

Approved: October 12, 2017

Posted: October 13, 2017



Town Council Meeting Minutes

Thursday September 28, 2017, at 7:00 PM, in the Matthew Thornton Room

Vice Chairman Rothhaus called the meeting of the Town Council to order at 7:00 p.m. Present at the meeting were Councilor Albert, Councilor Boyd, Councilor Dwyer, Councilor Koenig and Town Manager Eileen Cabanel. Chairman Harrington, Councilor Flood and Assistant Town Manager/Finance Director Paul Micali were excused.

Pledge of Allegiance

Vice Chairman Rothhaus led in the Pledge of Allegiance.

Announcements

The last day for the New Hampshire Department of Environmental Services (NHDES) office hours in Merrimack will be Wednesday, October 4th from 9:00 - 11:30 a.m. in the Memorial Room at Town Hall. Office hours are not intended for large groups or to replace the public information meeting, which will be conducted on October 10th at 6:30 p.m. at the Masticola Upper Elementary School All Purpose Room.

Regular meetings of the Town Council will be conducted on Thursday, October 12th, October 26th, and November 2nd at 7:00 p.m. in the Matthew Thornton Room.

The Parks and Recreation Department invites you to Abbie Griffin Park this Saturday, September 30th for their final free outdoor movie in the park of the season. The movie "Trolls" will be shown, and will begin around 6:45p.m. Free snacks, hot chocolate, and glow sticks will be available for all attendees. A special thank you to the Merrimack Lions Club for sponsoring this movie.

Due to a Department of Motor Vehicles software upgrade, the Town Clerk's office will be unable to process registrations or related transactions from Friday, October 6th through Tuesday, October 10th.

Perfluorooctanoic Acid (PFOA) Information Update

Vice Chairman Rothhaus read into the record an email received by the Town Manager from Clark Freise, Assistant Commissioner, NHDES, dated September 25, 2017:

"I believe you are aware that Saint-Gobain has already connected 16 of the 21 homes in Merrimack to the MVD where they agree they have responsibility. Saint-Gobain is funding bottled water to the homes where we have identified they have responsibility but they dispute they have it. We met with them, including the AG's Office and their lawyers on September 6th to explain why we are so certain that it is their responsibility, and to discuss next steps.

On the MVD wells 4 and 5 side, Saint-Gobain has funded the MVD engineering team to complete, and have completed 30% of the design and cost estimate for permanent treatments for wells 4 and 5.

On September 6th, I was allowed to attend a negotiation between Saint-Gobain and MVD based on demands made by MVD and a serious offer made by Saint-Gobain. A number of previous issues that

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had troubled earlier discussions were agreed to. Treatment for MVD 4 and 5 wells were discussed. The discussions were open and very positive. I am hopeful that a positive announcement could come out of these negotiations in the next few weeks. However, negotiations are ongoing so nothing is guaranteed.”

Vice Chairman Rothhaus commented that statement is what he can share from that meeting, but he did feel that real progress is being made.

The letter continued:

“I am hopeful that we will soon have a positive announcement on both the treatment for wells 4 and 5 and agreement from Saint-Gobain to provide a water system extension to the areas for which they currently dispute responsibility.”

Councilor Albert stated, at the Governor’s meeting earlier in the week, Representative Dick Hinch, Merrimack, approached him and Chairman Harrington, and indicated that he would be sponsoring a House Bill (HB) for testing or evaluating smoke stack emissions. He also indicated other Representatives from Merrimack, Bedford, Amherst, and Litchfield would be co-sponsoring the bill.

Councilor Boyd stated this week the Town of Bedford and 60± residents that live at the Greenfield Farms sub-division on the Bedford/Merrimack Town line reached agreement to be hooked up to Manchester Waterworks. In the February/March timeframe it was learned these wells had PFOAs over 70 parts per trillion (ppt). Our community, as it relates to wells 4 and 5, has yet to see any resolution. Councilor Boyd stated, as a ratepayer in the MVD, he has waited long enough for Saint-Gobain and MVD to arrive at a resolution. The Town Manager confirmed the Town of Merrimack is a ratepayer with the MVD.

