



## Town Council Meeting Minutes



Thursday, January 24, 2013, at 7:00 PM, in the Matthew Thornton Room

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

**Pledge of Allegiance** – Chairman Mahon led the Pledge of Allegiance.

### **Announcements**

- Upcoming meeting schedule:
  - February 12<sup>th</sup> (if necessary) Special Meeting; Ratification of any outstanding union contracts
  - February 12<sup>th</sup> Last day to submit petitioned warrant articles and budget submission
  - February 14<sup>th</sup> at 7:00 pm Regular Town Council meeting and Public Hearing on the 2013-14 Proposed Operating Budget
  - February 28<sup>th</sup> at 7:00 pm Regular Town Council meeting
- New Business Item #4 has been withdrawn and rescheduled for February 14<sup>th</sup>.
- Filing period for positions to be elected at the April 9<sup>th</sup> Town Meeting will run from Wednesday, February 20<sup>th</sup> to Friday, March 1<sup>st</sup> at 5:00 PM. Candidates must file with the Town Clerk to have their name placed on the ballot and must be a registered voter. Candidates for Town Council must also have been domiciled in Merrimack for at least one year. Open positions are listed on the Town Clerk's Election/Voting page.
- 2013 dog licenses are now available at the Town Clerk's office. All dogs four months and older are required by law to be licensed annually by April 30<sup>th</sup>. To license your dog, we must have proof that your dog's rabies shot is valid. In addition, if your dog is neutered or spayed, we need a copy of the neuter/spay certificate.
- The spring "DEA Drug Take Back Day" has been announced as April 27<sup>th</sup>, 2013...more information to follow.
- The Police Department wants to welcome the members of the 18<sup>th</sup> Citizen's Police Academy which kicked off this week.
- The Police Department wishes to thank everyone for their generosity during this year's food drive. Your donations were greatly appreciated and distributed to Merrimack's food pantries throughout the holiday season.
- Take care to not forget about your pets during this cold snap. Don't leave them outside, exposed for too long and keep their watering dishes ice-free.
- The ice-skating rink located behind the tennis courts on O'Gara Drive is open for the season. The rink will be open to the public, weather permitting, seven days a week with the lights on from 4:30 – 10:00pm. A group of dedicated volunteers will groom the ice on Monday, Wednesday, and Friday evenings. On those evenings the rink will be closed to skaters at 8:30 pm. Call the Parks and Recreation office at 882-1046 or Public Works at 423-8551 with any questions. Thank you and safe skating.
- Planning is underway for the 21<sup>st</sup> annual Winter Carnival at Wasserman Park. The Merrimack Parks & Recreation Department and the Parks and Recreation Committee are proud to host this event scheduled for Saturday, February 23<sup>rd</sup> from 12:00 p.m. until 3:00 p.m. Enjoy a day of FREE

family activities including an ice-fishing derby, snowman building, snow art, arts and crafts and outdoor winter fun.

