

Approved: March 14, 2013

Posted: March 20, 2013



Town Council Meeting Minutes



Thursday, February 14, 2013, at 7:00 PM, in the Matthew Thornton Room

Chairman Mahon called the meeting of the Town Council to order at 7:00 p.m. Present at the meeting were Councilor Boyd, Councilor Dwyer, Councilor Flood, Councilor Harrington, Councilor Koenig, Town Manager Eileen Cabanel, and Finance Director Paul Micali. Vice Chairman Rothhaus arrived at 7:15 p.m.

Pledge of Allegiance

Chairman Mahon led in the Pledge of Allegiance.

Announcements

The next regular meeting of the Town Council is scheduled for Thursday, February 28th at 7:00 p.m. in the Matthew Thornton Room. The first session of the Annual Meeting will take place on Wednesday, March 13th at 7:00 p.m. in the Mastricola Upper Elementary School All Purpose Room. The Town Council will meet on Thursday, March 14th and March 28th at 7:00 p.m. in the Matthew Thornton Room.

The filing period for positions to be elected at the April 9th Town Meeting is Wednesday, February 20th through Friday, March 1st at 5:00 p.m. Candidates must file with the Town Clerk's office 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 30th. To license your dog, you must provide proof of a valid rabies shot. In addition, if your dog is neutered or spayed, we need a copy of the neuter/spay certificate.

The Assessing Department would like to remind residents Tax Exemption renewal applications have been mailed to the elderly and disabled currently on the program. Applications are due by April 15th.

The Police Department is preparing for their Annual Open House and would like to invite any civic group to attend and participate. Contact Officer Rob Kelleher at 424-3774 for more information. The Merrimack Police Department and the New Hampshire Fish & Game Department are sponsoring a Firearms/Hunter Safety course tentatively scheduled for the spring. More information to follow.

The Parks and Recreation Department and Committee welcome you to join them this Saturday, February 23rd from 12:00 - 3:00 p.m. for the Annual Winter Carnival at Wasserman Park. Enjoy an afternoon of free outdoor activities including the ice fishing derby, snowmobile rides, snow art, and an outdoor game with snacks and prizes. Indoors, the Merrimack Girl Scouts will be ready to give you a temporary tattoo while you visit exhibits from the Southern New Hampshire Flying Eagles Club, the Sno-Buds Snowmobile Club, and the Conservation Commission. There will also be several demonstrations.

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Comments from the Press and Public - None

Recognitions, Resignations and Retirements – None

Appointments

1. State Senate Update

Submitted by Senator Peter Bragdon

An update from Senator Bragdon about activities in the State Senate, especially as they relate to Merrimack, the most significant of which will likely be a SB 3, bill for removal of the Merrimack ramp tolls on the Everett Turnpike.

Senator Bragdon stated the purpose for attending was to receive input from the Council and residents on issues affecting Merrimack and to speak to the issue of tolls. He noted a Public Hearing was conducted on SB3 two days earlier. The Bill is identical to one filed last year, and basically calls for the removal of the three ramp exit tolls. He noted this is the first time a bill addressing the Merrimack tolls has come into the State Senate. Bills begin at the House, and there are a number of Representatives in the House who have been there for quite some time, are not particularly fond of hearing about the Merrimack tolls, and pretty set in their ways. The Senate is a smaller body (24 member total; only 5 members on each committee). To get a positive recommendation from the committee only requires 3 votes. That is a step any Merrimack toll relief bill has yet to make, e.g., in the House a positive recommendation has never been received from a committee. In order to be able to do any further maneuvering or have any parliamentary tools available to you, you have to get some kind of a positive vote to get the ball rolling.

He noted Senator Morse, the Finance Committee Chairman, is a co-sponsor of the Bill. Senator Bragdon stated, before the end of the coming week, he intends to meet individually with other members of the committee to ensure they understand his belief their concerns have been addressed, most of which revolve around the overall health of the turnpike system.

He remarked the turnpike system is separate from the rest of the highway funds in the State. The system funds the central turnpike, which is the Everett Turnpike, but also turnpikes along the seacoast area. It is a totally self-funded organization, and there has been some concern expressed amongst those on the committee that removal of tolls in Merrimack will result in a financial hit to the turnpike system. His response has been it will; however notes the system can take that hit citing the \$120 million of excess cash Governor Lynch transferred to the highway system four years ago. He added any organization that relies on user fees and has built up a surplus of \$120 million that can be used to bail out someone else is collecting too much money and something needs to be done. He remarked there is not a lot of sympathy for the department's argument there because the numbers and their financial statements show it is excess cash. He will use that argument to get some support from the committee. The next step will be a vote on the Senate floor. If a positive vote is achieved (13 votes) a lot of doors will be open to allow for some horse trading, trickery or a combination of the two to help move this forward.

Senator Bragdon stated what would be helpful to him is an understanding of whether, to the Town of Merrimack, it is an all or nothing scenario, e.g., if there is some flexibility in terms of phasing in toll removal or removing some and not others or various combinations. At some point, there will be some

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resistance in the House and it may be able to be overcome with a little bit of horse trading. He provided his office number (271-8472), and asked members of the Council to feel free to contact him. The Bill will most likely be on the floor for the first Thursday in March.

With regard to the budget, he stated the largest area he has heard interest in is State assisted grants for wastewater and water systems. He is unsure whether Merrimack has outstanding issues there. In her budget address, the Governor stated she has included monies to at least make the current funding for the State aid grants for wastewater. Another issue he has heard discussion of is decisions made regarding the bridge aid program, which have made it difficult to replace bridges that fail earlier than expected and some decisions made by the Department of Transportation (DOT) that have made it difficult for the towns to know funding that is part of the plan is going to come to them if they have to replace a bridge early.

Chairman Mahon noted he has sent an e-mail expressing some of his concerns. He commented it is not that he does not wish to see the toll booths go away, but there are some practical matters that need to be dealt with surrounding the conditions of the bonds the State has issued. When queried about any contact with Administrative Services on that, Representative Hinch said he had no knowledge of any of those contacts being made. That is concerning as promises and assertions were made back in the '80s. Unfortunately the Representative did not get those in writing. What is in writing is that the exits were requested and there was no problem with paying for the bonds or paying tolls to construct those facilities. The State did not separately account for the costs of the initial construction or the reconstructed four years later. Therefore, cannot provide an idea of where we are in terms of bond repayment. One of the alleged promises made was that the tolls could be removed when the bonds were paid off. There are those issues that remain to be addressed as well as the impact the Highway Commissioner has already expressed at the potential loss of some of the bond ratings as a result.

The other concern is how to fund the removal. He stated the Town has already been asked if it is willing to appropriate \$2 million per exit for removal after being asked if it was willing to purchase them. His reply had been we will be happy to purchase them as soon as Nashua does it for their 8 exits. He spoke of a recent article in the Telegraph that cited residents indicated they have no expectation of anything coming of this partly because this has been going on for 10-12 years with the same result. He stated, from his perspective, he would appreciate some groundwork being done ahead of time to deal with the financial issues before reaching the floor to discuss their removal so that the argument for making the change could be strengthened.

He remarked every two years the same discussion takes place and there is usually one bill for every legislator in town with some different means of trying to accomplish the same thing. He commented if this goes forward he is sure the representatives from Bedford will not be pleased as they wished to move the toll plaza to Merrimack last year. He requested a very practical and business approach be taken and some of the outstanding issues addressed in advance.

Senator Bragdon stated he purposely chose a different direction than had been taken in the past. He was at the hearing last year, has read through all of the remarks made, and distinctly recalled the remarks by the Chairman that Merrimack would be happy to purchase the tolls when Nashua and Manchester do the same. He suggested, rather than getting into a debate with the department about whether or not the bonds have been paid off, given they seem to have successfully turned that into a losing argument with the Town of Merrimack for the last ten years, he took the approach of delineating the hundreds of millions of dollars of turnpike improvements and access added to the turnpike, e.g.,

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Nashua exit 2 direct access to Hudson, with no charge, widening of the entire turnpike through Nashua with no charge, exit 8, which came in about the same time as the tolls, with no charge, and the full interchange at Granite Street in Manchester that provides direct access from the highway to the Verizon Center in downtown Manchester, at no charge.

