of the water, and is marked no trespassing, but people don't care. The department has added patrols to concentrate on Watson Park and deal with people trespassing on private property and the property of businesses. Mr. Rivet's property is an area of concern because of the steep incline that people are now climbing down.

Councilor Albert remarked he is aware an officer and employee of the PWD were at the park last weekend, and questioned if that helped the situation. Chief Roy stated it did not. It is chaotic and the officer was trying to concentrate on walking around. By the time he walks around and comes back, whatever had been happening where he was is now happening again. He cannot concentrate on the businesses without something going on at the park. It is becoming mayhem because of the volume of people.

Assistant Town Manager/Finance Director Micali provided a brief presentation (can be viewed [here](#) (tape counter 3:09:41)). He spoke of being at the park around 9:00 a.m. The Watson Park side of the park was clean; PWD had picked up trash. However, on Mr. Rivet's side of the river, a great deal of trash was seen. He commented on the immense difficulty to get down the hill on Mr. Rivet's side of the river.

Councilor Healey spoke of being a volunteer for the Litter Crew, a Merrimack based group of people that go around the State cleaning up litter. They were at Watson Park on Saturday. Right around 10:00 a.m. is when it starts. The PWD and the officer were there trying to stem the flow, but as the crew was preparing to leave the hordes of people were moving in. In the area of the law office, there were 3-4 cars watching the parking lot at the park to see who was leaving. They would race down, try to get through the light, and be one of the first to get in line to get into the lot. The PWD had placed the Deuce and a Half at the mouth of the driveway so that they could not get in. That was only one entry point.

If starting by the Fire Department, there was a family that decided to park their car right on the D.W. They were unloading and fortunately a police officer came along with lights, halted the traffic, and moved him out of there. At the same time, the race is on for the parking lot by the law office. Then there was a family of 10 crossing the street from the CVS parking lot with their grills, chairs, blankets, etc. During that whole time there were some 6 families of more than 5 people who were just about running to get in the park because they realize they are late and will be lucky to find enough room to put their cooler down.

Councilor Healey stated her opinion the park should not be closed, but there is the need to determine what can be done there in regard to full-time park officers.

Councilor Albert spoke of having received a dozen or so emails from residents over the past few days. One of the key questions asked is why the park cannot be made residents only.

Town Manager Cabanel stated the Town absolutely cannot make it residents only. About 10 years ago the Town accepted a Land and Water Conservation Fund (LWCF) grant. It was a \$40,000 grant of

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which the Town received \$20,000 and contributed \$20,000. That puts the restriction on the park, in perpetuity, that it cannot be for residents only. There is an exception whereby you can charge; non-residents somewhat more than residents. She spoke with a gentleman from the State Parks and Recreation Division who informed her the Town is limited by that, e.g., would have to be a reasonable amount of increased cost for non-residents. If charging the residents nothing, the charge for non-residents could be in the area of \$10/car. He cautioned that we do not charge by the person as you would then be taking on additional liability because you know they are going down to the water.

Chairman Koenig noted the letter from Eric Feldbaum, Community Recreation Specialist, states that the Town can close the park for limited periods of time for an extended period of time. If the park closes for more than 6 months it may trigger a Conversion of Use per Chapter 8E of the [Program Manual](#). He questioned the meaning of that. He read it as meaning you would have to give the funds back. Town Manager Cabanel stated you can never give the money back. Town Manager Cabanel stated the language basically says this is a grant from the United States and the United States Government has given you money to enhance the United States by adding an amenity that can never be taken back.

Vice Chairman Boyd noted the manual was attached to the letter received. The section involved is too voluminous to read aloud. Highlighted is if choosing to convert there are specific triggers that have to happen.

Councilor Albert requested Mr. Rivets be permitted to discuss what he has witnessed. He spoke of being curious as to how individuals are gaining access to the private property.

Mark Rivet

Stated he owns the right side of the river if looking east. They have seen everything Chief Roy spoke of. They cleaned their side of the river the day before and were literally picking up tied bags that we left behind. They are getting access any way they can. He has blocked off his parking lot and had a few cars towed over the weekend (all from Massachusetts). Even as he was getting ready to leave the funeral home today, people were parked in front of the flower shop. It is just getting pushed away. He came back from a weekend trip to deal with this on Sunday. There was a cop on the property, but he had parking issues to deal with, there were 300 some odd people and the smell of pot coming up the hill. Tuesday night one of his tenants complained of the music coming from the park (around 8:45 p.m.). He believed the park is supposed to be closed at sunset. He can hear the music at the barber shop. People are there after hours.