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

**Recognitions, Resignations and Retirements** - None

**Appointments** - None

**Public Hearing**

*Chairman Mahon opened the public hearing at 7:15 pm*

**1. New Hampshire Fish and Game Department – Packard Estates [Tabled at the December 20, 2012 Town Council Meeting]**

*Submitted by Town Council Chairman Tom Mahon*

The Town Council will hold a public hearing, in accordance with the provisions of NH RSA 231:40-:42, to discuss a request received from the New Hampshire Fish and Game Department for temporary forest management access to a parcel know as the Dumpling Brook Wildlife Management Area (Tax Map Parcel 7E/018) and to request permission to use approximately 400' of existing access road located on abutting Tax Map Parcel 7E/017, common land of a 51-lot development known as Packard Estates, to reach a section of stream that is feasible to cross with a standard skidder bridge for the purpose of a timber harvest on the Dumpling Brook WMA to improve wildlife habitats on the property. Chairman Mahon read the following email: *At the Dec 20 Town Council meeting, Chairman Mahon offered the town's assistance in setting up a meeting with the residents of Packard Estates to better inform them of the planned timber harvest on the Dumpling Brook WMA and the proposal to use 400' of existing trail on the Packard Estates common land. We appreciate the town's willingness to help with this. We were originally thinking of a 1-1.5 hr indoor session followed by a walk around the property so folks can see where exactly the log landing would be, where the existing trail is, etc. However, the recent snows will make it difficult for a tour of the property, which we feel is critical to give the Packard Estate residents a clear picture of the whole project. As such Bryan Comeau, myself, and our supervisors have re-evaluated our options. To keep things moving forward, we will plan to layout and use a new skid trail within our 75' easement of the brook. We will still have a public meeting to better inform Packard Estate residents and other abutters of what is planned, but will wait until late March (current thinking is March 23) when the snow will likely be gone or nearly so. If at that meeting the Packard Estate residents clearly agree that using the existing trail on their common land is a better option than creating a new trail within our easement, we can easily make that change and will ask for concurrence from the Town Council at that time. In the meantime, we will move forward with marking the trees planned to be cut so residents will clearly see during the property tour how many trees will be harvested. Can you suggest a location near the Dumpling Brook WMA where the indoor portion of the meeting could be held? Best Regards, Jim Oehler State Lands Habitat Biologist Certified Wildlife Biologist® NH Fish & Game Department*

*Chairman Mahon stated that no action would be taken tonight and he closed the public hearing at 7:18 pm*

*Chairman Mahon opened the public hearing at 7:20 pm*

**2. 2013 Milfoil Grant Funds for Horseshoe Pond**

*Submitted by Planning & Zoning Administrator Nancy Larson*

The Town Council was asked to accept and authorize the expenditure of up to \$8,574.00 of the grant

from the NH Department of Environmental Services for milfoil control. This is a matching grant of which the Town's share would be 40% up to \$3,429.60 for variable milfoil control efforts in portions of Horseshoe Pond. Nancy Larson and Geri Botsch addressed the Council outlining previous requests and action taken. Nancy advised the Council that the request is a two part treatment; the first is a herbicide treatment and the second being a diver/DASH (diver assisted suction harvest). She advised the Council that approximately 90% of the milfoil has been controlled. Councilor Flood inquired on the cost of last year's treatment. Nancy Larson stated that the bid was in the area of \$20,000 of which the Town's portion was \$10,000. Councilor Flood thanked Nancy Larson for her continued success in securing these kinds of grants. Chairman Mahon asked where last year's funds came from. Paul Micali advised the Council that the Town's portion came from the Milfoil trust fund. He stated that the account balance was \$11,300; \$10,700 was paid from that leaving a balance of \$600. Councilor Koenig asked for clarification on the expended amount when the motion last year called for \$8,225. Nancy Larson stated that she does not recall and she would need to review the minutes. She explained that the Council opted for the less expensive liquid treatment done twice at a cost of \$8,225 but the DES grant was for the one time granular treatment at a cost of \$10,175. Councilor Boyd stated that the Council should have been made aware of the change. Chairman Mahon stated that this is an unauthorized withdrawal from the fund. Councilor Boyd asked if there is any action that the Council should take to rectify the situation. Paul Micali advised that Council that he has not requested any money from the fund. He advised the Council that he has received bills totaling \$21,000 (not the \$16,000). He requested the Council make a motion authorizing the additional expenditure. He stated that the funds would be absorbed in the Community Development budget.

Councilor Koenig asked for clarification on the condition of the lake and why there is a need to treat again this year. Nancy Larson stated that there was period of time where the lake was not treated due to State funding issues and since they have been playing catch up. She explained that last year's treatment was not the preferred liquid method first treating in the summer and follow up treatment in the fall. She advised the Council that the State does have a long term management plan for Horseshoe Pond. Councilor Boyd asked if the association has formed a committee to address the issues of milfoil at Horseshoe Pond. Geri Botsch advised the Council that the association president would be better suited to speak to that. She outlined the treatment history and the process established to secure funding. Geri Botsch hopes that the Council will honor the Town vote in 2006 when the expendable trust fund was established. Town Manager Eileen Cabanel agreed that the voters of Merrimack voted to establish the expendable fund in an effort to take care of Horseshoe Pond. She stated that necessary funding from year to year is not known. She stated that it would not be an amount that would be impossible to come up with. Councilor Flood would like the Town to give it one more try to eradicate the problem. She encouraged the association to set funds aside to deal with future issues/treatments. Nancy Larson advised the Council that in the State's long term management plan it speaks to the need for the association to put forth some effort to monitor the lake the boats coming and going.