When the turnpike was first constructed in the mid '50s it went from downtown Nashua to downtown Manchester and had maybe 3 or 4 exits. It later was expanded to Concord and then the Massachusetts state line. The toll was not put in Nashua. All of the things that have occurred have turned the system into an unfair system. He commented if it were a totally user-paid system, self-contained, and everyone paid their share, a different conversation would be had.

Chairman Mahon stated no one has asked the question of what would be needed to renegotiate the bonds if the revenue stream were reduced. Senator Bragdon responded the department will say they have spent \$50 million and although he believes a good many other items were rolled into that amount, they are saying the annual income from the toll ramps has never been enough to pay the yearly interest charge on the initial \$50 million and will bring all of the charts and data to prove that. He stated the the turnpike system has estimated the bill would cost the system \$650,000 and he received a letter from the State Treasurer stating an impact of \$650,000 on the system would not result in an adverse credit rating. This year, less than a week before the Bill had a hearing, the DOT said it would cost \$2.5 million.

Chairman Mahon commented the situation is a mess due to the amount of meddling that has occurred over the past 50 years. Senator Bragdon agreed and remarked decisions made, expenses incurred, and declining revenue over the years have resulted in a significant financial impact to the turnpike system yet the Merrimack tolls have stayed; that is simply not a fair system.

Councilor Harrington stated her belief the desire is for all of the tolls to be removed. She does not believe the State will want to give up the toll at exit 10 as it generates significant revenue. She stated the majority of the town would benefit from the removal of the tolls at exits 11 and 12. If that had to be the price, she would accept that. Chairman Mahon suggested the difficulty in eliminating the tolls at exits 11 and 12 is that motorists would drive past exit 10 and get off at exit 11.

Councilor Boyd commented last year, from a policy perspective, the State did not want to do Federal/State health exchanges and now Governor Hassan is proposing to partner with the Federal Government. He questioned what the potential impact would be with such a change in policy. Senator Bragdon responded with respect to federal healthcare he is cautious both about the Medicaid expansion side and the issue of exchanges in terms of the added costs to New Hampshire. He noted a great deal of it is built on federal promises of money. He commented he has been on the Milford School Board for 16 years and during all of that time the Federal Government has been promising 40% of the cost of special education will be paid, and they have paid no more than 20%. He stated he is skeptical when the Federal Government makes such promises. He added the Republican part of the Senate is being very cautious about this and wants to understand more about costs. There are potentially numerous benefits; however, the cost side has to be understood.

There was a committee made up of House and Senate members that narrowly voted to go further down the exchange route and send a letter to Federal Health & Human Services to at least start the ball rolling. There will be numerous procedural and financial related issues that will have to come to a vote

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of the Legislature, which is evenly split between Republicans and Democrats so it will likely have to be a compromise to get past those hurdles.

Vice Chairman Rothhaus spoke of the acceptance of the tolls at exit 10 and what occurred at that time. He stated exit 11 was a total nightmare every morning and afternoon, and the Selectmen accepted the State's efforts with regard to the toll at exit 10. He stated his opinion the State would have moved forward with or without such acceptance, and that the Town was held hostage.

Councilor Koenig stated one of the areas where he is dissatisfied with the turnpike system is that so much of it is not tolled and paid for out of the tolls collected throughout the entire system. With all of the work going on in Nashua and Manchester, while it has helped that area, it is frustrating that it has all been done with toll money. He attended the legislative forum put on by the Nashua Regional Planning Commission (NRPC) last week at which Commissioner Clemons spoke. He opened his discussion with what a great thing it is that we have a turnpike system and a highway system because the monies are segregated and you couldn't take one from the other. Later on in his discussion he said we have been surviving on the highway side for the last 3-4 years because we sold the turnpike a bridge for \$120 million.

He stated his appreciation for the efforts Senator Bragdon is putting forth and agreed it is a valid argument it is unfair to the Town of Merrimack to have to pay all of the tolls. He echoed the remarks of Councilor Harrington, if all of the tolls cannot be removed he would settle for something less. He reiterated what would be best for the residents is for the removal of all of the tolls in Merrimack.

Senator Bragdon spoke of an e-mail he received from a resident of Merrimack who stated he lives near the turnpike and witnesses people who get to drive from Litchfield all the way to Massachusetts on the turnpike and not pay a toll; however if he wants to go a few miles across town he has to.

With regard to the comments made about buying a bridge, that is what he was referring to when Governor Lynch's administration arranged a deal where the turnpike system bought 1.6 miles of I95 and the bridge over the Piscataqua River for \$120 million. That generates no revenue, and the only reason for doing that was because the Governor needed money in the highway fund. He basically sold a bridge to the turnpike system for \$120 million.

Councilor Flood stated she is pleased with the approach being taken and that the Senator is looking in depth at Nashua and Manchester and the very specific things the turnpike system has paid for. She commented the entire State benefits from Route 3, and it is time a global view is taken. She noted two things that cause her concern; doing without the revenue at exit 10 and the fact the highway system needs the money. She suggested if it were all switched to a gas tax, half a penny would go a long way towards eliminating all of the toll. Tolls are a very inefficient and expensive way to collect money.

Senator Bragdon stated many have cited the need to take a holistic view and put off the Merrimack situation until that occurs and then the holistic view does not happen. He remarked taking out Merrimack might leverage a little bit more. Two and a half million dollars of revenue, at the most, out of a system that has net revenues, after expenses, of \$70 million/year is something he believes can be absorbed, and is the right thing to do.

Councilor Dwyer thanked Senator Bragdon for his efforts and commented he is in agreement with his colleagues, if in the end the best result is the elimination of two of the three tolls it would remain a

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victory. He agreed with Senator Bragdon's approach that the bonds have been being paid for the past 30 years. Speaking to removal costs, he suggested a weekend festival in Merrimack where cranes, construction companies, welders, etc. would be willing and present to remove the tolls. Senator Bragdon stated the question did not come up at the Public Hearing, but he has spoken with some of the Senators privately, the issue has come up, and he has responded he knows enough contractors in Merrimack who would be willing to take the toll down for free.

Chairman Mahon remarked a few years prior the proposition was made to re-program the transponders for Merrimack residents. That would provide an advantage to the residents of Merrimack and avoid the turnpike system losing revenue. Senator Bragdon stated there was one vote in the State Senate regarding toll relief in Merrimack back when the Easy Pass was first implemented, e.g. a discount for Merrimack residents. The bill passed; however, died further along in the process. He stated he had filed two placeholder bills during the filing period; one to take down all tolls and one the exact amendment that was done in 2004/2005. After talking to Senator Morse and questioning which he would support, he said take them all down, they have been being screwed for years, and I will sign up as a co-sponsor. As a result he did not file the bill regarding the transponders; however, he is aware it is out there. The up side is it is cheap, simple, and quick. The down side is if you don't have a transponder there is an upfront cost.

Senator Bragdon reiterated the options to be transponder issues, changing the number of tolls to be removed, phasing in removal, and remarked from time to time the DOT talks of maintenance of Continental Boulevard. Chairman Mahon stated that was not mentioned by DOT it was mentioned by a member of the House Transportation Committee, Representative Graham, who made a comment. Chairman Mahon stated he questioned whether the comment was said in seriousness and asked what it would take. He went back and questioned the status and was told by the Chair, at the time, there are some things that come across the table that are not really made as serious suggestions. At that time, the amount involved was approximately \$150,000 for what they estimated would cost to maintain Continental Boulevard. Representative Graham brought it up again last year.

Senator Bragdon stated his belief the best approach involves removal and stated the transponder issue is doable, but he would like to get out of the Senate with something stronger than that and see what can be done at the House. He reiterated there are local opponents of toll relief for Merrimack in the House. They are well known and have issues of great concern to them. He is aware of what bills they have filed to address their concerns and believes he is capable of making them swallow hard if they want their pet projects to get through.

Town Manager Cabanel questioned the upcoming budget and remarked what occurred at the last biennium was the State decided they were not going to pay a share of the police, fire, and teacher retirement. They were able to squeeze out of that by getting the New Hampshire Retirement System (NHRS) to roll back their prices although NHRS said you will, two years from now, be paying for that. Now that 100% is being paid, it has affected the Town's budget by \$360,000 (this year). She also cited the loss of revenue (\$80,000) from Highway Block Grant Funds that occurred last year. She stated her appreciation for the work the Senator is doing with regard to funding for bridge construction as well as wastewater, and requested he work to avoid the Town losing any additional funding.

