



## Town Council Meeting Minutes

Thursday, June 9, 2022, at 7:00 PM, in the Matthew Thornton Room



### **Call to Order**

Chairman Rothhaus called the meeting to order at 7:00 pm. Present at the meeting were Chairman Rothhaus, Vice Chair Harrington, Councilor Healey, Councilor Hunter, Councilor Koenig, Councilor Murphy, Councilor Woods, and Town Manager Paul Micali.

### **Pledge of Allegiance**

Chairman Rothhaus led the Pledge of Allegiance.

### **Announcements**

#### **Upcoming Town Council Meetings:**

- Thursday, June 23, 2022, 7:00 PM Regular meeting
- Thursday, July 14, 2022, 7:00 PM Regular meeting
- Thursday, August 18, 2022, 7:00 PM Regular meeting

Tax bills have been issued and are due by July 1. Property owners who have not received a bill should contact the Tax Collector's office to obtain a copy of the bill.

Come and join the Parks & Recreation Department at Wasserman Park on Saturday, June 18<sup>th</sup> for the first Free Movie Night in the Park of 2022. Parks & Recreation will be showing the movie "Encanto". The movie begins at 8:30 pm on the T-Ball Field near the Parks & Recreation Office.

The Parks & Recreation Department will kick off its 2022 Summer Concert Series on Wednesday, June 22<sup>nd</sup> at Abbie Griffin Park. These free concerts are held every Wednesday night at 6:00 pm from June 22<sup>nd</sup> – August 17<sup>th</sup>. Concerts will feature a variety of musical performances including Oldies, Swing, Rhythm & Blues & Classic Rock music and more to fill the air. Bring your family & friends, blankets & chairs, & dinner to enjoy this free night of entertainment each week.

The Parks & Recreation Department is accepting registrations to participate in this year's Annual 4<sup>th</sup> of July Parade which will be held on Monday, July 4<sup>th</sup> and will begin at 1:00 pm. Participating can be as easy as putting a decorating a bicycle or a vehicle or it can be a highly decorated float. It is a great way to show your patriotism and get some free advertising for your business or organization at the same time! This is a fun, family friendly parade for all to enjoy and the more local groups that participate, the better! There is no cost to participate but advanced registration is required by Friday, July 1st, 2022.

Public Works has a number of positions open in our Highway and Wastewater Divisions – if you or someone you know is interested in working for a professional group that helps the citizens and businesses of Merrimack, please go to the Town website and apply today

### **Comments from the Press and Public**

None.

### **Recognitions, Resignations and Retirements**

None.

### Appointments

None.

### Public Hearing

#### **1. Public Hearing - Consideration of Changes to Chapter 111, Conservation Areas, of the Merrimack Town Code**

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

The Town Council will hold a public hearing to consider the acceptance of recommended changes to Chapter 111, Conservation Areas, of the Merrimack Town Code, pursuant to Charter Article V.

Tim Tenhave was present to highlight the recommended changes to Chapter 111 since a majority of the Council was not present at the last meeting he presented at. After providing a brief overview of the current and recommended changes, Mr. Tenhave shared with the Council that he did discuss these changes with the town attorney, and the only concern was target shooting since there is a RSA that does not allow for the restriction of firearms, but there is a RSA stating that property owners can restrict firearms on their property so he would like the Council to consider this option as they do own the parcels and therefore have the final say in firearms and target shooting. The Council then discussed the curfews/hour restrictions for the parcels, asking Mr. Tenhave to clarify why some parcels have a curfew and some don't. Mr. Tenhave stated that some properties are used at night and people are used to having the parcels open during nighttime hours to stargaze, hike, etc. whereas some neighborhoods may find car lights and general noise distracting during the night hours.

The public hearing was opened at 7:30pm and closed at 7:31pm.

After the public hearing closed, the Council also discussed naming the parcels and adding them to the appendixes to reduce confusion when taking about certain parcels. Further, the Council also discussed some issues, such as motorized e-bikes and grounds maintenance for these areas where there are no ATVs/ OHRVs/ motorized e-bikes allowed, recognizing that there are individuals who volunteer on the commission to maintain these properties. Ultimately, the Council agreed that individuals or groups who are willing to make the effort to maintain these trails should have the option to use them responsibly for their OHRVs, subject to 111-1 H. Additionally, the Council agreed with the proposed recommended changes to Chapter 111 based on Mr. Tenhave's presentation.

