



Town Council Meeting Minutes



Thursday, September 23, 2021, at 7:00 PM, in the Matthew Thornton Room

Vice Chair Rothhaus called the meeting to order at 7:03 pm. Present at the meeting were Vice Chair Rothhaus, Councilor Harrington, Councilor Hunter, Councilor Murphy, Councilor Woods, and Town Manager Paul T. Micali. Chairman Koenig and Councilor Healey were excused.

Pledge of Allegiance

Vice Chair Rothhaus led the Pledge of Allegiance.

Announcements

Upcoming Town Council Meetings:

- Thursday, October 14, 2021, 7:00 PM Regular meeting
- Thursday, October 28, 2021, 7:00 PM Regular meeting

The Town Council meets on the first and third Thursdays in the months of November & December.

- Thursday, November 4, 2021, 7:00 PM Regular meeting

The next Household Hazardous Waste event is scheduled for **Saturday, October 2, from 8:00 am to noon** at the Nashua City Park & Ride located at 25 Crown Street (near the Taylor Falls Bridge that connects Nashua to Hudson).

The Parks & Recreation Department and the Lions Club of Merrimack is hosting a Red Cross Community Blood Drive in the Function Hall at Wasserman Park tomorrow (**September 24th**) **between 1:00 - 6:00 pm**. The American Red Cross is facing a shortage that has led to an "urgent need" for blood donors of all types. Per guidance from the American Red Cross: all donors must wear a face mask regardless of vaccination status.

On **Saturday, September 25th**; the NH Chapter of the Tears Foundation will be unveiling the new Angel of Hope Memorial which has been installed at Abbie Griffin Park. The official dedication ceremony will begin at **11:00 am**. The Monument will be a place to remember, honor, and never forget the little ones who have gone too soon through pregnancy or infant loss. This monument is organized by the NH Chapter of the Tears Foundation and the Town of Merrimack has provided them space within Abbie Griffin Park for this memorial. Please visit the Parks & Recreation Department website for additional details.

Last week, Merrimack TV launched a fourth channel: HD Channel 1071, our first on the high definition tier. The channel debut was the High School Varsity Football homecoming game vs. Nashua South. This HD channel will consist of meeting and event coverage; Town staff produced content, and spotlight hours for resident-submitted programming.

Next month, Merrimack TV will be accepting two awards from the Alliance for Community Media Northeast for our 2020 High School Football Coverage and Community TV Promotional Videos. The ACM Northeast consists of New England plus New York State.

Comments from the Press and Public

Water Commissioner Chairman Donald Provencher was present to share that today, Merrimack Village District filed a lawsuit against St. Gobain Performance Plastics, Textiles Coded International, and Diacom Corporation for their roles in contaminating the water supply and environment in and around Merrimack Village District property. The lawsuit alleges the defendant's production methods have caused PFAS to be discharged directly into the local environment, including into MVD's groundwater wells. The suit was filed

in the State of NH Superior Court for Hillsborough County Southern District. Despite the known toxicity of these chemicals, TCI, Diacom, and St. Gobain continued to use methods that they knew polluted the area. The lawsuit seeks to hold defendants accountable for these impacts of these harmful chemicals in Merrimack Village District water sources. This legal action is our necessary response to the PFAS contamination of MVD's customers' drinking water by corporate polluters who have profited significantly by their use of these man-made PFAS chemicals. MVD is demanding action and solutions from these responsible parties. We continue to thank our customers for their ongoing patience and understanding in these efforts, and for their trust in us to follow through on our promises to make our customers whole and to hold the polluters accountable.

Recognitions, Resignations and Retirements

1. Recognition of Full-time Years of Service of Town Employee

Submitted by Human Resources Coordinator Sharon Marunicz

The Town Council will present a recognition award to the following employee:

Tammie Lambert (Finance Department) – 20-year plaque (DOH: 6/18/2001)

Finance Director Tom Boland and Town Manager Paul Micali took a moment to speak about Tammie and congratulated her on her years of service with the Town of Merrimack.

2. Recognition of Retirement of Town Employee

Submitted by Human Resources Coordinator Sharon Marunicz

The Town Council will present an award to Fire Chief Matthew J. Duke in recognition of his retirement after almost 23 years of full-time service with the Town of Merrimack Fire & Rescue Department. Matt retired on July 31, 2021. He will be awarded with a plaque.

Interim Fire Chief Richard Harris and Town Manager Paul Micali spoke about Fire Chief Matt Duke and recognized his accomplishments, thanked him for his years of service and congratulated him on his retirement.