Senator Bragdon stated his understanding of the difficulties that arise when unplanned expenses come about. He spoke of the decreasing level of State contribution to the pension system over the years. What has occurred is structural changes to the system, which did result in about a 28% reduction to the

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overall rates, but the subsidy was gone. Assumptions are provided on the rate of returns, which has caused increases. He remarked had it not been for the structural changes the cost to the Town would be significantly higher. He stated his belief the issues with the pension system have been resolved, at least for the time being, and he believes the structural changes that have occurred will work out well, in the long run, for all involved.

1. Chapter 180 – Temporary Sales Locations and Vendors

Submitted by Town Manager Eileen Cabanel and Finance Director Paul Micali

The Town Council will hold a public hearing to consider the recommended changes to Chapter 180 - Temporary Sale Locations and Vendors of the Merrimack Town Code, pursuant to Charter Article 5-3.

Director Micali addressed questions posed previously regarding background checks, and informed the Council the surrounding communities of Bedford and Nashua do not require background checks. The State has created a form for these types of vendors (as well as an associated cost). The intent is to catch those one-time vendors who are in Town over a weekend (2-7 days). There is inequity in that there is no fee schedule in place for those vendors; they either pay an annual fee (\$250) or nothing at all, which results in the Police Department chasing them down.

Being proposed is an amendment to Chapter 180 whereby a one-day license (\$50) and a 2-7 day license (\$100) would be added. Anyone doing business for more than 7 consecutive days would find it more beneficial to acquire a full license.

Police Chief Mark Doyle commented members of the community want to know who is walking through the community on a transient basis. When speaking of door-to-door salespersons or magazine vendors, they are in town for a very brief period of time, literally set up shop in a local hotel, dispense personnel on a given morning who run from 8:00 a.m. to 9:00 p.m. going door-to-door, are picked up at the end of the night, their receipts are collected, they go back to the hotel and start again the following morning.

In the past, when fielding complaints, the Department has had to say they are unaware of who these people are because there has been no process in place to vet them appropriately until they began requiring them to check in with the police. Until the police become aware and are able to catch up to them there is nothing that can occur. Even after catching up with them it is typically another day before information can be received on who their supervisors are, etc. Currently, background checks are not done and the department is unaware of whether these individuals have criminal records. If the process is formalized through a background check a database would be created that could be used to vet these individuals in advance of a permit being issued.

He remarked individuals have been arrested in Merrimack for being wanted felons somewhere else in the United States and they have been extraditable offenses (serious felonies, some violent). The department wants to be able to follow up with a name in the event someone's house has been broken into or in instances where a resident has either been defrauded or something has been stolen from their home. These instances have occurred in the past and individuals have had to be traced down many states away two weeks after they have left our community only because we haven't been able to have a name to follow up with immediately.

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Enforceability would not be an issue; investigators would be able to enforce any violation of not filing for or applying for a permit. That does not mean every time they come across someone without a permit a complaint would immediately be issued and the individual would end up in court. What has been done in the past, outside of the magazine vendor's situation, is the individual(s) are directed to the Town Hall to appropriately apply for and receive permits prior to going back into the community. That has worked out well and been done with hot dog vendors, ice cream salesmen, etc.

Chief Doyle stressed the importance of knowing who is walking through the neighborhoods at any given time especially during summer months when homes are vacant while families are vacationing, kids are left home while parents are out, etc. He stated he spoke with the Town Manager and Finance Director about the safety concerns of the Police Department, and believes this to be the best approach to address that concern.

Director Micali spoke to the question posed of how many vendors have been turned away based on the background check and stated there to have only been one vendor who had intended to apply for a permit and chose not to because of what was going on in other parts of the country with things that were popping up on the internet (people being defrauded). He added he has spoken with those who handle the licenses, applications, and background checks and noted if there is a problem the police are a phone call away and they will be more than happy to vet the individuals and any particular offense that may become apparent/questionable.

Director Micali noted at present calls are made to police dispatch. Dispatch has to contact the Town Hall and then dispatch a police officer if they do not have a license. With the Department involved, there would be a running list at dispatch when a call comes in.

Chairman Mahon noted there has been a Bill introduced to prevent a community from requiring a criminal background check. When asked, Chief Doyle stated he was unaware of that. Chairman Mahon stated there are at least three other Bills in the House that deal with these types of ordinances, which seek to loosen up the requirements or restrict what the local community can do in terms of governing these issues. He believed the Bill on the background check was heard a week or so ago.

Councilor Boyd commented several years ago there was a scam involving paving and questioned whether the proposed change would be applicable under that scenario. Chief Doyle stated his belief it would. Councilor Flood stated such a change makes sense to her. She questioned whether the change would be restricted to individuals from out of town. She provided the examples of local organizations such as the Boy Scouts who hand out bags for their food drive, sell popcorn, etc., political groups, religious groups, etc. Chairman Mahon stated those groups would not be covered.

When specifically asked who would be covered, Director Micali stated non-profits are exempt; however, they would still be required to check in. Realtors would be exempt as they are a business licensed through the State. Religious groups are exempt. He explained when referring to out of town; most of the 1 day to 2-7 day people applying for this are the ones coming in for that one event, e.g., Ribfest, Mustang show, etc.

Councilor Dwyer stated his opposition to the change and his belief it is over policing, which makes him uncomfortable. Vice Chairman Rothhaus requested clarification the ordinance currently prohibits contractors from soliciting additional work in the vicinity of an existing job, e.g., painters approaching a neighbor of a home they are working at. Director Micali suggested there is a difference between

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leaving printed material in the neighborhood a contractor is currently working in versus going door-to-door soliciting additional work.

Councilor Koenig noted Chapter 180 already exists; what is being proposed is a change that would add a one day and a seven day license opportunity. The only language that causes him pause is that which requires a completed background investigation and motor vehicle record. He questioned the length of time a background check would be valid. Director Micali stated Item H is the handout (quick reference) provided to individuals seeking license, along with a full copy of the Ordinance. Background checks are mentioned earlier in the Chapter; 180-3A "Before the issuance of a license hereunder the applicant shall provide to the Town council a completed criminal background investigation and a motor vehicle record provided by the applicant in writing from the State of New Hampshire, and the applicant's state of residence."

With regard to length of time a background check would be valid, Chief Doyle responded generally individuals arrested for the kinds of incidents that would be reported on a criminal background check may take, depending upon the state, up to a year before appearing. Convictions could take several years to appear. He stated, if a criminal record were older than 6 months, a new one would be requested. In the State of New Hampshire an individual's arrest record would appear within that timeframe. He stated his belief 6 months would be a good guideline to use as a valid criminal background check. He added, generally an individual involved in the type of activity that would require a second look would have a record of other things prior to that 6 months. Councilor Koenig questioned the time and cost factors involved. The State cost is \$25.00 for the background check and \$15 for the driving record. It was noted the forms can be completed electronically. The question was posed of accuracy with electronic submission, e.g., whether the State can be assured the individual completing the online application is the individual for which a background check is being requested. Chief Doyle stated that to be a question for the State. Director Micali suggested the change to the Ordinance could go into effect a few months out to avoid a time burden.

Councilor Flood questioned what would occur if an individual requesting a license had a criminal record, e.g. simple assault. Chief Doyle responded not every criminal offense is something that would cause an individual to be denied the ability to obtain a permit. He stated it would be the individual the residents of Merrimack would not want in their neighborhood knocking on their door when their children are home alone, e.g., the guy convicted of a sex offense, breaking and entering, burglary during the daytime with a deadly weapon, etc. He stated the police would have to be relied upon to make such a decision. He remarked the police have a lot of resources outside of the criminal record process; nothing prevents them from making a phone call to another jurisdiction and saying we have a person coming into our town who was convicted of a particular offense and asking for more information from the investigator who had worked the case. He added, the offense for which an individual is arrested and/or convicted of may be very different from what they actually did because of the nature of the criminal justice system, plea bargains, etc. The criminal record does not tell the whole story.

Chairman Mahon opened the public hearing at 8:32 p.m.

No one from the public addressed the Council.

Chairman Mahon closed the public hearing at 8:33 p.m.