MOTION by Councilor Boyd and seconded by Councilor Koenig to request the Town Manager engage legal counsel to see what the Town’s legal options are as it relates to the ongoing negotiations between Saint-Gobain and the MVD

ON THE QUESTION

Councilor Boyd stated he only asks for a specific opinion based upon what has occurred with the Town of Bedford as he believes it to be grossly unfair that this community has had to wait 18 months without resolution while Bedford, relatively new to this process, was able to get an agreement in place.

Councilor Koenig seconded the motion so that discussion could continue noting he was not opposed to the thought; however, wondered if it was appropriate procedurally. Councilor Boyd questioned if the preference would be for the matter to be placed on a future agenda for consideration.

Vice Chairman Rothhaus stated he understood the desire, and did not disagree with it. However, he believes there are different circumstances in Merrimack, e.g. Longa landfill. Councilor Boyd mentioned the Longa report was issued in March/April, and there has been ample opportunity for review. He stated a willingness to request the matter be placed on a future agenda for consideration.

Councilor Dwyer commented he supports the request, but wished to have the item placed on a future agenda, and that additional information be provided, e.g. the process Bedford undertook. He noted

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MVD is a separate legal entity the Council has no authority over. He is uncertain what legal authority could be obtained. Councilor Boyd suggested the Town could potentially be a party to any action.

Councilor Albert agreed with the sentiments, and questioned what information could be gained from legal counsel. Councilor Boyd stated he is uncertain, which is why he would like to pose the question of whether the Town has legal standing. Councilor Albert stated he too would like to receive additional information, and consider the request at a future meeting. Councilor Boyd requested the matter be placed on the October 12th meeting agenda. Town Manager Cabanel stated that would occur.

Councilor Boyd remarked the community has been waiting for the results of the Community Health Based Assessment Survey, which were expected to be released by the end of September. He requested the Council instruct the Town Manager to contact the Department of Health & Human Services (DHHS) to inquire. If the information is not released prior to the NHDES October 10th informational meeting, he would like to be provided information, at that time, as to when it could be expected.

Vice Chairman Rothhaus noted the Town Manager encouraged that the next meeting be held with DHHS, which was unable to be arranged. In an email from Clark Freise, dates for another hearing were requested. The dates provided were October 27th, 30th, and 31st. Councilor Boyd spoke of the importance of having the information in advance of the meeting so that attendees could be prepared.

Vice Chairman Rothhaus requested the Town Manager respond in writing to determine if that is what those dates are intended for, and if the results of the survey could be provided prior to that meeting.

MOTION WITHDRAWN

Highway Garage Project Update

The next meeting is scheduled for October 5th.

Comments from the Press and Public

Wendy Thomas, 10 Wildcat Falls

Stated the Citizens for Clean Water met September 19th. Eleven people attended, which represented a mixture of those with private wells and those on public water.

Ms. Thomas provided an overview of the issue stating the discussion is around PFOS and PFCs, which are non-dissolvable chemicals that have been entered into our water system. It is unsure where and how, but they seem to be connected to Saint-Gobain. The New Hampshire Department of Environmental Services (NHDES) is responsible for water testing. The DHHS are doing the blood testing. There were 200 random blood sample tests taken the results of which were expected by the end of September. There is a meeting scheduled for October 10th to go over the results.

She noted the Agency for Toxic Substance and Disease Registry (ATSDR) is working with Pease Air Force Base, which has a large contamination problem.

Concerns expressed were a decided lack of support from DHHS, lack of attempt to examine or acknowledge the impacts of PFCs to health on a federal as well as town level. There appears to be

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lack of physician education even though NHDES had stated that would be done. There is a lack of blood test access, and a lack of asking for a community health study that would result in DHHS data that can be plotted and combined with NHDES data.