**MOTION made by Councilor Koenig and seconded by Councilor Murphy to move this to Old Business to discuss adding Appendix A, naming the parcels, as presented tonight.**

**MOTION CARRIES 7-0-0**

### Legislative Updates from State Representatives

None.

### Town Manager's Report

- The Community Development Department has kicked off the FY 23 Capital Improvements Planning process, sending out project solicitation letters to Departments, the School District, MVD and the Library. Staff hopes that by starting the process in June rather than August or September (as has been done in the past), the CIP will be able to be completed by the Planning Board in early fall, making it a more useful tool for the elected governing bodies to use in their budgeting process.
- The June 2nd Household Hazardous Waste Collection event was a success. The event had a total of 191 vehicles deliver hazardous wastes to the facility, representing 198 households, of which 14% or

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**Posted: June 24, 2022**

27 vehicles representing 27 households were Merrimack residents. The next event will be on August 6th, from 8:00 AM until 12 PM at 25 Crown St. in Nashua.

- The Highway Division has completed the spring mowing of the closed landfill. Mowing the 30 plus acre landfill is a requirement of our NHDES Post Closure Permit to keep large growth from damaging the liner of the landfill. The Highway Division mows the landfill at least twice a year.
- The Highway Division roadside mowing program kicked off for the season. The program mows/cuts growth along the 180 miles of public roadways to help maintain sight distance at intersections and safe distance to trees from the travelling public.
- Crews from the Highway Division are working to maintain the gravel shoulders of the roads to eliminate road drop-offs and support the edge of the pavement, redefining drainage swales to promote proper drainage and keep water out of the road bed, and trimming trees along the edge of the roads that encroach on trucks and other large vehicles.
- Wastewater Phase 3-4 Update: The WWTP Upgrade project was awarded to Methuen on May 19, 2021. The following is a summary of the Project Budget status:
  - Current Construction Contract Amount - \$19,369,577.42 - Includes Chlorine Building Upgrade and Saw Dust Building demolition
  - Total Expended Through May 2022 - \$5,142,792.56
  - 26.6% complete based on cost
  - Contingency: Contingency at start of construction project - \$858,981, Remaining contingency - \$703,042
- Public Works wishes to extend our sincere thanks to the State Legislature and Governor Sununu for signing into law Senate Bill 325, which defines first responders and includes first responders in the definitions of emergency management and local organization for emergency management within the division of homeland security and emergency management, and includes Public Works in the definition

### **Consent Agenda**

None.

### **Old Business**

#### **1. MS4 Update**

*Submitted by Deputy Public Works Director/Town Engineer Dawn Tuomala*

The Town Council to receive a yearly update on the Municipal Separate Storm Sewer System (MS4) Program. The program has made progress in meeting the EPA requirements with the addition of our new Environmental Coordinator and Stormwater Highway Foreman. As a requirement of the permit we need to have public input as part of the process.

Deputy Public Works Director/Town Engineer Dawn Tuomala first presented a PowerPoint highlighting the following updates:

- NH Communities Affected by MS4
  - EPA- Determined if a community is subject to MS4
  - Urbanized Areas from 2000 & 2010 Census
  - 60 regulated communities in NH
  - 16 have waivers
  - Plus 3 non-traditional
  - Totals- 47 Regulated Communities