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MOTION made by Councilor Rothhaus and seconded by Councilor Harrington to move Chapter 180 - Temporary Sales Locations and Vendors to a third and final reading

ON THE QUESTION

Vice Chairman Rothhaus stated he has always been in opposition of the Ordinance, and the reason for his support, at this time, is because he believes the change is fair and beneficial to individuals not looking for a full-year permit.

Chairman Mahon noted the Chief alluded to the fact if a criminal record check was older than 6 months the individual would likely be asked to acquire another. He questioned the will of the Council to include discretionary language that would allow that option. Councilor Harrington stated if not specifically addressed the option is available. Chairman Mahon stated it would also open it up to arbitrary enforcement. When asked for his opinion, Chief Doyle suggested a note could be added to the list of criteria that is handed out, which states all criminal background checks be no older than 6 months.

MOTION by Councilor Koenig and seconded by Councilor Harrington to amend the motion to include, under Section H, language that suggests the maximum age of a criminal background check be six (6) months. MOTION CARRIED 5/2/0

Councilors Boyd and Dwyer voted in opposition.

Councilor Boyd stated he is supportive of what is being attempted with the permitting; however, he has trepidation with the criminal background check. He commented one of the things the community takes great pride in is the tremendous presence of community policing. He suggested an individual having to go through such a process will instead choose not to do business in Merrimack. He reiterated the police department already does a great job vetting people, which eliminates the need for a background check.

MOTION made by Councilor Boyd and seconded by Councilor Harrington to amend by inserting language, under Section H, that states “completion and review of a criminal background check does not necessarily disqualify an applicant from receiving a permit and conducting business in the Town of Merrimack.”

ON THE QUESTION

Vice Chairman Rothhaus questioned whether the desire was to state something negative in a background check would not disqualify. Councilor Boyd stated the intent to provide the Chief some flexibility with regard to the type of offense. Vice Chairman Rothhaus stated that already occurs and unless each type of crime were identified there would be no need to include the language. Councilor Boyd suggested the language would educate vendors to the fact they would not automatically be disqualified. Councilor Harrington stated she was acceptable to inclusion of the language although does not feel it necessary as anyone with an assault on their record is aware of that and should understand a judgment would be made by the Police Department.

Councilor Flood stated her desire for the Chief to have the ability to use his judgment in such matters, and suggested the language is unnecessary. **MOTION FAILED 1/6/0**

Councilors Dwyer, Flood, Harrington, Koenig, Rothhaus, and Mahon voted in opposition.

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Chairman Mahon questioned whether an appeal process exists. Director Micali stated his belief there is an appeal process; if the Town Manager denies a permit the applicant has the ability to appear before the Town Council. After a review, it was determined there is no such language. Chairman Mahon suggested the waiver language could be construed to be an appeal.

MOTION made by Councilor Rothhaus and seconded by Councilor Boyd to amend under § 180-15. Denial, revocation or waiver of license by adding, a sub-section A(2) which would read “Any person/hawker/peddler having his license application denied may request, in writing, reconsideration by the Town Council.” and by removing the words “or designee” in 180-15 B(3).

MOTION CARRIED 6/1/0

Councilor Dwyer voted in opposition.

Vote on the main motion

MOTION CARRIED 5/2/0

Councilors Dwyer and Boyd voted in opposition.

2. Proposed Municipal 2013-14 Operating Budget and Warrant Articles

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

The Town Council will hold a public hearing, pursuant to NH RSA 40:13 II-b, NH RSA 33:8-a (I), NH RSA 32:5, I, NH RSA 21:35, and Town of Merrimack Charter Article 8-3, to discuss the Following:

- 2013/14 Proposed Municipal Operating Budget
- Collective Bargaining Agreements
- Review of the Default Budget

2013/14 Proposed Municipal Operating Budget

Town Manager Cabanel noted the budget was prepared in a manner different than previous years; capital projects were previously included in the operating budget, which skewed the ability to compare the operating budget from year to year. She touched upon increases to the budget such as \$360,000 of additional expenses related to the New Hampshire Retirement System (NHRS), a 15% increase in health insurance costs (approximately \$500,000). She noted many of the increases that can be seen in the police and fire departments can be associated with those types of increases.

Speaking to reductions in the budget, she noted a reduction in cost in the Community Development Department, resulting from a retirement and the position being changed from full-time to part-time position. The Library experienced a reduction due to the position of Director being filled by an individual at a lesser salary than the previous as well as a change in the position of full-time custodian to that of part-time custodian. In the Highway Department, an equipment operator position was eliminated.

The capital reserve monies were then brought back into the budget accounting for both revenue and expenses. In comparison to FY13, an increase of approximately \$37,000 in deposits were made into

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the Capital reserve Fund (CRF). The intent for FY14 is to purchase three police vehicles, as was done last year, and expend funds in building and grounds repairs at the Town Hall facility. Road Infrastructure was another item highlighted. The desire had been to appropriate to that account \$800,000 or more; however, with the increased costs for retirement and healthcare as well as reductions in revenue, \$700,000 is being proposed.

With regard to revenue, interest income was reduced by \$183,000, the insurance rebate resulting from the Local Government Center (LGC) lawsuit is approximately \$75,000, and 15% of the cable franchise fees were placed in the general fund to offset taxes resulting in a net decrease of \$62,623.

Other funds that identify both deposits and expenditures are the self-supporting funds such as wastewater, media, the day camp program, etc. Those programs are self-supporting and have no impact on the tax rate. Those accounts will show appropriations and expenditures at the exact same amount.

The amount to be raised by taxes (expenditures less revenue) last year was \$14,851,235. Last year, at the deliberative session as well as the budget hearing the tax rate was estimated at \$5.25. From that time until the time the tax bills actually went out the value of the Town increased more than expected resulting in a \$5.14 tax rate. This year's proposed tax rate is \$5.25. The value has been increased by \$12 million. It was explained assessments are done April 1st of each year and as of April 1, 2012 the mall project was only 85% complete.

Town Manager Cabanel explained the default budget would result in an increased tax rate. The default budget allows the Town to spend money that has been removed from the proposed budget, e.g., the union contract cost for health insurance (different number as some non-union included), retirement, etc. If those costs were assumed and reductions proposed for other areas not made, the default budget would be higher than that proposed. Director Micali stated the budget being proposed to be \$571,000 lower than what the default budget would be because of cuts that have been made.

Town Manager Cabanel noted the Deliberative Session would be conducted Wednesday, March 13, 2013 at 7:00 p.m. at the Masticola Upper Elementary School. The session is an opportunity for the public to provide input on the proposed budget. The annual voting day is Tuesday, April 9, 2013 between the hours of 7:00 a.m. and 7:00 p.m. at the James Masticola Upper Elementary School.

Councilor Dwyer stated his disapproval of a default budget. He stated he would have preferred to see a budget that reflected what would result in terms of actions taken, e.g., loss of positions, etc. when it comes to a default budget. He commented the word default does not mean anything to most people as the process has become convoluted and too cumbersome to explain. He suggested a default budget should be less than what is approved by the Council.

Chairman Mahon explained a default budget is what you are committed to expend in the next fiscal year because of prior contractual agreements and the normal expenses of running the organization at the previous year's level. The intent was to show what it would cost to operate the Town for the next year, if you do not adopt the proposed budget, and it includes the obligations that you have on a regular basis. The law stipulates what can go into that budget. It was never intended to be less than.

Town Manager Cabanel noted, at the Deliberative Session, the public has the opportunity to reduce the budget. When asked, she explained the only two things added to the default budget were health insurance (required by contract), and retirement (mandated).

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Chairman Mahon opened the public hearing at 9:16 p.m.

Yvette Couser, Director, Merrimack Public Library

Informed the Council of a recent vote of the Library Board of Trustees, which affects the allocation of the budget; however, not the bottom line. Several months ago it was suggested the Board should look into opportunities to pull away from the Town's health insurance and see if savings could be gained through going with a smaller pool. Within the past week and a half permission was received to make such a move. It was discovered considerable savings could be achieved. The Board of Trustees has decided to go with a smaller insurance group. From those savings they have decided to give each of the full-time employees a \$1,500 one-time cost of living adjustment intended to assist with rising insurance costs (new policy is at higher cost to employees). After the adjustments have been provided there will be an approximate additional savings of \$12,000. The intent is to utilize those funds for window replacement in the Lowell Room as well as other technologies that could be added to the materials line.