Appointments

None.

Public Hearing

Vice Chair Rothhaus moved Item 3 up to be heard first.

3. Public Hearing – Request to Release Certain Portions of Previously Dedicated Elizabeth Drive, Squire Road, and Charles Road

Submitted by Attorney Brett Allard

The Town Council will hold a public hearing to consider the request filed by RCL Realty LLC to release certain portions of previously dedicated Elizabeth Drive, Squire Road, and Charles Road, in accordance with RSA 231:52. The Council will take testimony to determine whether the requested portions of these roads are still needed for public travel.

Attorney Allard began his presentation by stating that the portions mentioned were never developed, largely due to the steep terrain and topography of the area around Squires Dr. Originally, the area was planned to be horseshoe shaped, but they are proposing a hammerhead with a cul-de-sac area to make two separate roads instead of a continuous loop. These changes triggered some variances from the Zoning Board, which were received on August 26, 2020, and they then received Planning Board approval on April 20, 2021. The last step to get this subdivision formally permitted through the town is to come to the Council for a decision to

undedicated from public servitude the portions of Elizabeth Dr. Councilor Harrington asked if DPW has any concerns about this request, in which DPW Director Dawn Tuomala shared that she does not.

The public hearing was then opened at 7:33pm.

John Sauter from 9 Elizabeth Dr. was present to oppose the undedication of Squires Dr., stating that the residents of Normandy Estates use Squires Dr. as green space and enjoy walking along it. In recognition of this, he shared that RCL Realty has provided a 10 foot wide pedestrian easement. This easement was reviewed by Fuss & O'Neil, an engineering company used by the town to review subdivision plans, and they concluded that the easement includes head wall number 203, which a small portion overlays the proposed driveway of lot 15. This feature causes pedestrians to encroach onto lot 17 instead of using the easement area. In support of this easement is a public pedestrian easement deed on file with the Community Development department, which provides that the town as grantee agrees that it shall repair and resurface any disruption caused by it to landscaped areas. He then shared images of Squires Dr. to show the Council the specific area he is mentioning.

Karen King from 2 Elizabeth Dr. presented her opposition to the development, sharing that she and her neighbors would like Elizabeth Dr. to be a full neighborhood and they do not like the idea of making it a dead end style road. Although she understands why this development would want to happen, she feels that this would lose the idea of Elizabeth Dr. being a neighborhood.

After all comments from the public were shared, the public forum was closed at 7:43pm.

The Council then discussed this matter further. Councilor Harrington asked if this was a registered deed, in which Town Manager Paul Micali stated that it will be if the Council accepts these changes to the roads. She then clarified if the easement was part of the new plan, in which Vice Chair Rothhaus asked if maintaining this easement would be a town issue. DPW Director Dawn Tuomala stated that the town will be responsible for maintenance if it is written that way in the deed, but she has not seen the deed and cannot confirm. Councilor Woods also raised concerns about the easement, stating he now has some questions about it and wants to take time to discuss further with the Council before moving forward. Attorney Allard and his client, Rob Lavoie, clarified that the easement was made to accommodate the abutters during the planning board process, and they were only told to put markings around the easement, there was no mention of the town maintaining the area. Town Attorney Steven Whitley suggested the Council take a recess so he and Mr. Micali can review minutes from the previous Planning Board meetings regarding the easement. The Council agreed to table this discussion until they review the minutes and can provide some clarity.

MOTION made by Councilor Harrington and seconded by Councilor Hunter to move to table, Item #3 Public Hearing – Request to Release Certain Portions of Previously Dedicated Elizabeth Drive, Squire Road and Charles Road, pending getting clarity on this issue, with it being reopened later this evening.

MOTION CARRIES 5-0-0.

1. Public Hearing - Chapter 193, Updated Welfare Guidelines

Submitted by Welfare Administrator Patricia Murphy

The Town Council will hold a public hearing to consider the recommended proposed amendments to Chapter 193, Welfare Guidelines, of the Merrimack Town Code, pursuant to Charter Article V.

Welfare Administrator Patricia Murphy was present to discuss the proposed amendments from the previous meeting. She summarized some of the changes and updates.

The public hearing was then opened at 8:03pm and closed at 8:04pm.

MOTION made by Councilor Harrington and seconded by Councilor Hunter to move to a third reading to the Consent Agenda.

MOTION CARRIES 5-0-0.