*Chairman Mahon opened the floor to public comment*

Bill O'Neil of Island Drive and President of the Island Drive Association explained that the milfoil species in Horseshoe Pond is an invasive species. Early treatments seemed to be successful but after a 3-4 year lapse in treatments the milfoil spread vigorously. He advised the Council that the last treatment did a good job at knocking down the milfoil but to get it under control it will require another treatment. Councilor Boyd asked if the association is considering establishing a permanent fund to address the invasive species at Horseshoe Pond. Mr. O'Neil stated that currently there is not a fund in place. He recognized the need for the association to step up to the plate. He indicated that there are two associations on the lake and it would be best to meet with the other association to address the issue. He expressed concern about the public access to the lake and and the expense. Councilor Koenig stated that

the Council is looking for a show of good faith on the part of the association to monitor, address issues and contribute financially.

Mr. John McDonald of 19 Pondview Drive spoke in favor of treating Horseshoe Pond for milfoil. He spoke about the efforts that the residents have exercised in an attempt to manage the pond. He encouraged the Town Council to approve the expenditure. He agreed that it is reasonable for the Town to expect the residents to manage the pond's milfoil problem after the pond's current condition is corrected.

Mr. Murray Collette of 15 Sunset Drive current President of the Naticook Lake Association asked the Town Council to support the treatment request. He spoke about the need to manage milfoil in Horseshoe Pond. He advised the Council that in July milfoil was discovered in approximately 5 acres of Lake Naticook, and 9 weeks later it had expanded to 20 acres.

Mr. Wayne Johnson of 79 Island Drive encouraged the Town Council to support the treatment. He believes that Horseshoe Pond is a valuable resource for the Town.

Councilor Koenig expressed a few concerns. He would like to hear from the residents and associations that the problem will be monitored and addressed during the years between treatments and when it is still controllable. He supports the treatment with ongoing monitoring from the residents.

*Chairman Mahon closed the public hearing at 8:17 pm*

**MOTION was made by Councilor Boyd and seconded by Councilor Koenig to authorize from the 2012 Community Development budget that \$2,587.50 be expended to offset the difference from the previous motion made on February 9, 2012 as it relates to the expenditure for milfoil treatment at Horseshoe Pond. MOTION CARRIES 6-1-0 Chairman Mahon voted in the negative**

Councilor Dwyer views this as a team effort between the Town, State and the residents and association. He wants confidence that the residents/association will contribute to the future treatment. Councilor Flood expressed the need for the residents/association to monitor the condition of the pond on a regular basis. Geri Botsch asked the Town Council if they wanted her to go back to her association and ask for a contribution towards treatment. Vice Chair Rothhaus stated that it is his position that he would like the associations to financially contribute. Councilor Boyd echoed the comments of Councilor Koenig and Councilor Dwyer regarding to a shared responsibility to manage the water bodies in Merrimack.

**MOTION was made by Councilor Boyd and seconded by Councilor Harrington that the Town Council accept and authorize the expenditure of up to \$8,574.00 of the grant from the NH Department of Environmental Services for milfoil control. This is a matching grant of which the Town's share would be 40% up to \$3,429.60 for variable milfoil control efforts in portions of Horseshoe Pond. The Town's portion to be expended up to \$3,075 from the expendable trust fund and the difference to be offset from the Community Development budget for the fiscal year 2013. MOTION CARRIES 6-1-0 Chairman Mahon voted in the negative.**

**MOTION was made by Councilor Boyd and seconded by Vice Chair Rothhaus to authorize the Town Manager and or her proxy to sign and effectuate any necessary documents needed to perfect the grant application. MOTION CARRIES 7-0-0**

**Legislative Updates from State Representatives** - None

**Town Manager's Report** - None

**Consent Agenda**

**MOTION was made by Councilor Dwyer and seconded by Vice Chair Rothhaus to remove the following item from the Consent Agenda. MOTION CARRIES 7-0-0**

**1. Acceptance of Changes to Chapter A198 – Administrative Code [Final Reading]**

*Submitted by Fire Chief Michael Currier*

The Town Council considered final approval of the recommended changes to Chapter A198 - Administrative 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 5-4.