Councilor Boyd commented when the debate took place last year what was looked for was a proactive management/vision to improve the quality of the library. Having been given a bottom line budget, the library has worked within it, made some changes that will benefit the institution, and have found funds to use for infrastructure replacement. He thanked the Director for the transparency in coming before the Council and the public to present the intentions.

Councilor Dwyer questioned the number of employees that would be affected, and was informed there are 7 full-time employees that would be affected. When asked about what changes would occur, Ms. Couser stated she did not have all of the details; however, some would go from \$5 co-pay to \$10 co-pay with \$10/\$20/\$45 for prescriptions. Employees will continue to pay 10% of the premium cost. Town Manager Cabanel stated the opportunity exists to make this change because of their having a separate board, which allowed them to break away into the under 100 group; although remaining with LGC. Councilor Koenig asked for clarification and was informed there is no change in salary for part-time employees.

Chairman Mahon closed the public hearing at 9:23 p.m.

MOTION made by Councilor Dwyer and seconded by Councilor Harrington for a \$1,500 wage adjustment for all full-time, non-union employees, excluding the library, and for a \$.73/hour wage adjustment for all regular scheduled non-union part-time employees, excluding the library. The total cost, inclusive of benefits, is \$84,050

ON THE QUESTION

Councilor Dwyer noted the exclusion of the library was due to their autonomy. He commented the unions have always had great representation, which is not the case for non-union employees. Three years ago the non-union employees stepped up from a 5% contribution to the medical plan to a 10% contribution and their salary increases over the years have been small percentages. He added if the unions were able to come together efforts should be put forth for all employees in the Town.

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Councilor Koenig questioned the \$.73 hourly increase for part-time employees and remarked what was represented by the library was the fact the \$1,500 was a way to offset added cost of health insurance. Through the three-year contracts brought forward, unions won't be paying additional costs towards health insurance for another two years. No discussion has taken place about whether or not that would be expected for the non-union employees. He acknowledged the non-union employees have stepped up in the past and have not been given tremendous increases. He would like to be able to if possible; however part-time employees receiving a \$.73/hour increase would represent 7.3% for an individual making \$10.00/hour and those employees do not receive health insurance coverage. He suggested the possibility of instead determining a specific percentage of increase for part-time employees and to include in the motion part-time employees at the library.

Councilor Dwyer responded the point is part-time employees are only making \$10.00 an hour. He suggested the proposed increase not be viewed as a percentage as that skews the vision of the big picture. He remarked individuals making \$50,000 or \$60,000 would see a 1.5% increase, which is something that could be agreed to.

He informed the Council the Administration has been able to come up with areas from which the funds could be allocated; therefore, the motion would not result in an increase to the tax rate. Town Manager Cabanel spoke to documentation provided to the Council (Option I/Option II), which identifies reductions that can be made to accommodate a \$1,500 increase. Basically the difference between the options is Option I removes the payment to the New Hampshire Municipal Association (NHMA) and Option II relates to the \$400,000 that goes into the Town's 20% of bridge work, reconstruction of roads, etc. The Public Works Director has stated the Deputy Director is well versed in bridge work and serves as a Clerk of the Works on some of the bridge projects, and, therefore, able to bill the State and receive 80% back for the Town. Option I shows a reduction of \$19,195 from NHMA as well as reductions in other areas to come up with the \$84,050 and Option II leaves in place the NHMA funds and reduces \$16,000 from the work the Deputy Director of Public Works performs. Another factor included was to increase the value of the Town by an additional \$4 million. Extensive conversations have occurred with the contract assessor, who is of the belief the additional increase due to the mall completion is likely to be more in the \$16 million range, which will reduce the tax rate.

Town Manager Cabanel stated extensive efforts were made to make reductions so that this increase could be cost-neutral. She stated her support of the increase and noted these employees have been paying 10% of the cost of their health insurance since 2009/2010 unlike any other employees. The rest of the employees, until the third year of the new contract, will continue to pay 2% of their base wage, not a percentage of the cost.

Vice Chairman Rothhaus stated his support of the motion. He questioned whether the Public Works Department would suffer regardless of the option chosen. Town Manager Cabanel responded the Director of Public Works felt as much as \$35,000 could be reduced; however, the Finance Director was not comfortable with that. Vice Chairman Rothhaus questioned why the Council would not choose to utilize Option I as well as reduce \$16,000 from the Public Works Department budget, and was informed that is another action the Council could choose to take. Town Manager Cabanel stated her desire for the Council choose one of the two options presented. She remarked deeper cuts would reduce further the ability to address any unanticipated expenses/overages.

Councilor Flood stated she would be in favor of dropping out of the NHMA and cited many reasons such as her belief the organization has not conducted itself very honorable and does not necessarily

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represent Merrimack or any other town, but rather what they perceive to be broad interests of the towns. Councilor Boyd informed the Council the Executive Director of the NHMA was recently terminated and given a severance package of \$189,200 on top of a buyback of sick time (65 days), which came out to a little over \$47,000. He stated his support of the motion on the floor.

Town Manager Cabanel informed the Council a meeting was held with all non-union employees at which they were offered the choice of the administration bringing forward the option of a raise and change in health insurance effective immediately or waiting two years. The group voted for the raise and change in health insurance. She stated her personal opinion it is not fair for these employees to incur the increased costs immediately when the unions have a two-year timeframe before that goes into effect. She stated it is her intention and the understanding of the employees that at some point they will be going, at the same time the unions do, to the new health insurance. Because it is a one-year action taken on non-union issues, it has not been proposed.

Councilor Harrington questioned whether there are part-time employees who are under union contracts, and was told there are. Town Manager Cabanel remarked when the Dispatchers and Secretaries Agreement was signed, the part-time employees (3) were allowed to be included in the union, and would; therefore, also receive the proposed \$.73/hour increase. Councilor Harrington stated, given that information, she would support the motion. Director Micali stated there are only eight (8) part-time non-union employees on a regular schedule.

When asked how the tax rate would be affected if neither of the options were considered, it was stated the tax rate would increase by \$.03. Chairman Mahon noted the tax rate is increased by \$.01 for every \$29,000 added to the budget.

Councilor Koenig questioned whether it is fair to not consider the part-time employees at the library. Chairman Mahon suggested what should be looked at are the hourly rates for the part-time employees at the library versus those of the part-time employees not at the library. Councilor Koenig responded that implication suggests rather than a \$.73/hour increase it should be a percentage increase. He stated he would be supportive of a 3 - 3 ½% increase to the part-time employees to make up for the fact they have received fairly low increases over the years. Town Manager Cabanel stated the Town Council does not determine wages of the personnel at the library that is up to the Library Board of Trustees to make such a decision.

Councilor Koenig stated they also asked the Council, if considering increases for non-union employees, to please consider the same for the library as well. He stated his belief there would be no resistance on their part were the Council to add a few thousand dollars to their budget to help pay for an increase for the part-time employees. He noted they would not be required to follow the guidance of the Council; however that would be his recommendation to make such an offer.

Vice Chairman Rothhaus stated an intention, after the vote on the current motion, to make a motion for an offsetting cut. If the library chose to do that it would not require an action from the Council, the Board of Trustees could make the decision to pay and make the cut where they see fit to offset that.

Councilor Flood questioned the additional cost for the equivalent action at the library. Director Micali stated it would be \$10,050, without benefits. When asked about the total of the proposed cuts she was informed it would be \$19,195. Town Manager Cabanel reiterated those numbers represented her "scraping the bottom of the barrel" trying to identify monies to fund the general fund. The library took other actions in order to fund their own.

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MOTION CARRIED 6/1/0

Councilor Koenig voted in opposition

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to utilize Option I as the reductions utilized to offset the increase for non-union employees

ON THE QUESTION

Director Micali explained Option 1 would total \$78,355, and the new budget total would be \$28,725,477, which represents a \$5.25 tax rate.

MOTION CARRIED 6/1/0

Councilor Koenig voted in opposition

MOTION made by Councilor Boyd and seconded by Councilor Harrington to move the sum of twenty eight million seven hundred and twenty five thousand four hundred and seventy Seven dollars (\$28,725,477) to the Warrant. MOTION CARRIED 7/0/0

Councilor Harrington questioned, should the instance reoccur that, after the setting of the tax rate, it is found the assessment is higher than anticipated, whether there is an option to reduce the tax rate or leave the tax rate as is and reinstate the proposed cuts. Town Manager Cabanel stated the value is what it is and does not get set until the November timeframe. The value could increase or increase, and the Town is counting on an increase of possibly \$23 million in total (\$16 million for mall). In that instance, the tax rate would be lower than \$5.25. When asked, she stated that would be an automatic change.