2. Public Hearing – Acceptance & Expenditure of Staffing for Adequate Fire and Emergency Response (SAFER) Program Funds

Submitted by Interim Fire Chief Richard Harris

The Town Council will hold a public hearing to authorize the acceptance and expenditure of up to \$2,559,254.16 from the Staffing for Adequate Fire and Emergency Response (SAFER) program made available through the Federal Emergency Management Agency (FEMA), for Merrimack Fire Rescue to hire firefighters/paramedics, in accordance with RSA 31:95-b and Charter Article 8-15.

Interim Fire Chief Harris and Assistant Chief Shawn Brechtel shared a presentation on the SAFER Program, highlighting that this is a federal grant created by FEMA to provide funding directly to fire departments to help increase or maintain the number of trained front-line firefighters. The goal of this program is to enhance the local fire departments abilities to comply with staffing, response, and operational standards established by the National Fire Protection Association. He then shared with the Council the grant review process and the award, stating that the award is for \$2,559,254.16 over a three year period. This funding will cover 100% of the salary and benefits for 8 firefighters/EMTs/Paramedics. This also increases shift staffing from 10 to 12 firefighters/EMTs/Paramedics per 24-hour shift. Interim Fire Chief Harris then presented some slides that highlight the amount of phone calls and emergency services provided over the past few years, as well as building permits and future growth plans for Merrimack that will result in an increase in population. With this funding, the fire department plans to increase staffing to reduce response times, provide more efficient responses to fires, reduce reliance on mutual aid ambulances, increase revenue potential from billing, and several other improvements.

Town Manager Paul Micali then discussed how the grant funding will work, stating that the grant year begins at the end of February 2022, and with the fiscal year running July through June, the first year of the grant is really only four months. The second and third years will each pay 12 months, with year four paying 8 months and year five paying 0 months. Until the grant period begins, the town will have to cover newly hired staff costs from the end of July until the grant period begins, which is already accounted for in the budget. He also presented a breakdown of costs such as equipment/clothing and overtime for adding on 8 staff. Greg Davis, who worked on this grant with the fire department, then spoke to clarify how the grant was written and how it would accommodate the staff that was hired before the grant was awarded. Lieutenant Bickford then spoke, sharing that there is wording in the grant that mentions the potential need to hire additional firefighters.

The public hearing was then opened at 8:34pm and closed at 8:35pm.

The Council then discussed this issue further, specifically asking Mr. Micali for his thoughts. Mr. Micali shared the pros and cons of having 10 vs 11 vs 12 firefighters. He is concerned with the price of this over the three year span, sharing that they will have to rework the budget to accommodate taking on 100% of the costs once the grant ends. Vice Chair Rothhaus posed questions over the funding for this as well as the need for fire services, as he is unsure what counts as fire services vs EMT services. He feels that the department should stay with their 10 person staff and beef up when needed in the future. Councilor Hunter also raised concerns over the inevitable tax impact this will have on Merrimack. Interim Fire Chief Harris wanted to clarify the difference between fire and EMS calls, sharing that some calls often require additional aid from

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staff, such as overweight patients or patients located up flights of stairs, and he feels that a staff of 12 would help accommodate patient needs and the growing population. The Council then discussed how the need for additional fire staff could grow in the next few years, and how they can increase staff in the future, but would be morally obligated to ensure the number of staff determined tonight does not decrease. After some discussion, the Council was in agreement with increasing the staffing to 11 for now and expanding if the community needs change in the future years.

MOTION made by Councilor Hunter and seconded by Councilor Harrington to accept the FEMA grant of \$2,559,254.16 from the Staffing for Adequate Fire and Emergency Response (SAFER) program for Merrimack Fire Rescue to hire firefighters/paramedics, in accordance with RSA 31:95-b and Charter Article 8-15 and furthermore to have staffing of a total of 44 which equates to 11 members minimum staffing per shift as budget allows, and to allow the Town Manager or his designee to sign any and all necessary paperwork.

MOTION CARRIES 4-1-0 with Vice Chair Rothhaus in Opposition.

MOTION made by Councilor Harrington and seconded by Councilor Hunter to take the discussion about Item #3, Public Hearing – Request to Release Certain Portions of Previously Dedicated Elizabeth Drive, Squire Road and Charles Road, off the table.

MOTION CARRIES 5-0-0.

Town Attorney Steven Whitley reviewed the Planning Board minutes from April 20th, in which the board granted the conditional approval, and it was determined that there was not much of a conversation about maintenance and there was nothing in the minutes that shows that the Planning Board understood that by granting approval that they were obligating the town to any sort of maintenance for the easement area. Further, the draft of the easement document also does not contain any language that obligates the town to maintain the easement.

