



## Town Council Meeting Minutes



Thursday, January 10, 2013, at 7:00 PM, in the Matthew Thornton Room

Chairman Mahon called the meeting of the Town Council to order at 7:00 pm. Present at the meeting were Vice Chairman Finlay Rothhaus, Councilor Boyd, Councilor Dwyer, Councilor Flood, Councilor Harrington, Councilor Koenig, and Finance Director Paul Micali. Town Manager Eileen Cabanel was excused from the meeting.

### **Pledge of Allegiance**

Chairman Mahon led in the Pledge of Allegiance.

### **Announcements**

Chairman Mahon made the following announcements:

The deadline to file petitioned warrant articles is Tuesday, February 12, 2013. On Monday, January 14, 2013 and Thursday, January 17, 2013 budget meetings with the Town Council are scheduled at 6:00 pm in the Matthew Thornton Room. On Monday, January 21, 2013 at 6:00 pm in the Matthew Thornton Room is a budget meeting for the finalization of the budget and on Thursday, January 24, 2013 at 7:00 pm in the Matthew Thornton Room is a regular meeting of the Town Council.

The Merrimack Police Department would like to announce the date for the 2013 Open House will be May 11<sup>th</sup>. The 18<sup>th</sup> annual Citizens Academy starts on January 23<sup>rd</sup>. Twenty three Merrimack residents have already signed up to see the inner workings of the Police Department and there is currently a waiting list. The Merrimack Police would like to warn the citizens that there has been a recent increase in daytime burglaries and nighttime theft of snow plows. Please report any suspicious activities to the Police Department.

On Monday, January 14<sup>th</sup> there has been a change in the departments coming before the Council with the Community Development Department being added to the schedule for that evening's budget meeting.

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

### **Recognitions, Resignations and Retirements** - None

### **Appointments**

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

*Submitted by Conservation Commission Chairman Tim Tenhave*

Per Town of Merrimack Charter Section 6-6, at least annually, there should be an annual review with the Conservation Commission. This agenda item is to highlight the commission's significant actions, current projects, anticipated actions, and to raise any concerns the Council should know or could act on.

Merrimack Conservation Commission (MCC) Chairman Tim Tenhave presented the Town Council with a PowerPoint presentation beginning with the introduction of the full and alternate Conservation Commission members. He pointed out that there is an open full member position on the Commission. At this point, MCC Vice Chair Matt Caron joined MCC Chair Tim Tenhave with the presentation to the Council.

MCC Chair Tim Tenhave went over the mission and several responsibilities of the Commission, as well as the Commission's activities that took place in 2012. He spoke of the Commission working diligently on trying to get the Grater Woods Stewardship Plan together and is anticipating on bringing this before the Town Council for review and approval sometime in March. He pointed out the MCC has launched their new website, [www.merrimackoutdoors.org](http://www.merrimackoutdoors.org), which gives the Commission the opportunity to educate the public on the conservation properties, etc.

MCC Chair Tim Tenhave went on to present the Council with a summary of the Commission's finances, budget and funds. Town Council Chairman Mahon inquired how the Commission is covering their clerical services. Finance Director Paul Micali stated that this is currently coming out of the Community Development Department's budget for the meeting minutes. Chairman Mahon asked if they anticipate that this is something that will be continuing or will they allocate those costs by function. Finance Director Micali confirmed that this shall be discussed further at the January 14<sup>th</sup> budget meeting.

MCC Chair Tim Tenhave called attention to the Land Use Change Conservation Fund currently totaling \$1.3 million and at this point due to the outcome that the voters put in place, the fund has not and will not receive any new monies unless it goes under \$1 million.

MCC Chair Tim Tenhave went on to present the Commission's forthcoming activities of 2013 which includes the creation of a Finance Vision and "capital improvement" plan of which he would like an open and public input process as to how to utilize the available funds, create the vision, lay out the projects and then work toward those goals. He emphasized his desire to encourage public participation as the intent is to improve the conservation properties which are generally utilized by the public. Chairman Mahon pointed out that this is something that the Commission has been discussing here and there during their meetings and he is pleased to see that this was included. The Commission would also like to update Chapter 111 of the Merrimack Town Code, expand the Conservation Commission website, fill the open full member position, have the Wildcat Falls Conservation Area Sub-committee doing "good things", document the Commission's processes and procedures, and correct the Red Maple Swamp Trail along with create a viable access point to Grater Woods at Conservation Drive.

MCC Chair Tim Tenhave outlined the areas where the MCC could use assistance from the Council. He reiterated that the Grater Woods Stewardship Plan needs to be completed and reviewed by the Council. He stressed to the Council that there will be pressure from many in the community. He encouraged the Council to ask questions as they go through the process. Chairman Mahon asked if there is a working version of the Grater Woods Stewardship Plan available. MCC Chair Tim Tenhave stated that the 2011 plan is available on the web but the newer working version is available through the Community Development Department.

