

Approved: January 9, 2014

Posted: January 10, 2014



## **Town Council Meeting Minutes**

Thursday, December 19, 2013, at 7:00 PM, in the Matthew Thornton Room



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

### **Pledge of Allegiance**

Chairman Rothhaus lead in the Pledge of Allegiance.

### **Announcements**

A regular meeting of the Town Council will be conducted on Thursday, January 9, 2014 at 7:00 p.m. and budget meetings at 6:00 p.m. on Monday, January 13<sup>th</sup> and Thursday, January 16<sup>th</sup> in the Matthew Thornton Room.

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

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

#### **1. Recognition of Employees for their Years of Service to the Town of Merrimack**

The Town Council presented awards to the following employees in recognition of years of service to the Town:

- **Fire Department:** David A. Joki (30-Year Clock), Catherine F. Nadeau (25-Year Watch)
- **Police Department:** Michael J. Dudash (30-Year clock), Michael D. Murray (25-Year Watch), Scott C. Park (25-Year Watch)
- **Public Works Department:** Roger L. Descoteaux (30-Year Clock), Rebecca F. Starkey (30-Year Clock)

Catherine F. Nadeau, Roger L. Descoteaux, and Rebecca F. Starkey were unable to be in attendance.

Captain Scott Simpson, Merrimack Fire Department, expressed gratitude to Master Firefighter David Joki for his many years of service to the Town of Merrimack. Mr. Joki was hired as a probationary firefighter on December 25, 1983. He was 21 years old and his pay was \$4.04/hour for a 56-hour work week. Captain Simpson spoke of how improved technology has changed how firefighters perform their tasks and made for increased efficiency and safety. He spoke of tackling issues created by the times such as the oil crisis in the '70s, which prompted many residents to turn to wood burning stoves. He spoke of automobile safety technology having been in its infancy; no crumple zones, self-retracting seat belts, and airbags, which resulted in very violent car accidents. Mr. Joki kept on top of changes by taking as much training as he could. Over time, he earned an Associates' Degree in Fire Science as well as the title of Hazardous Materials Technician. As the senior man on C shift, he served as an

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informal leader who helped train new hires and as a mentor and roll model to the rest of the firefighters. His 30 years of experience with Merrimack Fire along with 27 years volunteering for the Brookline, New Hampshire Fire Department where he has served as a Firefighter, a Lieutenant, and a Captain, have made him a valuable resource. For 30 years he has answered the alarm and been there for the people of Merrimack. Captain Simpson, on behalf of Chief Currier and the entire staff at Merrimack Fire & Rescue, expressed gratitude to Mr. Joki and wished him well in his retirement.

Chief Mark Doyle, Merrimack Police Department, stated Captain Dudash started with the Police Department in July of 1981 as the Animal Control Officer and a part-time Officer. He was sworn in as a full-time Officer in April of 1983, became a Detective in September of 1986, Sargent in January of 1988, Lieutenant in January of 1995, and to his current position of Captain in January of 2007. He is currently the Commander of the Administrative and Support Services Division and has been Commander of the Detective Division, Department Police Prosecutor, Commander of the Patrol and Operations Division, and when Chief Doyle first started Captain Dudash was his Field Training Officer. He spoke of the many commendations and awards Captain Dudash has received including the Life Saving Award, Meritorious Service, Exceptional Service, Purple Heart, and Police Officer of the Year in 1985 as well as perfect attendance for nearly 30 years. He extended to Captain Dudash the gratitude for his 30 years of continued, dedicated, and selfless service to the Community of Merrimack.

Captain Dudash thanked the Town Manager and Council for the opportunity to recognize not only himself, but also two of his co-workers; Scott Park and Michael Murray. He remarked Officer Park has the nickname of "The Closer" as he is one of the best to close a case, likely one of the best Detectives and interviewers in the State. Captain Dudash stated there to be no doubt Officer Murray is likely the best Resource Officer the State has ever seen. He expressed his gratitude for the support of his family and remarked without that there is no way anyone could make it through 30 years of law enforcement. He spoke of his police family and remarked the Town should be very proud of the hard work and dedication these people provide. Captain Dudash expressed a special thank you to Chief Devine who hired him when he was 19 years of age and Deputy Chief Mulligan; two individuals who trusted that he would do the best for the community, the department, and the Town. To Chief Doyle he extended his appreciation and commented if there was a Town employee Hall of Fame Chief Doyle would be the first inductee.