MOTION made by Councilor Harrington and seconded by Councilor Hunter to move to approve the request filed by RCL Realty LLC to release certain portions of previously dedicated Elizabeth Drive, Squire Road, and Charles Road, in accordance with RSA 231:52 and have the Town Manager or his designee have the authority to sign all necessary documentation.

MOTION CARRIES 4-1-0 with Councilor Nancy Murphy in opposition.

Legislative Updates from State Representatives

None.

Town Manager Paul Micali requested that due to time, New Business Item #1 be moved up, in which the Council was in agreement with.

1. Authorization for Issuance of a Building Permit for a Lot without Frontage – Ruland Revocable Trust (312 Baboosic Lake Road)

Submitted by Community Development Director Tim Thompson

The Town Council to consider the recommendation of the Planning Board for the issuance of a building permit on a lot without frontage, in accordance with the requirements of RSA 674:41.

Vice Chair Rothhaus began the discussion by sharing that the particular area of interest is parcel 16 and the Council has to authorize the permit to go forward because there is no frontage. Mr. Micali went on to elaborate that the plan is to raze a house that is already there and construct on the same footprint. Rodd Ruland, property owner of 312 Baboosic Lake Rd, then spoke to clarify that he wants to tear down the

current entrance to construct a new entrance. Currently, the access is basically a shared driveway that connects his and his neighbor's house to Baboosic Lake Rd, and they have an easement to use the lane, which is the neighbor's property.

MOTION made by Councilor Harrington and seconded by Councilor Hunter to approve the issuance of a building permit on a lot without frontage, in accordance with the requirements of RSA 674:41 on 312 Baboosic Lake Road.

MOTION AMENDED by Mr. Micali to include: The municipality neither assumes responsibility for maintenance on said private road nor liability for any damages resulting from the use thereof; and prior to the issuance of a building permit, the applicant shall produce evidence and notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds.

MOTION CARRIES 5-0-0

Town Manager's Report

Town Manager Micali stated that due to the time and knowing that the Town Council still has much to cover on the agenda he only wanted to inform the Council of the following:

- The roundabout / rotary is moving along as planned and the telephone poles are down and we should start seeing some cement work and the rest of the curbing going in. He also stated that we are still on track, weather permitting, be completed before October.

Consent Agenda

1. Consideration of Change to Chapter 92 of the Merrimack Town Code [Final Reading]

Submitted by Town Council Chair Tom Koenig and Vice Chair Finlay Rothhaus

The Town Council to consider the acceptance of recommended changes to Chapter 92, Amusement Devices, of the Merrimack Town Code, pursuant to Charter Article V.

MOTION made by Councilor Harrington and seconded by Councilor Hunter to accept the recommended changes to Chapter 92, Amusement Devices, of the Merrimack Town Code, pursuant to Charter Article V.

MOTION CARRIES 4-1-0 with Councilor Woods in Opposition.

Old Business

1. American Rescue Plan Act Funds for Private Well Owners Discussion [Tabled at the September 9, 2021 Town Council meeting]

Submitted by Town Councilor Nancy Murphy

Discussion and proposed consideration to use American Rescue Plan Act of 2021 funds for private well owners.

MOTION made by Councilor Murphy and seconded by Councilor Harrington to remove this item from the table.

MOTION CARRIES 5-0-0

Councilor Murphy shared an update, stating that Mr. Micali was able to talk to Amy Rousseau at NHDES. Mr. Micali then continued the update, stating that they discussed the PFOA Remediation Loan Fund grant. If the town wanted to apply for this grant, there are two options. The first one is where the town has to hire a contractor to install point of entry (POET) systems for each of the homes exceeding city AGQS. This would allow the town to control and install the same POET system in every home. The town would also have to complete a consolidation study report. This option would delay a solution to people in need due to the lengthy time frame to complete these steps. The second option, which is the quickest and most efficient,

allows the town to apply for the grant and allow reimbursement for a POET or a connection to MVD. The town would have to establish conditions and requirements for reimbursement and to establish a reimbursement dollar amount. This would put the responsibility on the homeowner to find an installer and thus removing the town from that additional liability. After some discussion, the Council was in agreement to go with the second option as it would allow the quickest solution for impacted residents. Councilor Murphy shared that residents who live outside the consent decree area can also get their water tested by requesting sampling from NHDES through their private well testing request form on their website. Residents can also sample themselves or have sampling done for them, in which NHDES has provided a list of NH small public water system contractors on their website.