The Town Council recessed at 9:59 p.m.

The Town Council reconvened at 10:04 p.m.

Article 3

Shall the Town of Merrimack vote to establish, in accordance with RSA 35, a Tennis Court Capital reserve Fund for capital expenditures relating to the tennis courts, including but not limited to the acquisition, construction, replacement, and improvement of land for the of tennis courts; to raise and appropriate the sum of \$25,000 to be placed in said fund; and to designate the Town Council as agents to expend? This is a special warrant article per RSA 32:3, VI.

Director Micali stated the subject has been discussed and a placeholder of \$25,000 has been included; however, the Council has never made a decision with regard to the creation of the capital Reserve Fund or at what level it would be funded. He stated the Warrant Article would be separate from that of the operating budget. Town Manager Cabanel stated her recollection the \$25,000 figure came from the Council, and that her preference would be a smaller amount (\$5,000) to provide the implication the Town is trying to abide by the grants that have been accepted. She noted, although a separate warrant article, it would affect the tax rate.

The need for a Public Hearing was stated, and it was noted, since proper notification could not be provided in a timely fashion, the article could not be included.

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Collective Bargaining Agreements

Town Manager Cabanel stated the intention has been to focus on health insurance. She referred to a communication sent to the health insurance provider, LGC, questioning why the Town received a double digit increase (15%) particularly in light of the fact most other communities received increases less than 10%. The response received was that the plans are too rich and provide no incentives for participants to utilize generic prescriptions, reduce the number of office visits, etc. She also stated the Town is at 99% of loss ratio and should be at 85%. She stated her understanding there are members of the Council who would prefer the change in employee contribution to the health insurance costs take place in the first year of the contracts; however, she sees it as a huge success to have reached agreement to change the health insurance significantly. These changes will change the way they view and use their health insurance. In providing an example, she noted out of the 228 covered employees (existing and retirees), 6,777 prescriptions were filled last year (23% higher than the norm). She remarked the changes that will take place will benefit the Town for years to come. Across the board all unions were offered the same things with the focus specifically on health insurance; moving employees to a lesser expensive plan and one in which they need to make thoughtful decisions about use. They were compensated for doing that, e.g., offered \$1,500 to the base in year 1 (\$.73/hour).

New England Police Benevolent Association, Local 112

The Association currently pays 10% of the health insurance premium costs. Last year's contract included a 1% wage increase and a change to a \$10 office visit co-pay and \$0/\$20/\$30 pharmacy co-pay. The proposed contract represents a change to a \$20 office visit co-pay and \$10/\$20/\$45 pharmacy co-pay. Language is included in the overtime policy that states when an employee is required to stay beyond their scheduled shift they will be compensated at 1½ times their normal hourly wage regardless of sick or vacation time. Costs in year 1 are \$27,661, which includes wages and steps, year two; \$9,829, and year three; (\$13,559). Total contract cost on the tax rate is approximately \$.01.

Teamsters, Local 633

There are eleven (11) employees within this union. They experienced no break in contract. They were on the \$5 office visit co-pay with \$0/\$15/\$15 pharmacy co-pay and \$0/\$1/\$1 (3 month supply). With the last contract negotiation this group went to \$5 office visit co-pay and \$0/\$20/\$30 pharmacy co-pay. The current contract calls for a wage increase in year one (\$1,500) and the following changes in year three; 10% of premium cost of Matthew Thornton B, \$20 office visit co-pay, and \$10/\$20/\$45 pharmacy co-pay.

The cost of the first year of the contract is \$19,860, year two; \$0, and year three; (\$18,221) for a total contract cost of \$1,639.

New England Police Benevolent Association, Local 12

The previous (one-year) contract called for a 1% wage increase to change health insurance. The contract called for a \$10 office visit co-pay and \$0/\$20/\$20 pharmacy co-pay; however, members were

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paying only 3% of their base wage towards premium costs. They moved from 2% to 3% of their base wage. The current contract provides for a wage increase in year one (\$1,500), \$0 in year two, and \$0 in year three, a \$20 office visit co-pay and \$10/\$20/\$45 pharmacy co-pay. The union was also provided bereavement leave with specific language related to immediate family, which matches that of the Town policy. Also offered is a shift bid for three cycles (they can choose and keep same shift for 3 cycles or 9 months). Director Micali stated the union would begin, in year 3, to pay 10% of the dental premium costs (as do other unions).

The cost of the proposed contract in year 1 is \$73,394, year two; \$29,811, and year three; (\$28,833).

American Federation of State, County and Municipal Employees 93, Local 3657

This union represents the supervisors of police and fire. Proposed is a three-year contract; \$1,500 added to the base, in year three they pay 10% of the premium costs (currently paying 2% of base wage). At present the contract calls for \$5 office visit co-pay and a \$0/\$1/\$1 pharmacy co-pay. The proposed contract will call for a \$20 office visit co-pay and \$10/\$20/\$45 pharmacy co-pay. Ten percent (10%) of the dental premium will also be included beginning 7-1-15.

The union requested implementation of an additional section of the Section 125 plan. Currently the Town has a Section 125 plan for premium costs; contributions to premiums are pre-tax dollars through a flexible spending account. The amount agreed to was a \$500 maximum contribution. The cost of the first year of the contract is \$33,665 (\$0.01), year two; \$0, and year three; (\$27,839). Total contract cost is \$5,826.

IAFF, Local 2904

This is a three-year contract. Year one has a wage increase of \$1,500. The present contract is changing from a \$5 office visit co-pay and \$0/\$1/\$1 mail-in prescriptions co-pay to a \$20 office visit co-pay, a \$10/\$20/\$45 pharmacy co-pay and 10% dental premium cost share. They have been asked to follow the Town holiday schedule. The union requested a bell cap badge for their dress uniforms (\$30/each). There is a change from 8 to 10 hours for time paid to attend training classes (travel time included).

Some of the non-cost items included the new category of Emergency Medical Technician, EMT A (Advanced), which will replace an EMT I (Intermediate). A request was made to look into a Section 457 plan that is advocated by the firefighters, but is subject to final determination of the Town Manager and Town Council. They also requested, prior to proposing a town ordinance regarding the use of public safety during special details, the Town agrees to form a joint committee to include one firefighter to provide input, e.g., Ribfest normally has 4-5 ambulances, if that is reduced to 1 a committee would discuss the safety aspects of such a change. The cost of the contract is greater than the others as they have been without a contract for two years (steps to gain). The cost in year one is \$127,069, year two; \$0, and year three; (\$56,529).

Director Micali informed the Council, in the event all of the proposed contracts pass, the impact on the tax rate would be approximately \$.10 in the first year.

Councilor Harrington asked for clarification there are only two choices for health insurance. Town Manager Cabanel stated, at present, the two choices are LGC and Harvard Pilgrim. The reason why

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those are the only options is due to the rich benefits the Town has; nobody else offers them. She added as soon as everyone is off of the \$0/\$1/\$1 and the \$5 co-pay, 2 or 3 more options will be available. She added, she does not believe any savings will be able to be achieved until our own experience is changed. Councilor Harrington suggested it may be in the fourth year when a history will reflect a change in use, which will open up the opportunities for other insurance companies to accept the Town for consideration. Chairman Mahon noted it would be the fifth year as the change in the contracts don't become effective until the third year and insurance companies look for two years of history.

Councilor Harrington stated her assumption what is being paid to LGC would likely be similar with the alternate because of the use. Town Manager Cabanel stated that to be correct. She noted a breakdown of actual costs incurred is provided (\$3.4 million range). When asked if it separates out retirees from active employees, she stated that information is difficult to obtain, e.g., the over 65 group is able to be separated; however you could have a police officer who is a retiree at age 46. She stated the additional benefit to changing the plans is that once a particular union's type of health insurance is changed it applies to the retirees as well.