Ms. Thomas stated, as a group, they are trying to get their hands around this problem. It is not just cleaning up the water. If these chemicals have been in the water for a while they accumulated in your body. The Environmental Protection Agency (EPA) has set a level of 70ppt as an acceptable level. However, in 2005 they stated PFOS is a possible carcinogen. Vermont has lowered their level to 20ppt, and New Jersey is actively trying to lower their levels to 14ppt. The impact on our residents is not known. We have 21 houses in Merrimack where the rates are higher than 70ppt.

Some goals were set by the group. On the local level, the group would like to get a community advisory board to look at each area collectively and formulate a comprehensive community response plan, would like blood testing to be available for all Merrimack residents, and would like information to the residents of Merrimack about a potential water issue, how to test, how to filter, etc. Ms. Thomas stated she has arranged for her well to be tested, and would report the results back. She stated there should be zero PFCs in her well, and if there are any that is an issue because the only way that would occur is through the water system from Saint-Gobain.

On a State level, they are going to try to get the State to lower the ppt from 70 to something more in line with surrounding states. Although it would be after the fact, it could provide future protection. They are also looking for comprehensive physician education. They want all local physicians to understand this is an issue and patients should be tested if they show symptoms of long-term exposure.

Ms. Thomas spoke of an open article in the New York Times Magazine by Rob Bilott to ATSDR to start a national health study. Merrimack was included in that letter. She commented other people are recognizing there is a potentially huge problem in Merrimack. It is not just cleaning the water it is also figuring out how these people, if they have gotten sick from these chemicals, will be treated and kept safe.

Ms. Thomas mentioned if residents are interested in getting their wells tested, John Lyons with Granite State Analytical can be contacted, and would test for the 9-compound list of PFCs at a cost of \$465. The State can also be contacted, and may pay the cost. Those seeking additional information can go to the Citizens for Clean Water Facebook page.

Councilor Boyd noted when the State is testing the wells they are looking for a specific fingerprint that would indicated if Saint-Gobain is culpable or not for tainting a particular well. Some of the wells they have tested have tested positive for PFCs, but did not have that fingerprint, and others have.

Recognitions, Resignations and Retirements

1. Recognition of Town Employee Leave Employment

Submitted by Human Resources Coordinator Sharon Marunicz

The Town Council will present a recognition award to Police Prosecutor Secretary Karen Costello in recognition of almost 15 years of service to the Town of Merrimack Police Department. October 7, 2002 - September 27, 2017

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Denise Roy, Captain, Merrimack Police Department, stated Karen Costello began with the department part-time in 2002. She moved to the Community Development Department for a short period of time, and in 2003 returned to the department on a full-time basis as a Records Clerk. Always striving to better herself, she attended the Nashua Community College and received her paralegal certificate. She began her position as Prosecutor Secretary in 2015.

Karen Costello was presented with a Recognition Award in recognition of her dedicated service during her employment with the Merrimack Police Department.

2. Recognition of Retirement of Town Employee

Submitted by Human Resources Coordinator Sharon Marunicz

The Town Council will present a recognition award to former Fire Lieutenant Thomas Dalton in recognition of his retirement from Merrimack Fire & Rescue Department with almost 21 years of full-time service. July 2, 1996 – May 31, 2017.

Thomas Dalton was unable to be contacted. It is hoped he is enjoying his retirement. The Recognition Award will be forwarded to him.

3. Recognition of Retirement of Town Employee

Submitted by Human Resources Coordinator Sharon Marunicz

The Town Council will present a recognition award to former Equipment Operator III Gary MacGrath in recognition of his retirement from Merrimack Wastewater Treatment Division of Public Works with more than 21 years of full-time service. July 29, 1996 – August 31, 2017

Gary MacGrath was unable to be in attendance. The Recognition Award will be forwarded to him.

4. Recognition of Retirement of Town Employee

Submitted by Human Resources Coordinator Sharon Marunicz

The Town Council will present a recognition award to former Mechanic II Robert MacGrath in recognition of his retirement from Merrimack Wastewater Treatment Division of Public Works with almost 28 years of full-time service. October 23, 1989 – April 28, 2017

Robert MacGrath was unable to be in attendance. The Recognition Award will be forwarded to him.