Mr. Rivet noted if you Google swimming holes near me, it shows Watson Park and says Wildcat Falls temporarily closed. He spoke of contacting the police when a sunglass case full of drug paraphernalia was found. There are grills on the property, and hundreds of people. Social distancing is not happening. He suggested charging people because if you hit them in the pocketbook they will hit the road.

Councilor Harrington stated an option to be to close the park every weekend; Friday through Monday.

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Town Manager Cabanel noted the parking lot could be closed, but she is uncertain how to keep people out of a wide-open space when they are coming from across the street (water is not under our purview). Once they get down the hill, we have no jurisdiction over them unless they start fires or something.

Mr. Rivet noted if the weather is favorable the problem exists during the week as well. There is a fence that blocks off the old chicken factory foundation. They don't have the right to go to the water. Once they get to the water there is nothing you can do. It is the water that is the draw.

Councilor Harrington commented communications have noted the closure of Wildcat Falls to be the reason the problem has moved to Watson Park. The water is the draw. Were the Town to close Watson Park, there is no other park with a water draw. Chairman Koenig noted Wasserman Park would be an issue. Councilor Harrington stated that would have to be reinforced.

Councilor Albert stated he attributes this situation to the pandemic and the closing of other water sources in various communities. He questioned if CARES Act funding could be used to build a fence. The Police Chief has referred to this as mayhem, which concerns him on many levels.

Councilor Harrington commented when she brought this up a month ago, the Town was able to get the fence at no cost. Assistant Town Manager/Finance Director Micali stated a local contractor had some fencing he was willing to donate to the Town. He is uncertain if that is still an option. There was also differing heights on the fence. Asked what type of fencing could be provided at the \$25,000 cost, Assistant Town Manager/Finance Director Micali stated it to be a continuation of the existing fencing all the way down, the length of the river, and then over to the bridge that crosses the Longa property. It would be a black nylon 6' fence (permanent).

Chairman Koenig stated his opposition to the idea of a fence. Councilor Healey commented whatever fence, if used, would have to be high enough to make it difficult to drag a cooler and a 20 lb. propane tank over.

Councilor Albert remarked one of the hurdles has been the Souhegan River Local Advisory Committee (SoRLAC). He suggested if the Town received an official document from them requesting help addressing these issues, perhaps that would provide the authority to act.

Town Manager Cabanel noted she is uncertain what the interrelationship is between the water aspect and the Parks and Recreation Division representative she was speaking with, but he indicated this behavior is occurring all over the State. He gets 4-5 calls/day from different places. He stated there is nothing that can be done.

Chairman Koenig stated uncertainty the SoRLAC has any particular authority. Town Manager Cabanel stated it is the State of New Hampshire that owns the water.

Charles LaFon, 7 Lindin Way

Recommended the Council review current laws with respect to bringing items down into the waterways or along the ocean. He believes there are laws that prohibit the behavior being seen at Watson Park, and does not understand why it is allowed. He would be putting cameras up there and

arresting a lot more people for that criminal behavior. He sees it as an oversight and that there is the need for ordinances to be put in place to say this type of behavior is not allowed. He believes, even if in the middle of the river, the Town can state that. He believes the SoRLAC would agree with regard to the debris being thrown in the water.

Town Manager Cabanel noted what the SoRLAC does in Merrimack is the testing for E. coli at the various waterfronts. When the E. Coli was really high, signs were put up. The Town received an irate email from them stating take those signs down because they are too big for the E. Coli or we will stop doing the testing. That is the kind of attitude we are getting about signage. The Town had to take the signs down and place their smaller signs up.

Councilor Albert commented Mr. Rivet has indicated, and others have stated in emails, that individuals are in the park after dark. He questioned how the police is responding to those issues. Chief Roy stated, if receiving a report, the department has responded right away. To her knowledge and she asked Captain Tarleton who had the same belief, they have not located anyone down there after hours. When they went down a few days ago you could see where someone had had a fire, but despite directed patrols and getting out of the cars to walk down to the water as much as possible, officers have not located anyone. We all know they are there. They have not seen any active fires nor have any been reported. They have seen signs of fires.