In closing, MCC Chair Tim Tenhave asked the Town Council and the public to provide input. He stated that everyone is responsible for keeping Merrimack a great place. He thanked Town staff for their continued assistance. Councilor Boyd commended the Commission for steps that have been taken to ensure transparency. He hopes that in the future a bridge will be considered across the brook on the Red Maple trail.

Councilor Koenig asked if the MCC follows the mission by coordinating activities of unofficial bodies organized for similar purposes. MCC Chair Tim Tenhave stated that he thinks the MCC does this but not as actively as it could. Councilor Dwyer stated that the vision for Grater Woods is a priority. He feels that all the competing interests should be addressed given the size of the parcel. Vice Chair Rothhaus asked for clarification on the MCC donation toward the pavilion. MCC Chair Tim Tenhave advised the Council that the MCC was approached by the Pavilion Subcommittee asking for a donation. The Subcommittee indicated that a pavilion would provide an educational value to the Town. Councilor Flood encouraged residents to utilize Grater Woods. Councilor Koenig questioned the contract with Bay State Forestry. MCC Chair Tim Tenhave assured the Council that the MCC opened a request for information and interviewed other foresters. Bay State Forestry is the preferred service provider. Councilor Koenig asked what is covered by the \$3,200 line item in the budget. MCC Chair Tim Tenhave outlined the various expenditures covered. Councilor Koenig asked, for clarification, purposes of conservation fund monies. MCC Chair Tim Tenhave explained that conservation funds are used for land acquisition, forestry expenses, maintenance and management plans. Chairman Mahon thanked the MCC for their great work.

## **Public Hearing**

### **1. Consideration of Changes to Chapter A198 – Administrative Code**

*Submitted by Fire Chief Michael Currier*

The Town Council held a public hearing to consider the recommended changes to Chapter A198 of the Merrimack Town Code by the Fire Chief that reflect a recommended reorganization of the administration staff in the Merrimack Fire and Rescue Department, pursuant to Charter Article 5-3.

Chairman Mahon opened the public hearing at 8:00 pm

Fire Chief Currier stated that since the last reading there have been no changes. Councilor Koenig questioned page 20 under section F as it refers to the Division versus Health Official. Fire Chief Currier agreed that it should read Health Division. Councilor Koenig questioned purpose of the change on page 21 referring to the responsibilities of the Health Official and the Deputy Health Officer. Paul Micali suggested revising the formatting of this section. Chairman Mahon suggested a few minor changes to this section. Councilor Flood recommended consistency of language referring to functions or responsibilities.

Councilor Boyd questioned the language used in section C and D referring to Emergency Management and Fire Prevention. Paul Micali stated that the Fire Department will review this suggestion with the Town attorney.

Chairman Mahon opened the floor for public comment. No one from the public addressed the Council.

Chairman Mahon closed the public hearing at 8:14pm

**MOTION was made by Councilor Boyd and seconded by Councilor Dwyer to move Chapter A198 – Administrative Code to final reading with the proposed language changes. MOTION CARRIES 7-0-0**

## **Legislative Updates from State Representatives - None**

### **Town Manager's Report** delivered by Paul Micali

- There have been 6 ice/snow events to date. Approximately 28% of the Highway overtime budget and 22% of materials (salt and sand) in the Highway budget have been expended to date
- As of this date there have been 1,280 days or 3 ½ years of consecutive days with no time lost accidents at the Wastewater Facility.
- Early next week the State of New Hampshire House and Senate Bill language will be available for towns to review.

## **Consent Agenda - None**

## **Old Business - None**

## **New Business**

### **1. Donation Acceptance for the Merrimack Police Department**

*Submitted by Captain Dudash*

Town Council accepted a donation/gift in the amount of \$300.00 from Merrimack resident E. Ritts Howard to the Merrimack Police Department, pursuant to Charter Article 8-15 and RSA 31:95-b.

**MOTION was made by Councilor Boyd and seconded by Councilor Harrington to accept the donation/gift in the amount of \$300.00. MOTION CARRIES 7-0-0**

**2. Request for a Memorandum of Understanding Between the Town and the Merrimack School District – Safe Routes to School Grant**

*Submitted by Town Center Committee Chair Peter Flood and Member Tracy Bull*

The Merrimack School District, in cooperation with the Town Center Committee, respectfully request the assistance of Local Public Agency (LPA) certified Public Works Deputy Director Kyle Fox to assist in administering the Safe Routes to School Travel Plan Grant. Town Center Committee Chair Peter Flood, member Tracy Bull, Merrimack School District Business Administrator Matt Shevenell, and Mr. Fox addressed the Council. Tracy Bull advised the Council that due to recent changes at the federal level of the Department of Transportation, this grant must be administered by someone who is LPA certified. She stated that currently only Kyle Fox is LPA certified. Tracy Bull explained that the DOT recognizes that this is a unique situation and are willing to allow Kyle Fox to oversee Mr. Shevenell's administration of the Safe Routes to School Travel Plan Grant until May when Mr. Shevenell becomes LPA certified. The DOT has requested a memorandum of understanding between the Town and School District. Mr. Shevenell advised the Council that the School Board has agreed to allow the Superintendent to sign.