Vice Chairman Rothhaus commented on the retirees that were unable to be in attendance, and expressed, on behalf of the Council, gratitude for their service to the community, and well wishes for their future endeavors.

There being no objection, the Council went out of the regular order of business to take up Item 2 under New Business.

2. MS-434 Review

Submitted by Town Manager Eileen Cabanel and Finance Director Paul T. Micali

Town Council will be presented with the details of the undesignated fund balance as it relates to the 2017 MS-434.

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Town Manager Cabanel informed the Council of the following amendments to the materials provided with the [agenda](#): the beginning fund balance as of June 30, 2016 should be \$6,449,358, and the additions to fund balance should be \$791,381. The estimated fund balance as of June 30, 2017 is \$7,240,738, which is slightly over the 8% (Townsppeople voted to maintain a fund balance of 4-8%).

Town Manager Cabanel spoke of the \$731,000 shortage resulting from the large mistake made in the valuation. Because of that, the belief was that it would be a very difficult year. However, there were substantial unanticipated revenues, the largest of which was in auto registrations (\$833,000 more than anticipated). The Town received \$92,000 more in revenue sharing than was anticipated. Interest income is going up, which resulted in a larger amount of interest on the cash in the general fund. Regarding insurance rebates, the anticipation was that a greater amount would be received from NHMA. Ambulance fees resulted in \$164,000 in revenue above what was projected. Building permits generated \$26,000 more than was projected. The Highway Block Grant was \$14,000 higher than anticipated, current use tax is a negative amount because less was received than was projected. Property interest, which is interest charged against delinquent property tax payments, was lower than projected. The net amount of revenue over what was budgeted is slightly over a million dollars.

Addressing the area of expenditures, Town Manager Cabanel stated both the Police and Fire Departments had surpluses resulting from vacant positions. The Fire Department salaries/benefits/overtime had a surplus of approx. \$231,000, and the Police Department salaries/benefits/overtime had a surplus of approx. \$279,000. Testing is underway for both departments. The vehicle fuel line had a surplus of \$66,000. The Solid Waste tipping fees increased by \$82,000, which is a combination of an increase in the cost of the tipping fees and tonnage. General litigation had a surplus of \$54,000, which is primarily due to the Town Manager conducting all negotiations. Costs associated with streetlights were \$68,000 less than anticipated because of the changeover to LED lighting that occurred a few years ago.

The amount of unexpended appropriations is approx. \$500,000. The overlay is \$731,000. The total increase to fund balance is \$791,381.

Town Manager Cabanel requested the Council approve the MS-434. The Finance Director has included estimates that are anticipated and are not tax revenue. The largest of the numbers the Finance Director utilized is motor vehicle permits and fees, which has been increased to \$4.9 million. This current year the total received was \$5.1 million. The request was made to be cautious with this amount noting interest rates are going up, which could result in less new car purchases. Other estimates of note include the \$6,551,000 under charges for services, which is mostly the self-supporting funds, e.g., the Wastewater Treatment Plant is \$4 million of that. Those exact amounts are also identified on the expenditure side of the ledger.

Town Manager Cabanel recommended the Council consider increasing the amount of overlay by \$100,000. The Town has been informed of a particularly large amount of taxes that will be disputed. She stated her belief the Council would desire utilizing some of the fund balance to reduce taxes, and suggested that be done incrementally to avoid large spikes from year to year. The Finance Director has indicated an amount of \$350,000 as a placeholder.

Town Manager Cabanel noted although revisions can be made through early October, the 2017 MS-434 needs to be submitted.

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Councilor Boyd remarked the document provided indicated a negative number under general litigation, and if that is a positive number, it will result in the amount added to the fund balance going from \$791,381 to \$845,629. In addition, the projected fund balance as of December 31, 2017 has been identified as \$6,940,738, and the MS-434 indicates \$6,997,402. When you add in the \$54,248 you end up with a balance of \$6,994,987. Town Manager Cabanel spoke of having worked on the document earlier in the day, and of trying to provide examples of the largest values to identify how the numbers were derived. There are a lot of ins and outs in smaller dollar amounts. Although the \$791,381 may not be completely accurate, either the \$7,297,402 or the \$7,240,738 (estimated fund balance as of June 30, 2017) is correct. There is another \$30,000 number that is basically a balancing number. Given it is known the fund balance is \$7.2 million the Council may wish to discuss how much more of it should be utilized to reduce the tax rate. She reiterated the placeholder utilized was \$350,000.