MOTION made by Councilor Murphy and seconded by Councilor Harrington to allow the Town Manager to apply for grant funding from the PFAS Remediation Loan Fund to provide reimbursement for point of entry treatment (POET) or connection to public water supply to those private well owners outside the consent decree area whose private well PFAS testing exhibits exceedance of one or more of the four regulated PFAS AGQS and meet the grant requirements; also to allow the Town Manager to expend those grant funds and for him or his designee to sign documentation; and for the Town Manager to come back with the help of Councilor Murphy to the Council for the reimbursement requirements.

MOTION CARRIES 5-0-0

New Business

2. Request to Expend from the Communications Capital Reserve Fund for New Record Management System for Police & Fire

Submitted by Police Chief Brian Levesque

The Town Council to consider the request to expend \$250,000 from the Communications Capital Reserve Fund for the replacement of current Record Management System (RMS) and Computer Aided Dispatch with new system called CSI. This RMS will integrate Police and Fire into the same program.

Town Manager Paul Micali and Police Chief Brian Levesque provided a quick synopsis, stating that the CSI system integrates citations, court documents, accident reports, etc. into one user friendly system. Mr. Micali stated that there is enough money in the Capital Reserve Fund to cover this as this update has been culminating for the past few years.

MOTION made by Councilor Hunter and seconded by Councilor Murphy to approve the expenditure of \$250,000 from the Communications Capital Reserve Fund for the replacement of current Record Management System (RMS) and Computer Aided Dispatch with new system called CSI.

MOTION CARRIES 5-0-0

3. Donation Acceptance from Resident for the Merrimack Police Department

Submitted by Deputy Chief Matthew Tarleton

The Town Council to consider the acceptance and expenditure of a donation in the amount of \$300.00 from resident John C. Karch to the Merrimack Police Department to be used towards community based outreach programs, pursuant to RSA 31:95-b and Charter Article 8-15.

Police Chief Brian Levesque shared that with the amount donated by resident John C. Karch, he thinks it would be good to use it for different community events for outreach and community policing.

MOTION made by Councilor Woods and seconded by Councilor Murphy to accept and expend the donation in the amount of \$300.00 from resident John C. Karch to the Merrimack Police Department to be used towards community based outreach programs, pursuant to RSA 31:95-b and Charter Article 8-15.

MOTION CARRIES 5-0-0

The Council thanks Mr. Karch for his donation.

4. MS-434 Update

Submitted by Finance Director Thomas Boland

The Town Council to receive an update on the MS-434.

Town Manager Paul Micali wanted to check in with the Council to see if they are still on board with the idea of using \$1,650,000 to be used out of fund balance to support the 21-22 budget, or if they would like to make a change to that number. Right now, the current tax rate would be estimated at \$4.02 on the new assessed value. During the budget season, they were planning on estimating a \$0.32 increase due to expenditures such as the NH retirement systems and the fire department staff budget, but right now it is estimated to be a \$0.30 increase. If the amount is kept as is, they are on track for a projected 6% fund balance.

MOTION made by Councilor Woods and seconded by Councilor Harrington to move to accept to use \$1,650,000 of fund balance to help offset the 2021 taxes.

MOTION CARRIES 5-0-0

5. Investment Policy

Submitted by Finance Director Thomas Boland

The Town Council to review and consider the approval of the Town's Investment Policy, for the investment of public funds held by the Town Treasurer, in accordance with RSA 35:9 and RSA 41:29 for FY 2021-22.

Finance Director Tom Boland was present to share that it is required to annually review and reconsider the investment policy and make any necessary changes. In his opinion, the investment policy is fine and does not need any changes made to it, so he recommends the Council reaffirm the existing policy for another year.

MOTION made by Councilor Hunter and seconded by Councilor Murphy to approve the Town's Investment Policy, for the investment of public funds held by the Town Treasurer, in accordance with RSA 35:9 and RSA 41:29 for FY 2021-22.

MOTION CARRIES 5-0-0

Minutes

Approve the minutes from the following Town Council meeting:

♦ September 9, 2021

MOTION made by Councilor Hunter and seconded by Councilor Woods to approve the minutes of September 9, 2021, as presented.

MOTION CARRIES 5-0-0

Comments from the Press

None.

Comments from the Public

None.

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Comments from the Council

None.

Adjourn

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

MOTION CARRIES 5-0-0

The meeting adjourned at 9:57pm.

Respectfully submitted by Jennifer Steagald