Chief Doyle stated Detective Michael D. Murray, School Resource Officer, started with the department as a dispatcher in September of 1985, became a Special Officer in May of 1987, was appointed as a full-time officer in September of 1988, and appointed and placed into the Merrimack High School as a School Resource Officer in 2000. Detective Murray is regarded by not only his colleagues at the Police Department, but by many others throughout the State as the finest Resource Officer in the State. Chief Doyle commented, as a patrolman he had the opportunity to work with Detective Murray. He was and is considered one of the most aggressive and highly respected patrol officers. Detective Murray was the department's Police Officer of the Year in 2000 and received the Department's Distinguished Unit Award. He is very involved with Special Olympics New Hampshire; as a volunteer and a torch relay leg runner. Chief Doyle stated Detective Murray is someone he has looked up to as one who gives selflessly of himself and by doing so is and has become an example by which other officers throughout the State inspire to follow. He expressed gratitude on behalf of the department and the community.

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Chief Doyle stated Detective Scott Park started with the department in August of 1986, became a full-time Officer in January of 1988, and was assigned to his current position as Detective/Criminal Investigator in January of 2000. He is one of the department's lead and most veteran investigators. He is probably one of the premier investigators in the State, so much so that he is the one person whom the department feels most comfortable assigning to the most involved and comprehensive case investigations spearheaded by Lt. Roy and her folks over in the Criminal Investigation Bureau. He acts as a Liaison with the State Police and the Attorney General's Office when investigating cases before those boards for review. He is a veteran who provides guidance and direction to many other unit members as well as some of the newer patrol officers. He also teaches at the Citizens' Police Academy. Detective Park received the Police Officer of the Year Award in 1998 and has been awarded the Distinguished Unit Award as well as the department's Meritorious Service Award for being involved in many of those case investigations. Chief Doyle congratulated Detective Park on achieving his 25 years of dedicated service to the Merrimack community.

Chairman Rothhaus expressed the gratitude of the Council and the community for the many years of dedicated service.

*The Council recessed at 7:28 p.m.*

*The Council reconvened at 7:29 p.m.*

**Appointments** - None

**Public Hearing** - None

**Legislative Updates from State Representatives** - None

**Town Manager's Report**

Director Micali informed the Council the final audit for FY13 has arrived. He noted a hard copy was provided to each of the Councilors and would be posted online the following day.

Councilor Boyd asked for clarification of the \$30,000 landfill liability noted in the audit. Director Micali explained the Town previously operated a dump on the site of the landfill. The dump was filled and lined. Once that action occurs there is a 30-year post-closure period where monies have to be set aside to address any unforeseen issues. The amount of monies required to be set aside reduces with each year that passes.

**Consent Agenda** – None

**Old Business** - None

**New Business**

**1. Appointment of Merrimack Representative to the Nashua Regional Planning Commission**  
*Submitted by Merrimack Planning Board Chairman Robert Best*

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The Town Council to consider the appointment of Margaret Morris as Merrimack's alternate representative to the NRPC, as recommended by the Merrimack Planning Board and pursuant to RSA 36:46 (III).

**MOTION made by Councilor Mahon and seconded by Councilor Boyd to appoint Margaret Morris as Merrimack's alternate representative to the Nashua Regional Planning Commission as recommended by the Merrimack Planning Board and pursuant to RSA 36:46 (III)**

#### ON THE QUESTION

Councilor Boyd remarked he had the opportunity to speak with Ms. Morris, was very impressed with her resume, and believes the Council will likely see her name come before it again for other vacancies that exist.

Councilor Koenig remarked he had the pleasure of being on the Planning Board when Ms. Morris was interviewed, and was extremely impressed. He remarked Ms. Morris is a very dedicated, hardworking, and ambitious individual wanting to get involved with the Town. He spoke of the impression she made on the Planning Board with her interest and desire to participate, and commented it is almost sad to have her only be an alternate. **MOTION CARRIED** 7/0/0

## **2. Request to Tap Trees on Town Land**

*Submitted by David Moore*

The Town Council to consider a request to tap trees at Watson Park and Kids Kove for the purpose of making birch syrup.

Mr. David Moore informed the Council he has been making birch syrup since 2008, and started producing it commercially, on a small scale, in 2009. He noted his interest is in Sycamore trees, and spoke of one Sycamore tree located in Kids Kove on Baboosic Brook and a handful (4-6) along the Souhegan River along the edge of Watson Park. He utilizes buckets which are removed within a few days of the sap flow stopping. He does not drive on property, but instead parks on the nearest road or driveway and hikes the buckets out.