Councilor Dwyer stated his understanding the addition to fund balance is at least \$750,000, and was informed that is correct. He recommended the Council support utilizing \$350,000 of the unassigned fund balance to reduce the tax rate.

MOTION made by Councilor Boyd to table until the Council's next regularly scheduled meeting

ON THE QUESTION

Vice Chairman Rothhaus questioned, and was informed that would allow the paperwork to be submitted in a timely fashion. Town Manager Cabanel stated a desire to discuss the amount the Council wished to utilize to reduce the tax rate.

Vice Chairman Rothhaus stated a desire to avoid large fluctuations in the tax rate from year to year. He would like to continue to chisel down the unreserved fund balance until it represents approx. 6%. Councilors Dwyer and Boyd stated agreement. Vice Chairman Rothhaus agreed with utilizing the amount of \$350,000 as suggested by the Finance Director. Councilor Dwyer remarked although the information provided requires some correction, that does not change the fact that there is an overage of \$750,000 or more. That is the number considered when making the recommendation to utilize \$350,000 to reduce the tax rate. He is in favor of approving that amount now to ensure a timely filing of the required paperwork.

Town Manager Cabanel stated she agrees with Councilor Boyd to postpone approval of the document given some of the figures require correction. However, she would like to understand the position of the Council relative to the amount to be utilized to offset the tax rate, and indicated she would be comfortable with \$400,000 - \$450,000. When asked, she stated a \$100,000 allocation equates to a reduction in the tax rate of \$0.03. Councilor Albert stated his support of utilizing \$350,000. He spoke of future expenditures discussed during the Council's Retreat, and questioned if a portion of the fund balance could be allocated to a Capital Improvement Plan (CIP), e.g., potential future public safety building, etc.

Town Manager Cabanel noted it is important for public to understand this is not an action the Council can take on its own. Any such action would have to go before the public for approval. Councilor Albert stated his opinion the Town should be considering a joint public safety building to be constructed a few years down the road. If there is the ability to set funds aside for that project to lessen

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the impact, he would like to see that take place. Councilor Dwyer mentioned there are limited things that can be done. Most of the things that are desired would have to go through the Warrant Article process. He stated his support of the discussion.

Councilor Koenig stated his agreement and appreciation for what was being discussed. He noted the amount of \$300,000 was already voted on by the Council as an amount to be set aside for tax relief. That decision was reached prior to knowledge of the current figures. He stated his understanding was that 1/3 to 1/4 of the amount of fund balance would be returned to the general fund each year to offset the tax rate so that the balance could be reduced at a steady rate. Now the Council is being made aware of an additional \$750,000 in unexpended appropriations. One third to 1/4 of that is \$200,000 - \$250,000 in addition to the previously approved \$300,000. He stated he would support utilizing \$400,000 - \$450,000. That would still allow the opportunity to filter it out over a couple of years, and would allocate more towards the tax rate. He also agreed there are other places where funds could be utilized. He noted some of the polling equipment is out of date, and should be replaced. Parks, roads, and culverts are other areas that require attention.

Vice Chairman Rothhaus stated he is more interested in the one-time expenditures such as voting machines. Town Manager Cabanel stated the books are closed on the fund balance. To expend, the amount would have to be included in the budget for next year. Councilor Dwyer stated his belief the Council would fully support dedicating monies from the fund balance to cover the cost of purchasing voting equipment. Town Manager Cabanel reiterated once the books are closed the only action that can occur with the fund balance is to utilize it to reduce the tax rate.