- Next update will come from 2020 Census
- NH Stormwater Coalitions
  - Seacoast Stormwater Coalition
    - 15 communities are members
  - NH Lower Merrimack Valley Stormwater Coalition
    - Formerly Manchester/Nashua Stormwater Coalition
    - 18 communities are members
- NH Department of Environmental Services (NHDES)
  - Involvement with both Coalition groups
  - Attend all coalition meetings
  - Keep meeting minutes
  - Keep a blog for sharing among participating communities
  - Creating templates
  - Establish needed connections between coalitions groups and EPA
- 4 Year Requirements Stormwater Management Program
  - Document used by permittee to describe the activities and measures that will be implemented to meet the terms and conditions of the permit
  - Is to be changed, updated, and modified throughout the permit as the permittee's activities change (presently updating for year 4) (available next week)
  - Available on website next week. Stormwater Management Plan @ <https://www.merrimacknh.gov/stormwater>
  - Invite comments to be sent to on report
  - Create Minimum Control Measures (MCMs)
- MCMs
  - MCM 1- Public education and outreach
    - Targeting 4 audiences (2 for each/ 5 years)
    - Residents & Homeowners
    - Commercial & Business properties
    - Developers/Construction/Reconstruction- Pamphlets new EPA construction general permit
    - Industrial properties- Letters
    - Communities created their own educational pamphlets from templates NHDES created
    - Out for distribution all year
    - Put on the stormwater town website
  - MCM 2- Public involvement and participation
    - Engage the community in the review and implementation of the Stormwater Management Program- found on the Town of Merrimack website
    - Holding a public meeting with town council for yearly updates and to solicit any comments on the program
    - Touch a truck
    - Hazardous waste collection day
    - Adopt a road- Roadside cleanup
    - Eversource Freon event
  - MCM 3- Illicit discharge detection and elimination (IDEE) Program
    - Legal authority to prohibit, investigate, and eliminate
    - Change code 167- bringing before council shortly
    - Elimination of illicit discharges
    - Non-stormwater discharges- 1 last year
    - Sanitary sewer overflows- (Waiver)
    - System mapping- constantly updating

- Outfall inventory & interconnections initial ranking
- Dry weather outfall screening & sampling- 88 outfalls
- Wet weather outfall screening & sampling- beginning this year
- Follow-up rankings
- Catchment investigations
- Employee training
- MCM 4- Construction site stormwater runoff control
  - Objective to minimize or eliminate erosion and maintain sediment on construction sites- created template to review site
  - Part of Chapter 167 in the Town Codes
    - Code will need to be revised through Town Council Public Hearings
  - Updating 2006 construction standards to include erosion control within these standards
- MCM 5- Post construction stormwater management in new development and redevelopment
  - Objective is to minimize the water quality impact from new development and reduce the water quality impact due to stormwater runoff from a redeveloped area
  - Already do this through Chapter 167 and our Site Plan Regulations
  - Create operations and maintenance plans for each development and are reporting to the Town Community Development
  - Hold post construction meetings and report requirements once or twice a year on or before June 30<sup>th</sup>
  - Requirements runs with the property
- MCM 6- Good housekeeping and pollution prevention for permittee owned operations
  - Infrastructure operations and maintenance
    - Street sweeping
    - Catch basin cleaning
    - Winter road maintenance
    - Green sno pro training to minimize salt usage
  - Stormwater pollution prevention plan (SWPPP)
    - Pollution prevention team
    - Description facility & ID pollutant sources
    - Spill avoidance
    - Evaluations- record keeping
- Appending F&H- Requirements related to discharges to certain impaired water bodies, Phosphorus & Bacteria
  - Complete phosphorus source identification report
  - Calculate baseline phosphorus, allowable phosphorus load and phosphorus control plan scope
  - Provide a lake phosphorous control plan scope
  - Additional street sweeping requirements for the high pollutant loading areas
  - Evaluating to retrofit BMPs for high pollutant areas
  - Record and BMP modifications along with an explanation; what and outcome

During the presentation, Ms. Tuomala also showed several pamphlets and outreach videos highlighting important health issues such as dog waste, choosing the right type of grass seed/fertilizer for green grass and clear water, and septic systems. Ms. Tuomala also shared with the Council how reporting and data collection works. Ms. Tuomala and Mr. Micali also discussed the plan with MS4, as well as DES starting to help with this and EPA involvement.

**New Business**

**1. Committee Appointments**

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

The Town Council to consider appointing the following individuals to Town committees, pursuant to Charter Article 4-8:

- **Naomi Halter** – Parks and Recreation Committee (*School Board Representative*)
- **Laurie Rothhaus** – Parks and Recreation Committee (*Alternate School Board Representative*)

**MOTION made by Councilor Healey and seconded by Councilor Koenig to appoint Naomi Halter and Laurie Rothhaus to their respective Town Committees.**

**MOTION CARRIES 7-0-0**

**2. “The Longest Day” 2022 Proclamation / 7<sup>th</sup> Annual NH Hot Dogz**

*Submitted by Bob Bergin*

The Town Council to issue a proclamation designating June 30, 2022, as “The Longest Day” to promote efforts of raising funds and awareness for the care and support of those facing Alzheimer’s disease.

Bob Bergin was present to share the success of last year’s Annual NH Hot Dogz for Alzheimer’s, as well as stating that the definition of Alzheimer’s and related diseases is getting changed, which will allow more people to be eligible for respite assistance. The bill for this has passed the house and the senate, and once it is signed it will be effective the following day.