**MOTION was made by Councilor Boyd and seconded by Councilor Harrington that the Town Council adopt the changes made to Chapter A198- Administrative Code by the Fire Chief that reflect a reorganization of the administration staff in the Merrimack Fire and Rescue Department, pursuant to Charter Article 5-4. MOTION CARRIES 6-0-0 Councilor Dwyer was not present**

**Old Business** – None

Councilor Dwyer rejoined the meeting

**New Business**

**1. Town of Amherst – Community Planning Grant Letter of Support**

*Submitted by Community Development Director Tim Thompson*

The Town of Amherst is requesting a letter of support from the Town of Merrimack's Community Development Department for their application for a Round II Community Planning Grant which enables the community to combine, simplify and update its Water Resource related land use ordinances with current Best Management Practices. Mr. Gordon Leedy, a member of the Amherst Planning Board, was present to answer any questions from the Council. Mr. Leedy explained that as part of Amherst's grant application they must demonstrate that Merrimack is supportive (regional approach). Councilor Flood asked if the Town of Merrimack would have any responsibilities and questioned any benefits to the Town of Merrimack. Mr. Leedy stated that the Town of Merrimack would not have any responsibility. Councilor Boyd pointed out that Merrimack has a well located behind PC Connections. He believes this action would directly benefit Merrimack. Councilor Dwyer indicated that he would not be in support of the request based on the back up material he was given. Mr. Leedy stressed that the Town of Amherst is strictly focusing on the water resource aspect. Councilor Dwyer challenged his fellow councilors, that they are about to vote on an item without accurate supporting documentation. Councilor Boyd stated that the back up information provided was immaterial and should not have been included. He added that Mr. Leedy is only here requesting a letter of support indicating that Merrimack is supportive. Vice Chair Rothhaus stressed that Mr. Leedy is only requesting a letter of support but it would be up to the Town Council what to say in the letter. Chairman Mahon suggested that a copy of the grant application be provided to the Council to ease the concerns of Councilor Dwyer. Mr. Leedy stated that the draft grant

application is due tomorrow. Town Manager Eileen Cabanel advised the Council that she spoke with Community Development Director Tim Thompson about the need for appropriate paperwork and people present to answer the Council's questions. Mr. Leedy assured the Council that this request is simply the Town of Amherst attempting to work well with its neighbor. This grant is an attempt to engage the community in planning and nothing more. He will have the grant forwarded to the Council. Councilor Flood stated that she completely trusts the intentions of Amherst. She wants to take the request on face value.

**MOTION was made by Councilor Koenig and seconded by Vice Chair Rothhaus to support the Town of Amherst as best as we can given that Merrimack needs to receive the draft application and understand the limit of what is being pursued and then authorize the Town Manager to draft a letter in support of Amherst for water resource planning through the Community Planning Grant application round II. MOTION CARRIES 6-1-0 Councilor Dwyer voted in the negative**

## **2. Donation Acceptance from Elbit Systems - Merrimack Police Department**

*Submitted by Captain Peter Albert*

The Town Council considered the acceptance of the donation of a Pyle PWMA1050 800 watt VHF Wireless Portable Public Address system from Elbit Systems, valued at \$522.99, to the Merrimack Police Department for the use during any public demonstrations, pursuant to Charter Article 8-15 and RSA 31:95-e. Police Chief Doyle explained to the Council that during previous demonstrations at Elbit Systems it was determined that a wireless microphone would be beneficial to the officer.