MOTION FAILED

0-5-0

Councilors Rothhaus, Albert, Boyd, Dwyer, and Koenig voted in opposition

MOTION made by Councilor Boyd and seconded by Councilor Koenig to allocate the sum of Four Hundred and Fifty Thousand Dollars (\$450,000) of fund balance to the general fund to offset the tax rate. MOTION CARRIED 5-0-0

MOTION made by Councilor Boyd to table the discussion on the MS-434 until the Council's meeting of October 12, 2017. MOTION CARRIED 5-0-0

The Council returned to the regular order of business.

Town Manager Cabanel was excused.

Appointments - None

Public Hearing - None

Legislative Updates from State Representatives

Representative Chris Christensen spoke of the letter the Council sent the Delegation regarding HB463 and HB485. HB463 was originally sponsored by Representative Byron of Litchfield, and has to do with giving the NHDES the authority to regulate and enforce emissions from air emitting devices, e.g., smock stacks. That went through the House Resources and Recreation and Development Committee

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and the Science, Technology, and Energy Committee. The House passed that. When the Bill got to the Senate it was amended to put on part of a bill that they wanted to push through faster, and they were incomplete in their work; did not include funding, appropriations for personnel, etc. The whole thing fell apart in the Committee of Conference. The House did not want to back down on what it believed to be a good bill and have something that was highly incomplete going forward.

The House is now working on HB485, which started out as one that would set in law minimum contaminant levels of PFOAs at 20ppt. When it went through the House the first time it passed overwhelmingly, but the fiscal information was not included. It was sent to the Finance Committee, and, with the House deadlines, they had to retain the Bill to work on it in a continuing fashion.

Representative Christensen stated he attended a meeting earlier in the day for that very purpose. There are a few amendments that have been drafted, which will be voted on next week. From there updated fiscal information will be provided from the Office of the Legislative Budget Assistant. They will vote on it again and make a recommendation to the House. It will come to the floor in January.

Representative Christensen stated he is very confident it will come through, and will be a good Bill. It will add things like a Toxicologist, which is a position not currently on staff.

There is also a Bill on the same subject matter that has not yet been fully drafted, which was proposed by Representative Hinch and co-sponsored by Representatives L'Heureux, Barry, and Christensen as well as Representatives from Litchfield and Bedford. It may incorporate some of the things that have been proposed in several other bills, and try and bring it all together for next year. That will likely be introduced in January. Although the focus is on that geographic area, it is recognized that there are people in the Seacoast and in Swansea who also have health concerns that need to be addressed. Some of their information will work its way into that Bill as well. Some of the matters spoken of during the public comment period really need to be addressed from a Health & Human Services Point of view. The House is working more on the issues with NHDES.

Councilor Albert questioned if he or any of the other Representatives would be in attendance for the public information meeting on October 10th. Representative Christensen responded in the affirmative. Councilor Albert commented the inability of NHDES to have available the results of the blood sampling is a concern for many, and the reason many wish to attend the public information meeting. He questioned the Legislators could look into why the results have not been provided. Representative Christensen stated he would be happy to. Councilor Boyd will provide him with the communication that identified specific dates for that information to be made available.

Councilor Albert commented on the remarks made on behalf of the Citizens for Clean Water. He offered to provide a copy of the information given to him regarding the concerns stated. Representative Christensen stated once received he could forward it to the other Legislators.

The next meeting of the Clean Drinking and Groundwater Advisory Council is October 5th. Representative Christensen noted he is the Chairman of the Oil Fund Disbursement Board, which started some of this work 14 years ago based on MBTE and the problems with those contaminations. That was the genesis of the funding that they are dealing with on the Clean Drinking and Groundwater Advisory Council. He spoke of being pleased to have Councilor Boyd involved in that, and noted the council is in a formative stage.

Representative Christensen remarked some of these issues take a great deal of time when in the court system. He is aware people are anxious about the ongoing negotiations between NHDES, the MVD, and Saint-Gobain. He acknowledged it is a slow process; however, a much quicker one than going to court. He encouraged patience.

Vice Chairman Rothhaus commented it is difficult when you hear the stories about quick action in locations such as Bedford. He added he spoke with someone recently who informed him that Brattleboro received filters in the school system when there was no contamination. Councilor Boyd responded in Brattleboro they were preemptive; they said there was no problem, but went ahead and gave the school system a filtration system.