Councilor Albert asked if closing the park, how would we go about enforcing it. Town Manager Cabanel responded they have not gotten to those discussions as of yet. The matter was put on the agenda at the last minute as a means of bringing it to the attention of the Council. Barriers could be put up along D.W. Highway area. Chief Roy remarked the department has discussed what it might look like if the park were closed, and she and Captain Tarleton both agree that there would have to be a larger police presence along with barricades directly across the parking lot, and signage. It is a large area where people can walk in, which is why a larger presence with more officers spread out would be needed. It is easy to put a spotter on the bridge to see if people are down there. It would likely take a few weeks before things calmed.

Councilor Albert commented the only other thing he can think of is spreading across from Chamberlain Bridge all the way over to the Gaumont Law Office building with that temporary construction site chain link fence and signage across the fence, and, like we did at Wildcat Falls, have an officer or two stationed on a detail there for a period of time.

Councilor Rothhaus stated he is not interested in closing the park or putting a fence up. He would like to see all of the picnic tables removed as well as anything else that could be relocated or tampered with. Any destruction to the park he would like dealt with severely and swiftly by our police department. Down on the river he would like the PWD, whenever they have the opportunity, to address the litter. He sees no easy solution. He encouraged businesses that are impacted to get behind this and have their legal counsel advise them of what kind of signage is needed so that they can tow a car. Have an agreement with the tow company and make it a profitable event if you tow them. If you see them walking down to the park, have the car towed right out of there. He is at a loss to identify any other kind of fix.

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Chairman Koenig stated the need to keep up with the presence of the Police and/or PWD to control the parking, and encouraged the businesses to take care of themselves as best they can. He is not prepared, at this point, to support erecting a fence believing it is too fast of a decision and would require additional feedback from residents and businesses before incurring a \$25,000 expense that would forever alter the appearance and terrain of Watson Park.

Vice Chairman Boyd remarked if going back to what the Watson's desired for the park, he believes the focus was specifically on the park and not the river. They wanted a location for people to congregate and recreation. He shares the opinion that if we build a fence we are protecting our parks and ensuring we are maintaining and promoting the public safety of the people that use the park as opposed to them venturing off into the Souhegan River. The SoRLAC is basically a watershed management group, and they focus on outflows and development issues. He is uncertain if Fish & Game has been contacted as they have jurisdiction over marine resources in the State. He would surmise they would have some jurisdiction on the Souhegan River. He questioned what presence they would bring if they were actually to go down to where the sandbar is located, and what they would be able to enforce.

Being close to the end of the summer season, he believes the plan that the Town Manager and Chief Roy have put in place regarding how we have chosen to manage the park is appropriate. He stated his belief we need to ride it out and be continually vigilant over the next few weeks to ensure we stay on top of those efforts.

Town Manager Cabanel spoke of having a lot of experience with Fish & Game having worked in a city on the lakes. They don't even take care of the large lakes in the State. Fire departments have to get their own boats to conduct rescues, etc. They are not going to come down to Merrimack when they aren't even taking care of their own lakes.

Councilor Healey asked if there are regulations that state we cannot place boulders on the beach and take up some of the space on our side of the river once the picnic table is removed. Town Manager Cabanel stated she could speak with the PWD regarding that. She is uncertain if that would be considered temporary and not an alteration of terrain.

Assistant Town Manager/Finance Director Micali noted the terrain on the Town's side is not conducive except for the one area shown in the photos where the two fires and the picnic table were located. That is the only area where you can sit. Everywhere else on our side is full of roots and rocks. People are going down and moving across to the sand bar.

Matthew Tarleton, Captain, Merrimack Police Department, commented on being familiar with Fish & Game. They do a great job, but for this area, there is one person to work it. He is asked to cover a huge area. Although he might have jurisdiction over what is occurring on the island, we would have to have him here all weekend long, every weekend in order to address the issues until the point came across. It is highly unlikely that we would have a Fish & Game officer at our disposal like that.

Councilor Rothhaus remarked if there is the need for a motion to remove the picnic tables he will offer it. As far as what goes on in the river, we don't encourage people to go down there, and those that do are doing that of their own volition.

Councilor Albert remarked he is hesitant to close the park, but in light of what we have heard, we need to increase the presence in the park. Our community has a problem and, over the years, when having a problem to address we have had to approve necessary expenditures. He would like to authorize the Town Manager to arrange for 2 police officers and 2 PWD employees to have a stronger presence in the park, particularly on the weekends. If there is any kind of criminal activity occurring we have to address that.