**WHEREAS**, Alzheimer’s disease, a progressive degenerative brain disease and the most common form of dementia, that tragically robs individuals of their memories and leads to progressive mental and physical impairments; and

**WHEREAS**, there are no known treatments to prevent, cure, or even delay the onset or slow the progression of Alzheimer’s disease; and

**WHEREAS**, 1 in 3 seniors dies with Alzheimer’s or another dementia. It kills more than breast cancer and prostate cancer combined; and

**WHEREAS**, worldwide, 55 million people are living with dementia; and

**WHEREAS**, the annual global cost of dementia is \$1.3 trillion in U.S. dollars; and

**WHEREAS**, the number of people living with dementia worldwide is set to skyrocket to 78 million by 2030; and

**WHEREAS**, more than 6 million Americans are living with Alzheimer’s; and

**WHEREAS**, 12.7 million people age 65 and older are projected to have Alzheimer’s dementia by 2050; and

**WHEREAS**, with early detection and diagnosis, individuals and their families can gain access to medications and management strategies that may temporarily improve symptoms; and

**WHEREAS**, there is a need to raise awareness about Alzheimer’s disease and to honor all of the caregivers who support and care for loved ones with the disease.

**NOW, THEREFORE, BE IT RESOLVED**, that we, the Town Council of the Town of Merrimack, hereby proclaim June 30, 2022, as “**THE LONGEST DAY**” in Merrimack and stand in support of the 7<sup>th</sup> Annual NH Hot Dogz stand fundraising event taking place on June 30<sup>th</sup> in the Our Lady of Mercy Church parking lot.

**Dated** this 9<sup>th</sup> day of June 2022.

**MOTION** made by Councilor Koenig and seconded by Councilor Healey to accept the proclamation designating June 30, 2022, as “The Longest Day” to promote efforts of raising funds and awareness for the care and support of those facing Alzheimer’s disease.

**MOTION CARRIES 7-0-0**

**3. Request for Restoration of Involuntarily Merged Lots (Tax Map 5D-4/043 - Hadley Road)**

*Submitted by Attorney Greg Michael*

The Town Council to consider the request to unmerge Lot 10 from Lot 6 and Lot 8 from Tax Map 5D-4/043 on Hadley Road, in accordance with RSA 674:39-aa, Restoration of Involuntarily Merged Lots.

Town Manager Paul Micali began by stating that Attorney Michael worked with the town attorneys, and the attorneys have vetted this and agree with the unmerging. Attorney Greg Michael then discussed the recommendations from the town attorneys, stating that Tax Map 5D-43 is comprised of three lots that started back in 1899 before planning and zoning existed. His client would like to unmerge these lots based on a statute that was passed several years ago that allows unmerging of merged lots that were merged involuntarily. His client would like to take lot 10 and pull it apart from the other two parcels, in which the town attorneys are in agreement with. Councilor Koenig asked if lots 6 and 8 would remain merged, in which Attorney Michael stated that they are merged by the owner who has a house and garage on them, which makes it a voluntary merge as opposed to lot 10 which was involuntarily merged.

**MOTION** made by Councilor Koenig and seconded by Councilor Healey to vote to grant the request of BradNate Development to unmerge from Lot 43 on Tax Map 5D-4, Lot 10 as shown on the Plan of “Property of International Shoe Company” dated September 1941 and recorded at the Hillsborough County Registry of Deeds as Plan 690, and that Lot 10 remains subject to the Town’s Right of Way for Hadley Road in accordance with RSA 674:39-aa. Authorize Paul Micali to sign, on behalf of the Council, the attached Notice of Decision, to be recorded at the Registry of Deeds. Notify Community Development and Assessing to update the Zoning Map and the Tax Map to show “Lot 10” as a separate lot.

**MOTION CARRIES 7-0-0**

**4. Consideration of Donation to Martel Field Canteen**

*Submitted by Parks and Recreation Director Matthew Casparius*

The Town Council to consider the donation from Merrimack Men’s Softball of the cost of an external staircase for the Canteen Building at Martel Field to provide access to the upper floor of the building. Merrimack Men’s Softball will be working with KLN Construction who will be donating labor and materials for the project with an estimated value of \$1,200, pursuant to RSA 31:95-e and Charter Article 8-15.