Councilor Koenig stated his appreciation for the negotiations that have taken place; however, noted his frustration with the resulting contracts. He stated part of his frustration is with the way the State requires the cost factors be presented. Using the IAFF contract as an example; it states the first year cost to be \$127,069 and the second year cost \$22,000, which does not take into consideration the fact the \$127,069 will be paid in the second year (becomes part of the base salary for which future years' increases are based). The third year says there will be a reduction in cost of \$56,529, which again is not including the \$127,069 from the first year that they are still going to be paid and the \$22,000 from the second year that they are still going to be paid. He stated while it is identified and will say on the warrant that the cost of the contract is \$92,598, in fact, if you add all of the numbers up, the Town will be paying \$368,794 for that contract for the three-year period. If the same math is done for all of the contracts the total cost comes out to \$823,362 or over the three years somewhere on the order of 28-30 cents on the tax rate for three years.

Councilor Harrington remarked for the first two years of the contract the \$1,500 wage increase will pay for the first year payment of the increase to contributing 10% of premium costs; however, the employees will also be subjected to increased co-pay amounts. Councilor Koenig noted, as the employees are already contributing up to 2% of current base wages, the increase will not be as great in the third year. Councilor Harrington noted the step increase would remain regardless. She stated her belief the reasonable debate is around the increase in the percentage of premium costs paid by the employee and having that change occur sooner.

Councilor Koenig noted not all unions have steps. He reiterated the presentation that will be placed on the Warrant suggests there will be a negative cost to the Town in the third year, steps or no steps, for all five contracts, and the Town will have paid significantly and will still be paying for the first \$1,500 in the third year. He provided a further example of the Teamsters, Local 633 contract, which suggests the total contract cost is \$1,639, but in fact, over the three years, the Town will pay \$41,359 because of paying that \$1,500 for three years before getting any credit back on the health insurance in that third year, and there are no steps involved in that contract. He stated, it is due to the State law that, in his opinion, the cost of the second year is not shown accurately. All that can be shown is the delta cost for the second and third years.

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Councilor Dwyer remarked it is as though you are providing a reward for being without a contract when back pay is involved. He remarked, as long as this process continues there cannot be change. He commented he has never stated being out of contract is a bad thing; as soon as you are in contract there is a cost. Chairman Mahon stated being out of contract is not a good thing because you give them a pay raise by the amount of increase in your healthcare plan. Town Manager Cabanel stated the increase in cost for a family plan from last year to this is \$4,000 whether in contract or out of contract. Councilor Harrington added if you go four years without a contract you pay four years' worth of steps. Director Micali explained what occurs is the employees would be moved to where they should be on the scale and paid according from that point forward, they would not receive four years' worth of increases.

Chairman Mahon opened the public hearing at 10:46 p.m.

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

Chairman Mahon closed the public hearing at 10:46 p.m.

MOTION made by Councilor Boyd and seconded by Councilor Harrington to move the three-year agreement with the New England Police Benevolent Association, Local 112 to the Warrant as presented. MOTION CARRIED 5/2/0

Councilors Koenig and Dwyer voted in opposition

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to move the three-year agreement with the Teamsters, Local 633 to the Warrant as presented. MOTION CARRIED 5/2/0

Councilors Koenig and Dwyer voted in opposition

MOTION made by Councilor Boyd and seconded by Councilor Harrington to move the three-year agreement with the New England Police Benevolent Association, Local 12 to the Warrant as presented. MOTION CARRIED 5/2/0

Councilors Koenig and Dwyer voted in opposition

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to move the three-year agreement with the American Federation of State, County and Municipal Employees 93, Local 3657 to the Warrant as presented. MOTION CARRIED 5/2/0

Councilors Koenig and Dwyer voted in opposition

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to move the three-year agreement with the IAFF, Local 2904 to the Warrant as presented. MOTION CARRIED 4/2/1

Councilors Koenig and Dwyer voted in opposition

Councilor Harrington Abstained

There being no objection, the Council went out of the regular order of business.

Old Business

- 1. Donation Acceptance for and Approval of Expenditures for Merrimack Dog Park [Tabled at the January 24, 2013 Town Council Meeting]**

Approved: March 14, 2013

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Submitted by Parks and Recreation Director Sherry Kalish and Parks and Recreation Committee Chair Tom Thornton

The Town Council to consider the acceptance of \$919.30 in monetary donations, a donated fence enclosure valued at \$300 and the approval of expenditures totaling \$38.48, pursuant to Charter Article 8-15 and RSA 31:95-b.

Director Kalish stated the request for the Council to accept deposits in the total amount of \$919.30 and to approve expenditures in the amount of \$38.48. She explained the donations are from the time period of November 2012 to present.

Director Kalish informed the Council the Nashua D.O.G. has offered to donate a fence formerly used at the Bellavance Beverage Dog Park location. With the opening of a new park, the fencing is no longer needed by the group. The fencing is 6' high and a 10' square galvanized steel, gated enclosure valued at \$300.00.

Councilor Flood questioned who would be responsible for disassembly and was informed it is located in storage at this time, and if accepted, would be delivered to the dog park area. Councilor Koenig questioned the purpose of the enclosure. Director Kalish stated the small enclosed area would be used to unleash the dogs to allow them to run free into the dog park. Without the enclosure there would be no enclosed area to unleash and leash the dogs and leash them again when ready to return to their vehicle. Chairman Mahon commented it would also make it more difficult for dogs already in the park to get out.

MOTION made by Councilor Boyd and seconded by Councilor Harrington to accept the monetary donation of nine hundred nineteen dollars and thirty cents (\$919.30) and the donated fence from Nashua D.O.G. valued at three hundred dollars (\$300.00), approve expenditures totaling thirty eight dollars and forty eight cents (\$38.48) pursuant to Charter Article 8-15 and RSA 31:95-b, and that the Town Manager and/or the Finance Director be authorized to sign any and all applicable documents to effectuate said transaction.

ON THE QUESTION

Councilor Flood questioned whether a dollar threshold, perhaps greater than \$1,000, could be placed on requests coming before the council for approval. Chairman Mahon suggested such a discussion could be placed on a future agenda.

MOTION CARRIED 7/0/0

NEW BUSINESS

2. Review of the 2013-2014 Default Budget

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

The Town Council will review the 2013-2014 Default Budget.

Director Micali stated the default budget to be in the total amount of \$27,968,164. In arriving at that figure, one-time capital expenditures are removed, debt service for FY13 is removed, debt service for FY14 is added, health insurance cost for the unions is added and the State mandated increase in the NHRS is added.

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MOTION made by Councilor Koenig and seconded by Councilor Rothhaus to move the default budget in the amount of twenty seven million nine hundred sixty eight thousand one hundred sixty four dollars (\$27,968,164) to the Warrant. MOTION CARRIED 7/0/0

3. Review of 2013 Town Warrant

Submitted by Finance Director Paul T. Micali

The Town Council to review and make recommendations on each article of the 2013 Town Warrant.

Article 2

Shall the Town vote to raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$28,725,477? Should this article be defeated, the default budget shall be \$27,968,164, which is the same as last year, with certain adjustments required by previous action of the Town or by law; or the Town Council may hold one (1) special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only.

MOTION made by Councilor Rothhaus and seconded by Councilor Harrington to recommend Article 2 with an operating budget of twenty eight million seven hundred twenty five thousand four hundred seventy seven dollars (\$28,725,477) and a default budget of twenty seven million nine hundred sixty eight thousand one hundred sixty four dollars (\$27,968,164). MOTION CARRIED 7/0/0

Article 3

Shall the Town of Merrimack vote to approve the cost items included in a collective bargaining agreement reached between the Merrimack Town Council and the New England Police Benevolent Association, Local 112, which calls for the following increases in salaries and benefits at the current staffing levels:

| <i>Fiscal Year</i> | <i>Wage Increase</i> | <i>Wage and Benefit Costs</i> |
|---------------------------|-----------------------------|--------------------------------------|
| <i>2013-14</i> | <i>Flat \$1,500</i> | <i>\$ 27,661</i> |
| <i>2014-15</i> | <i>0</i> | <i>9,829</i> |
| <i>2015-16</i> | <i>0</i> | <i>(13,559)</i> |

and further to raise and appropriate the sum of \$27,661, such sum representing the anticipated increase in salaries and benefits over those of the appropriation at current staffing levels paid in the prior fiscal year? The passage of this article will result in employees covered by the collective bargaining agreement contributing 10% towards health and dental insurance premiums and changing their health care in 2015-16 to \$20 office visit \$10/\$20/\$45 pharmacy co-pay. These savings have been factored into the estimated increases/decreases set forth above. This collective bargaining agreement covers the Dispatchers and Office Staff of the Police Department.