Representative Christensen commented the approval for Bedford is an engineering approval with Pennichuck, and part of that is the number of homes in a geographic area. He believes the approach that has been taken thus far is there was some engineering to do a lot in that one area, some of the stuff in Merrimack is more isolated, etc. Councilor Boyd commented the engineering work that had to be done for the Town of Bedford to hook up to Manchester Waterworks would be, at a minimum, for 2 miles whereas the Town of Merrimack is asking for filters on two wells or a filter on the blending well. To him it is a much simpler piece than the agreement that Bedford arrived at with Saint-Gobain.

Representative Christensen responded although Bedford is a larger project, some of the individual locations in Merrimack are delaying the process. The MVD is currently putting out a product that meets standards, and if they can continue to do so for the foreseeable future, the question of the people with the individual wells, and the filtration system for wells 4 and 5 will come later. That engineering really isn't as critical. He added there are individuals that think the product isn't safe, but that is not the science he is reading.

Councilor Dwyer reminded the viewing audience the 200 blood samples took a long time to obtain. The residents did not treat it as an emergency. At the point where the desired number of samples were received, information was provided that the results would be available around this time. He added only 11 people showed up at the meeting at the Library. He is trying to understand where the hypersensitivity of this is coming from.

Town Manager's Report

Work has begun on the renovations and construction at the former Shaw's Plaza. Again, specific tenants are not known now; however, the Department will announce them as soon as we are informed and able to release that information.

The Planning Board will be having a preliminary traffic meeting with the developers proposing a multi-family residential development on Executive Park Drive on October 17th at 7:00 p.m. The applicant has not yet formally filed an application for a site plan, but wishes to engage the Board and public in a discussion of potential mitigation strategies for the traffic impacts of the potential development. Staff anticipates that the developer will make a final decision on filing a formal application or not shortly following this meeting.

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It should be noted that a preliminary design review meeting (which is what the meeting on 10/17 will be publicly noticed as) is a non-binding discussion, and any feedback from the Planning Board during the design review meeting is only advisory until a formal application is submitted and in the public hearing process.

Consent Agenda - None

Old Business

1. Consideration of Changes to Chapters of the Merrimack Town Code [First Reading]

Submitted by Town Council Chair Nancy Harrington and Vice Chair Finlay Rothhaus

The Town Council to consider the acceptance of recommended changes to Chapters 11, 79, 139, 158 and 178 of the Merrimack Town Code, pursuant to Charter Article V.

MOTION made by Councilor Boyd and seconded by Councilor Albert to approve the recommended changes to Chapters 11, 79, 139, 158 and 178 of the Merrimack Town Code, pursuant to Charter Article V

ON THE QUESTION

Vice Chairman Rothhaus noted Chapters 11, 79, and 139 have no recommended changes. Chapters 158 and 178 have a few.

Kyle Fox, Director, Public Works Department, stated there to be a few additional changes the department would like to recommend. He commented many of the issues are derived from expectations from the EPA and NHDES. There are a lot of things that cannot be changed as they are requirements of the permit. There are others where there is latitude, which the department wished to discuss with the Council to obtain input so that the amendments could be finalized in time for the second reading.

MOTION WITHDRAWN

Jim Taylor, Assistant Director, Public Works/Wastewater, noted the additional recommended changes as follows:

Chapter 158-35 – Drain Layers; replace “drain layers” with “contractors”

The State looks for connection of private wells to sewers if the system is older than 1985, and the department recommends changing the fixed date of 1985 to a period of 30 years.

Kyle Fox, Director, Public Works Department commented when considering a recommendation, they looked to the purpose of a deferment waiver. The purpose is to protect those who made the investment into a septic system from having to hook up. After 30 years the belief is the investment has been recouped.

Chapter 158-44 - Monitoring; the section allows for the issuance of monitoring waivers, to give businesses a reduced burden for sampling costs. If they don't have any of the toxic chemicals present

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they don't have to analyze for them. They do it once, and don't have to do it after that because they demonstrate through the chemicals they keep onsite and their safety data sheets.