Mr. Micali shared that the Men’s Softball team would like to have access to use the scoreboard at Martel Field, but the access is poor, so they worked with the Community Development and building department to come up with a sketch for a staircase to provide better access to the upper floor of the building. Representatives from the Men’s Softball team then presented, sharing that this area was originally used for storage, and they would like to be able to utilize this spot again with the addition of using the scoreboard. Councilor Koenig asked if the area could be used for the public, in which Mr. Micali stated that it will be keyed for the town, so they can give the key out to whomever might want to use it. Councilor Woods asked if the pull-down staircase would be removed, in which they responded that they plan to board it up from underneath and build the staircase at the main building.

**MOTION** made by Councilor Hunter and seconded by Councilor Healey to accept the donation from Merrimack Men's Softball of the cost of an external staircase for the Canteen Building at Martel Field to provide access to the upper floor of the building. Merrimack Men's Softball will be working with KLN Construction who will be donating labor and materials for the project with an estimated value of \$1,200, pursuant to RSA 31:95-e and Charter Article 8-15.

**MOTION CARRIES 7-0-0**

**5. Consideration of Donation for Parks and Recreation Department's Summer Movie Nights**

*Submitted by Parks and Recreation Director Matthew Casparius*

The Town Council to consider a donation of \$600 from the Merrimack Lions Club to the Parks and Recreation Department to sponsor the Summer Movie Nights in the Park, pursuant to RSA 31:95-b and Charter Article 8-15. These funds are used to pay the licensing fee to publicly show movies.

**MOTION** made by Councilor Koenig and seconded by Councilor Healey to accept the donation of \$600 from the Merrimack Lions Club to the Parks and Recreation Department to sponsor the Summer Movie Nights in the Park, pursuant to RSA 31:95-b and Charter Article 8-15.

**MOTION CARRIES 7-0-0**

The Council thanks the Merrimack Lions Club for their donation.

**6. Disposal of Tax Deeded Properties**

*Submitted by Town Manager Paul T. Micali*

The Town Council to consider the disposal of tax deeded properties, pursuant to RSAs 80:88, 80:89 and 80:90.

**MOTION** made by Councilor Koenig and seconded by Councilor Woods to dispose of the tax deeded property at Tax Map 7D, Lot 166-A06 immediately and prior to the end of the three years by way of public auction per Town Code Chapter 66, Article I, with proper notice given to the prior owners and all mortgage and lien holders; and further to proceed with an ejectment action against anyone presently occupying the property.

**MOTION CARRIES 7-0-0**

**MOTION** made by Councilor Koenig and seconded by Councilor Healey to dispose of the tax deeded property at Tax Map 7E, Lot 017-048 immediately and prior to the end of the three years by way of public auction per Town Code Chapter 66, Article I, with proper notice given to the prior owners and all mortgage and lien holders; and further to proceed with an ejectment action against anyone presently occupying the property.

**MOTION CARRIES 7-0-0**

**Minutes**

Approve the minutes from the following Town Council meeting:

♦ May 26, 2022

**MOTION** made by Councilor Hunter and seconded by Councilor Healey to approve the minutes from May 26, 2022 as amended.

**MOTION CARRIES 4-0-3** with Chairman Rothhaus, Councilor Koenig, and Councilor Woods abstaining



**Approved: June 23, 2022**

**Posted: June 24, 2022**

**Amendments:**

Page 2, Line 14: “the Council then discussed with Mr. Best the growing community and the need for more housing options for both the younger and older generations” change to: “The Council then discussed with Mr. Best the apartment growth patterns in the town and concerns expressed by residents”.

Page 2, Line 13: Add in the full names of the members

Page 4, Line 43: clarify the motion about parcel 6E 115- language provided by attorney

Page 5, Line 34: Move the minutes to reflect the new pattern they were addressed as

Page 7 Line 16: DW Highway “baring” should say “bearing”

**Comments from the Press**

None.

**Comments from the Public**

None.

**Comments from the Council**

Councilor Murphy wanted to share congratulations to Eagle Scout Timothy Yon of Troop 424 for his achievement at the court of honor ceremony held at Camp Carpenter. She also wanted to thank the adults who work with the youth of Merrimack

**Adjourn**

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

**MOTION CARRIES 7-0-0**

The meeting adjourned at 9:07pm.

Respectfully submitted by Jennifer Steagald