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MOTION made by Councilor Rothhaus and seconded by Councilor Boyd to recommend the Tentative Agreement with the New England Police Benevolent Association, Local 112. **MOTION CARRIED 5/2/0**

Councilors Koenig & Dwyer voted in opposition.

Article 4

Shall the Town of Merrimack vote to approve the cost items included in a collective bargaining agreement reached between the Merrimack Town Council and the Teamsters, Local 633, which calls for the following increases in salaries and benefits at the current staffing levels:

| Fiscal Year | Wage Increase | Wage and Benefit Costs |
|--------------------|----------------------|-------------------------------|
| 2013-14 | \$1,500 flat wage | \$ 19,860 |
| 2014-15 | 0 | 0 |
| 2015-16 | 0 | (18,221) |

and further to raise and appropriate the sum of \$19,860, such sum representing the anticipated increase in salaries and benefits over those of the appropriation at current staffing levels paid in the prior fiscal year? This agreement will result in employees covered by the collective bargaining agreement contributing 10% towards health and dental insurance premiums and changing their health care in 2015-16 to \$20 office visit \$10/\$20/\$45 pharmacy co-pay and 10% dental premium cost share. These savings have been factored into the estimated increases/decreases set forth above. This collective bargaining agreement covers supervisory and clerical employees of the Highway, Solid Waste Disposal, Wastewater Treatment, Parks Maintenance, and Equipment Maintenance Divisions of the Public Works Department.

MOTION made by Councilor Rothhaus and seconded by Councilor Dwyer to recommend the Tentative Agreement with the Teamsters, Local 633. **MOTION CARRIED 5/2/0**

Councilors Koenig & Dwyer voted in opposition.

Article 5

Shall the Town of Merrimack vote to approve the cost items included in a collective bargaining agreement reached between the Merrimack Town Council and the New England Police Benevolent Association, Local 12, which calls for the following increases in salaries and benefits at the current staffing levels:

| Fiscal Year | Wage Increase | Wage and Benefit Costs |
|--------------------|----------------------|-------------------------------|
| 2013-14 | \$1,500 flat wage | \$ 73,394 |
| 2014-15 | 0 | 29,811 |
| 2015-16 | 0 | (28,833) |

and further to raise and appropriate the sum of \$73,394, such sum representing the anticipated increase in salaries and benefits over those of the appropriation at current staffing levels paid in the prior fiscal year? This agreement includes a 10% employee HMO health insurance cost sharing that will be applicable to new hires beginning on July 1, 2006 and a capped cost share of 3.0% for all

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employees existing as of June 30, 2006, thereafter based on gross pay before overtime until 2015-16 at which time all employees will pay 10% HMO health insurance cost sharing with a \$20 office visit \$10/\$20/\$45 pharmacy co-pay and 10% dental premium cost share. These savings have been factored into the estimated increases/decreases set forth above. This collective bargaining agreement covers the Patrol division, Detectives, and Sergeants of the Police Department.

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to recommend the Tentative Agreement with the New England Police Benevolent Association, Local 12. MOTION CARRIED 5/2/0

Councilors Koenig & Dwyer voted in opposition.

Article 6

Shall the Town of Merrimack vote to approve the cost items included in a collective bargaining agreement reached between the Merrimack Town Council and the American Federation of State, County and Municipal Employees 93, Local 3657, which calls for the following increases in salaries and benefits at the current staffing levels:

| <i>Fiscal Year</i> | <i>Wage Increase</i> | <i>Wage and Benefit Costs</i> |
|---------------------------|-----------------------------|--------------------------------------|
| 2013-14 | \$1,500 flat wage | \$ 33,665 |
| 2014-15 | 0 | 0 |
| 2015-16 | 0 | (27,839) |

and further to raise and appropriate the sum of \$33,665, such sum representing the anticipated increase in salaries and benefits over those of the appropriation at current staffing levels paid in the prior fiscal year? This agreement includes a 10% employee HMO health insurance cost sharing that will be applicable to new hires (hired after June 30, 2006), a capped cost share of 2.0% of base pay (before overtime) for all employees existing as of June 30, 2006, thereafter based on gross pay before overtime until 2015-16 at which time all employees will pay 10% HMO health insurance cost sharing with a \$20 office visit \$10/\$20/\$45 pharmacy co-pay and 10% dental premium cost share. These savings have been factored into the estimated increases/decreases set forth above. This collective bargaining agreement covers the supervisory employees of the Fire and Police Departments.

MOTION made by Councilor Rothhaus and seconded by Councilor Harrington to recommend the Tentative Agreement with the American Federation of State, County and Municipal Employees 93, Local 3657. MOTION CARRIED 5/2/0

Councilors Koenig & Dwyer voted in opposition.

Article 7

Shall the Town of Merrimack vote to approve the cost items included in a collective bargaining agreement reached between the Merrimack Town Council and the IAFF, Local 2904, which calls for the following increases in salaries and benefits at the current staffing levels:

| <i>Fiscal</i> | <i>Wage</i> | <i>Wage and Benefit</i> |
|----------------------|--------------------|--------------------------------|
|----------------------|--------------------|--------------------------------|

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| <i>Year</i> | <i>Increase</i> | <i>Costs</i> |
|-------------|-------------------|--------------|
| 2013-14 | \$1,500 flat wage | \$ 127,069 |
| 2014-15 | 0 | 22,058 |
| 2015-16 | 0 | (56,529) |

and further to raise and appropriate the sum of \$127,069, such sum representing the anticipated increase in salaries and benefits over those of the appropriation at current staffing levels paid in the prior fiscal year? This agreement includes a 10% employee HMO health insurance cost sharing that will be applicable to new hires (hired after June 30, 2006, a capped cost share of 2.0% of base pay (before overtime) for all employees existing as of June 30, 2006, thereafter based on gross pay before overtime until 2015-16 at which time all employees will pay 10% HMO health insurance cost sharing with a \$20 office visit \$10/\$20/\$45 pharmacy co-pay and 10% dental premium cost share. These savings have been factored into the estimated increases/decreases set forth above. This collective bargaining agreement covers the Firefighters and Paramedics of the Fire Department.

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to recommend the Tentative Agreement with the IAFF, Local 2904. MOTION CARRIED 4/2/1

Councilors Koenig & Dwyer voted in opposition

Councilor Mahon Abstained

1. Committee Appointments

Submitted by Town Council Chairman Tom Mahon and Vice Chair Finlay Rothhaus

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

Conservation Commission

Ron Davies – Remainder of 3 year term (Alternate to FULL)

Town Center Committee

David Pauly – 3 year term (FULL)

MOTION made by Councilor Rothhaus and seconded by Councilor Boyd to confirm the appointments of the following individuals; Ron Davies moving from an Alternate to a full position on the Merrimack Conservation Commission for the remainder of his three-year term and David Pauly to the Town Center Committee as a full member for a three-year term.

MOTION CARRIED 7/0/0

Legislative Updates from State Representatives - None

Town Manager's Report - None

Consent Agenda - None

Minutes

It was the general consensus of the Council to table acceptance of the meeting minutes of the January 7, 2013, January 10, 2013, and January 14, 2013 Town Council meetings.

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Comments from the Press - None

Comments from the Public - None

Comments from the Council

Councilor Harrington stated she was not in attendance for the Tuesday evening meeting due to illness. She expressed her gratitude to all of the unions for coming to agreement on the contracts. Councilor Koenig reiterated his prior statements regarding his appreciation of all of the work the Town employees do, and noted his votes in opposition to the contracts were strictly based on his understanding and information on negotiations and how the Town can move forward with their expenses, factors, costs, etc. He is not in any way, shape or form trying to suggest he does not appreciate the work the employees do. With regard to the vote taken on the salary adjustment for non-union employees, he stated he appreciates and values the work the employees do, and voted in opposition as he feels it is inequitable and not appropriately handling the situations. He restated his appreciation for all the employees do for the Town.

Chairman Mahon thanked the administration for their efforts.

MOTION made by Councilor Boyd and seconded by Councilor Harrington to adjourn.

The February 14, 2013 meeting of the Town Council was adjourned at 11:15 p.m.

Submitted by Dawn MacMillan