Councilor Boyd departed.

When asked, Sarita Croce, Pretreatment Manager, Public Works/Wastewater, stated the provision is for something called categorical industrial users (class that EPA has identified specific treatment levels for, e.g., semi-conductor) who must renew permits on an annual basis. Each year they must inform the Town of what they are using, and if there have been any changes. If there are, the Town can deny the waiver. The Town conducts two inspections/year during which all chemicals are reviewed, and they specifically look for that provision if they have asked for a waiver.

MOTON made by Councilor Dwyer and seconded by Councilor Albert to move to a Public Hearing consideration of acceptance of recommended changes to Chapters 11, 79, 139, 158 and 178 of the Merrimack Town Code, pursuant to Charter Article V

ON THE QUESTION

Councilor Koenig questioned if the Sewer Use Ordinance Proposed Enforcement Guide is currently part of the Chapter, a new addition, etc. Ms. Croce responded it is a completely new document that is being introduced into the Ordinance (attachment to Chapter 158). The previous guide was written when the Ordinance was first approved. Response guides have become a lot more flexible in terms of offering of technical assistance, and trying to work with industries more to help to arrive to resolutions to issues that may be present. The new guide is based on Narragansett Bay's guide, which was approved by the EPA.

MOTION CARRIED 4-0-0

Councilor Boyd returned.

New Business

1. Introduction of Chapter 1, General Provisions, of the Merrimack Town Code [First Reading]

Submitted by Town Council Chair Nancy Harrington and Vice Chair Finlay Rothhaus
Introduction of Chapter 1, General Provisions, of the Merrimack Town Code, pursuant to Charter Article V.

Vice Chairman Rothhaus stated the information was drafted by legal counsel, and is basically the acceptance of the Town Code. The remainder explains matters such as distribution of the code to the public, severability, etc.

MOTION made by Councilor Boyd and seconded by Councilor Koenig to move to a Public Hearing, consideration of acceptance of Chapter 1, General Provisions, of the Merrimack Town Code, pursuant to Charter Article V. MOTON CARRIED 5-0-0

Minutes

Approved: October 12, 2017

Posted: October 13, 2017

Approve the minutes of the May 25, 2017 Goal Setting Report and Town Council meeting of September 14, 2017

May 25, 2017

The following amendments were offered:

The title listed for Timothy Thompson should be identified as “Community Development Director”.

Under the heading of “Future Needs” on page 5; replace “look out” with look ahead”

MOTION made by Councilor Koenig and seconded by Councilor Dwyer to accept the meeting minutes of the Goal Setting Report of May 25, 2017, as amended

ON THE QUESTION

Councilor Boyd commented the report is dramatically different from what has been received in the past, and questioned the impression of the Council.

Councilor Koenig stated his belief it is a little too brief. Councilor Boyd stated agreement.

MOTION CARRIED

5-0-0

September 14, 2017

The following amendments were offered:

Page 5, Line 28; replace “contaminate” with “contaminant”

Page 11, Line 24; replace “Crimline” with “Crimeline”

Page 11, Line 38; replace “Councilor Dwyer” with “Councilor Boyd”

MOTION made by Councilor Boyd and seconded by Councilor Koenig to accept the meeting minutes of the Town Council meeting of September 14, 2017, as amended. MOTION CARRIED

5-0-0

Comments from the Press - None

Comments from the Public - None

Comments from the Council

Councilor Boyd expressed his sincerest condolences to Paul Micali and his family on the loss of his Father.

Councilor Albert commented Paul’s Father was involved in the creation of the first Medical Arts building, which is now the Police Department. He was part of the committee that brought doctors and other medical professionals to Merrimack.

Approved: October 12, 2017

Posted: October 13, 2017

Adjourn

MOTION made by Councilor Boyd and seconded by Councilor Albert to adjourn the meeting.
MOTION CARRIED 5-0-0

The September 28, 2017 meeting of the Town Council was adjourned at 9:00 p.m.

Submitted by Dawn MacMillan