**MOTION was made by Councilor Boyd and seconded by Vice Chair Rothhaus to authorize the Town Manager to sign a memorandum of understanding between the Town and the Merrimack School District authorizing Kyle Fox to work with Matt Shevenell for a period not to extend beyond May 23, 2013 as it relates to the Safe Routes Travel Plan in his role as the LPA. MOTION CARRIES 7-0-0**

**3. Consideration of Changes to Chapter 180–Temporary Sales Locations and Vendors [First Reading]**

*Submitted by Town Manager Eileen Cabanel and Finance Director Paul Micali*

The Town Council reviewed the recommended changes to Chapter 180 – Temporary Sales Locations and Vendors of the Merrimack Town Code, pursuant to Charter Article V. Finance Director Paul Micali explained that the paragraph regarding the requirement to provide a complete criminal background investigation and motor vehicle record was omitted from a previously approved version. He spoke about the difficulties that the Police Department has faced in the past when events would come into Town for one day events. Mr. Micali explained that there have been occasions when an event is only scheduled for a few days. Currently the vendor would pay \$250 for an annual license. He stated that this request is for 2 to 7 consecutive day licenses and would be date specific. The cost would be \$100. Mr. Micali stated that annual licenses run from January 1<sup>st</sup> through December 31<sup>st</sup>. He advised the Council of another change made on page 5 indicating the Health Officer “or their designee”. Paul Micali stated that the Health Officer spends a significant amount of time at events.

Councilor Boyd asked for clarification on page 5 under Section C referring to the Health Officer versus Health Official, based on the discussion earlier with the Fire Chief. Paul Micali stated that it should be changed to Health Official. Councilor Boyd questioned if under 180-15 Section C should it read “The Town Council or designee...” Chairman Mahon explained that in matters of convenience, the Town Council can authorize their designee to act on their behalf but in Section C Waiver of License, the Town Council is the only authorized body. Councilor Koenig questioned the process of acquiring a complete criminal background investigation and motor vehicle record. Councilor Koenig questioned how long the criminal background investigation and motor vehicle records are good for. Paul Micali stated that the purpose of the criminal background check is to weed out people with a questionable past. The purpose for the motor vehicle record is aimed at those vendors on the road such as ice cream trucks. Chairman Mahon questioned why this not more applicable towards mobile vendors. Vice Chair Rothhaus asked if an individual has previous offenses but has their drivers license reinstated, would the Town preclude them. Vice Chair Rothhaus suggested that a valid drivers license should be sufficient. Paul Micali stated that they would be

looked at closely. Vice Chair Rothhaus asked if the background check applies to the owner of the business or his employees. Vice Chair Rothhaus further questioned if the fee is per company or per person. Paul Micali stated that he would get clarification on Vice Chair Rothhaus' questions. Councilor Dwyer stated that he is not comfortable with the background check. Councilor Flood agrees with Councilor Dwyer and Vice Chair Rothhaus. Councilor Flood stated that the Council needs objective standards. Councilor Harrington stated that she can see both sides of the issue. Chairman Mahon would like to hear the Police Department's position on this issue. Paul Micali stated that he would query other towns. Councilor Boyd stated that he can see both sides of the issue. Paul Micali assured the Council that the questions raised would be addressed.

**MOTION was made by Councilor Boyd and seconded by Vice Chair Rothhaus to move Chapter 180–Temporary Sales Locations and Vendors with the proposed changes to public hearing. MOTION CARRIES 6-1-0 Councilor Koenig voted in the negative**

### **Minutes**

Approve the minutes from the following Town Council meetings:

**MOTION was made by Councilor Boyd and seconded by Councilor Harrington to accept the minutes of December 6, 2012 after corrections. MOTION CARRIES 7-0-0**

Page 5 line 39 strike equating and insert "taking on"

Page 7 line 1 strike the coma and insert "that"

Page 14 line 7 strike appropriates and insert "appropriations"

**MOTION was made by Councilor Boyd and seconded by Councilor Flood to accept the minutes of December 20, 2012 after corrections. MOTION CARRIES 7-0-0**

Page 5 line 40 needs clarification by inserting the following language "25 feet closer to the border"

**Comments from the Press** - None

**Comments from the Public** - None

**Comments from the Council**

Councilor Harrington asked if the rail study was approved. Chairman Mahon confirmed that it had been approved and the study will provide information needed to move forward.

### **Adjourn**

**MOTION was made by Councilor Boyd and seconded by Councilor Harrington to adjourn the meeting. MOTION CARRIES 7-0-0**

Submitted by Tracy Doherty