**MOTION was made by Councilor Boyd and seconded by Vice Chair Rothhaus to accept the donation of a Pyle PWMA1050 800 watt VHF Wireless Portable Public Address system from Elbit Systems, valued at \$522.99, to the Merrimack Police Department for the use during any public demonstrations, pursuant to Charter Article 8-15 and RSA 31:95-e. MOTION CARRIES 7-0-0**

## **3. Homeland Security Grant Application Authorization - Merrimack Police Department**

*Submitted by Lt. Paul Trepaney and Police Chief Mark Doyle*

The Merrimack Police Department seeks Town Council consent to apply for a Homeland Security Grant to install a voter system, with an estimated cost of approximately \$19,000, in the Police Department office of the Merrimack Premium Outlets to address deficiencies in the Communications system in the southeast quadrant of Town. Lieutenant Trepaney explained the need for and the benefits of this equipment. He stated that spotty coverage is an issue in that area of Town.

**MOTION was made by Councilor Boyd and seconded by Councilor Harrington that the Town Council consent to the Merrimack Police Department to apply for a Homeland Security Grant to install a voter system, with an estimated cost of approximately \$19,000, in the Police Department office of the Merrimack Premium Outlets to address deficiencies in the Communications system in the southeast quadrant of Town. Furthermore authorize the Chairman and or his proxy to sign any necessary documents needed to complete the grant application. MOTION CARRIES 7-0-0**

*Chairman Mahon called a brief recess at 9:15 pm. Chairman Mahon called the meeting to order at 9:25 pm*

## **4. Donation Acceptance for Merrimack Dog Park**

*Submitted by Parks and Recreation Director Sherry Kalish*

The Town Council to consider the acceptance of a \$500.00 donation from the Professional Firefighters

of Merrimack IAFF Local 2904 and \$2,870.20 in private donations, pursuant to Charter Article 8-15 and RSA 31:95-b.

**MOTION was made by Councilor Boyd and sec Councilor Harrington to table New Business item #4 Donation Acceptance for Merrimack Dog Park until February 14<sup>th</sup>. MOTION CARRIES 7-0-0**

## **5. Consideration of the Ratification of Final Contract Language with the Teamsters Local 633**

*Submitted by Town Manager Eileen Cabanel*

The Town Council considered ratifying the final contract language of the collective bargaining agreement between the Town and the Merrimack Public Works Supervisors and Secretaries Union, Teamsters Local 633. Town Manager Eileen Cabanel explained that during the negotiation process she continued to address the health insurance cost issues. She stressed that health insurance increased 15.6% making a family plan cost \$30,000 per year. She advised the Council that the contract has been ratified by the Teamsters. The offer gives each employee \$1,500 in the first year to offset the future changes to their plan. She stated that at the beginning of year 3 the level of their plan would change as well as the percentage that they pay. She highly endorses the contract. Town Manager Eileen Cabanel stated that the cost of this would breakdown as follows; year 1 the cost is \$19,860, year 2 the cost is \$0 and in year 3 the cost is a negative \$18,221 because of the change to the plan. A total tax rate change of .1 for all 3 years.

**MOTION was made by Councilor Boyd and seconded by Vice Chair Rothhaus that the Town Council ratify the final contract language of the collective bargaining agreement between the Town and the Merrimack Public Works Supervisors and Secretaries Union, Teamsters Local 633. MOTION CARRIES 5-2-0 Councilor Koenig and Councilor Dwyer voted in the negative**

Councilor Boyd thanked everyone involved in bringing a contract that continues to reign in healthcare costs. He would have preferred that the giveback would have come in the second year. Councilor Dwyer stressed that the Town Manager has been negotiating on behalf of the Town Council. Councilor Dwyer stated that he will not be supporting any of the contracts because of the National Healthcare act that will be fully implemented by the end of 2013. He would prefer one year contracts because he feels that the impacts of the National Healthcare Act will be better understood in a year from now. Councilor Dwyer believes that the employees should be contributing 20% towards the cost of their healthcare. Councilor Flood echoed the comments of Councilor Boyd. She believes this is a step in the right direction. Councilor Koenig stated that he will not support this contract and he had hoped that the give back would have come in the second year. He does not believe a 3 year contract is in the best interest of the Town. Councilor Harrington stated that she does support the contract and appreciates the hard work put in. She believes it is a good deal negotiated in good faith based on what is known today.