Town Manager Cabanel stated they are having a hard time getting people to the three locations. There are 2 people down at Wasserman Park. As soon as people move away from Watson Park they will be over at Wasserman Park. She insists there be 2 people and requires of Director Casparius to report on who is present on each day/time. He is having a hard time with that. The Police Department is having a hard time getting people to agree to do a detail. That is why the Town has started utilizing PWD employees. Director Casparius has spent entire Saturdays in the area. Overtime has been offered to just about everyone who works for the Town to go to one location or another. One of the reasons is there are only so many days left in the summer and the other is if it is worthwhile to go down to a park and be screamed at and ignored all day long.

They will get as many people as they can. Money has not been an object in this regard as she understands the importance. She commented on being uncertain if the police volunteers could be utilized. Chief Roy remarked it is a dangerous situation that we would be asking them to be put in. That is out of their realm and she would be very hesitant to make such a request of them. She noted the police officers get one weekend off every 6 weeks, so it is hard to say in the summer time go spend your weekend down at the park. She stated this weekend if unable to fill the 2 officer positions she will personally do it. She will ensure everything that can be done will be done.

Councilor Albert remarked he has heard there is a lot going on in that area and there is the need for a law enforcement presence. He is willing to have 2 officers down there on overtime. Town Manager Cabanel stated everyone that is doing that monitoring is doing it on overtime. It is not a money issue. Councilor Albert suggested it may be that we need to change schedules and work hours. If we need them here on a particular day then maybe we move the bulk of the people to that day. Town Manager Cabanel responded, as the Chief indicated, we will find a way. It is just difficult; add to it union contracts with schedules and all of the different things that go with that, you are limited on what you can have people do. She stated if she has to go down there with Chief Roy herself, she will.

Councilor Rothhaus commented on having seen officers from other agencies come into Town for overtime details, and questioned that possibility. Town Manager Cabanel remarked Chief Roy and Captain Carleton were nodding in affirmation that can be done, and is a very good idea.

Councilor Healey remarked with all of the overtime, and even if realigning schedules, we still have a Town to run. We would be pulling a lot of resources away from protecting other areas of the Town.

Chairman Koenig commented that goes along with the fact that we are trying to solve a problem in a hurry. If it turns out that we can't solve it with the resources that we have, we end up closing it. If we end up closing it we have a reason for that because we have tried everything else. At this point, he believes there is the need to move forward making the best effort we can. If we cannot resolve it, the only thing we can do is close it until we can, and that might mean putting up a fence.

Approved: August 27, 2020

Posted: September 9, 2020

Town Manager Cabanel remarked this was an important discussion to bring the issue to the forefront.

Councilor Rothhaus requested periodic updates be provided relative to weekend coverage, identification of the type of encounters, etc.

Minutes – None

Comments from the Press - None

Comments from the Public - None

Comments from the Council

Chairman Koenig commented on remarks he made the previous evening at the Public Hearing on the variance request for Saint-Gobain. Basically after input from Sarita Croce, Assistant Director of Public Works/Wastewater and Town Manager Cabanel, which summarized the input from the Town, he emphasized how they were not meeting the four points of the variance requirements. He believes it went over well. The discussion he heard was in opposition of the variance. There were 170[±] individuals who mailed in comments.

Town Manager Cabanel commented at the very end of the meeting an employee of Saint-Gobain spoke. He stated concern with the lack of safety protocol and questioned why they were so powerful that the State of New Hampshire would sue DuPont and 3M, but would not do anything at all about Saint-Gobain. He expected he would lose his job the next day.

Chairman Koenig stated there remains one week for any final comments to be received. There were some who were unable to speak at the meeting as a result of technical difficulties. They have 15 days after the end of the comment period to make their decision, which could then be appealed.

Adjourn

MOTION made by Councilor Harrington and seconded by Councilor Healey to adjourn the meeting.

A Roll Call vote was conducted, which resulted as follows:

Yea: Councilor Rothhaus, Councilor Albert, Chairman Koenig, Vice Chairman Boyd,
Councilor Harrington, Councilor Healey

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Nay: 0

MOTION CARRIED

The August 6, 2020 special meeting of the Town Council was adjourned at 11:23 p.m.

Submitted by Dawn MacMillan