## **6. Consideration of the Ratification of Final Contract Language with the New England Police Benevolent Association (NEPBA) Local 12**

*Submitted by Town Manager Eileen Cabanel*

The Town Council considered ratifying the final contract language of the collective bargaining agreement between the Town and the Merrimack Police Officers Sergeants Union, NEPBA.

**MOTION was made by Councilor Boyd and seconded by that the Town Council ratify the final contract language of the collective bargaining agreement between the Town and the Merrimack**

**Police Officers Sergeants Union, NEPBA. MOTION CARRIES 5-2-0 Councilor Koenig and Councilor Dwyer voted in the negative**

Town Manager Eileen Cabanel advised the Council that she highly endorses this tentative agreement. She stated that a great deal of time was spent on negotiating this contract. Town Manager Eileen Cabanel explained that she has offered the same \$1,500 in the first year to offset the future changes to their plan. She explained that this union does receive step increases. The cost of this agreement in year one is \$73,394, year 2 the cost is \$29,811 and year 3 the cost is a negative \$28,833 a total of \$.025 tax rate increase.

Councilor Boyd stated that this is a fair contract that brings security to the Town and the Police Union.

**MOTION was made by Councilor Boyd and seconded by Councilor Harrington to move both ratifications to the public hearing on February 14, 2013. MOTION CARRIES 5-2-0 Councilor Koenig and Councilor Dwyer voted in the negative**

**7. Consideration of the Ratification of Final Contract Language with AFSCME 93 Local 2986**  
*Submitted by Town Manager Eileen Cabanel*

The Town Council considered ratifying the final contract language of the collective bargaining agreement between the Town and AFSCME 93 Local 2986. Town Manager Eileen Cabanel explained that she had hoped that this contract would be ratified by the union but the members voted down the tentative agreement and was later voted not to reconsider. Town Manager Eileen Cabanel advised the Council that they are now at an impasse. She stated that negotiations have stopped and the matter will move forward through mediation or fact finding. Chairman Mahon stated that February 12<sup>th</sup> is the deadline to receive the final contract language of the collective bargaining agreements pursuant to RSA 273a.

**8. HB 178 - Binding Arbitration in Labor Relations Disputes**

*Submitted by Town Manager Eileen Cabanel and Town Council Chair Tom Mahon*

The Council discussed drafting a letter in opposition to binding arbitration in labor relations disputes (HB 178-FN-Local). Chairman Mahon outlined the proposed legislation. Town Manager Eileen Cabanel stated that this particular bill raises concerns for her. She does not support the legislation and feels that it would be dangerous for Merrimack. Chairman Mahon concurred with the Town Manager's concerns. He stated that this is bad policy and he urged the Council to support the letter.

**MOTION was made by Councilor Boyd and seconded by Councilor Dwyer to write a letter of opposition as it relates to HB 178. MOTION CARRIES 7-0-0**

**Minutes**

- ♦ Approve the minutes from the following Town Council meeting: January 3, 2013

**MOTION was made by Councilor Boyd and seconded by Councilor Dwyer to accept the minutes of the January 3, 2013 Town Council meeting after the following corrections. MOTION CARRIES 6-0-1 Councilor Harrington abstained**

- Page 1 line 24 strike unknown insert number



Approved: March 14, 2013

Posted: March 20, 2013

**Comments from the Press** - None

**Comments from the Public** - None

**Comments from the Council**

Councilor Harrington thanked Senator Bragdon for his position regarding the tolls in Merrimack.

Councilor Boyd stated that the Boy Scouts of America Troop 401 will be holding their pancake breakfast at St. John Neumann Church on Saturday February 9<sup>th</sup>. For more information contact Ken Sanborn 423-9835 or [www.hikerjv.wix.com/troop401](http://www.hikerjv.wix.com/troop401)

**Adjourn**

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