Councilor Harrington questioned whether it would be a commercial venture, and was informed it would be. When asked, Mr. Moore stated in return he typically offers landowners \$1/tap or a day's worth of yard work. The duration was stated to be a maximum of two months (late January until early March). Vice Chairman Yakuboff stated the trees are a natural resource for the townspeople of Merrimack, and spoke of fees paid for use of State natural resources such as licenses required for fishing, hunting, etc. He noted a concern with approval of a request made by a non-resident to utilize a Merrimack resource as a means of generating personal income.

Councilor Koenig questioned the type of equipment used, and was informed typically a five-gallon bucket is placed on the ground and a tube run down from the tap into the bucket. Councilor Koenig stated the Town would not wish to have any liability for equipment left on Town property. When asked about the impact on the trees, Mr. Moore stated there would be a tap hole (1 tap per tree). He noted he taps trees that are 10" in diameter at breast height or larger, healthy, and have a full crown.

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He stated his experience the tap hole heals up completely in about 3 years (1 year sap wood grows over and next few years bark covers it up).

Councilor Boyd referred to information contained in the Council's packet, which included an excerpt from the meeting minutes of March 25, 2010. The minutes include reference to an inquiry made by the then Town Manager to the Town's insurance company, which provided indemnification language that could be used in an agreement between the Town and the individual who, at that time, made a request to tap Maple trees on the Horse Hill Nature Preserve. He stated there to be precedent in Town to allow for this type of activity. Councilor Boyd stated concern with the minutes reflecting the request being made and discussion had; however, no formal vote. He is unsure if that individual ever reached agreement with the Town, and if he had, was the experience considered successful, e.g., were there any problems, etc. He stated a desire to gain the opinion of the Conservation Commission with regard to how successful that project was.

Councilor Mahon stated his belief that discussion took place over the course of two meetings; the first to set the parameters and the second to further the discussion. In the end, the decision was made not to grant permission. He remarked what is being dealt with is a franchise involving a community resource the Council is responsible for. There is no mechanism in place to deal with this type of request. He added, the Council has never had policy discussion of whether or not it wishes to become involved in this sort of an operation because of the likelihood that others would wish to get involved with other resources the Town may have available. He stated his opposition remains as it was then.

Chairman Rothhaus remarked if there were people knocking down the door looking for approval to undertake such a project he would be concerned the issue would have to be addressed through policy. He noted the prior request brought forward concerns regarding the running of lines and the possibility users of the land could run into the lines, etc. That is not what is being requested at this time. The request is for a handful of trees. He stated his opinion at this time he does not see it as an issue. He stated his only concern to be with the indemnification of the Town.

Vice Chairman Yakuboff questioned whether Mr. Moore has approached any other Towns with such a request. Mr. Moore responded, to date, he has only worked with private landowners. Councilor Harrington commented although discussing only a few trees, there is the issue of precedent setting to be considered. Councilor Boyd echoed concerns regarding setting precedent. He had believed the prior request had established the precedent. Understanding that did not occur, he stated concern with establishing precedent without having a firm policy in place. Councilor Dwyer commented he sees the merit to both sides. He questioned what liability might exist. Councilor Koenig provided the example of a scenario where the requester does something that results in the syrup making people sick who may in turn go after all who have an association with the product or if someone were to hurt themselves on one of the spikes by falling against it on the tree, etc. Councilor Dwyer commented he is more inclined to lean more towards the opinions expressed by Chairman Rothhaus with regard to making more out of the request than is necessary. He noted the Council always has the opportunity to deny future requests.

**MOTION made by Councilor Dwyer and seconded by Councilor Boyd to allow the request by David Moore to tap trees at Watson Park and Kids Kove for the purpose of making birch syrup and the tapping of Sycamore on said properties**

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### ON THE QUESTION

Councilor Mahon noted prior discussions had included the requirement of an agreement between the individual and the Town. The motion on the floor does not accomplish that. Councilor Koenig noted the number of taps per tree is also not identified within the motion. Councilor Mahon stated in trying to protect the interests of the community all parameters of the proposal should be made clear, e.g., when the equipment would be removed, etc. He stated it should also be made clear approval would not imply the Council would approve future/other requests.

Councilor Dwyer stated the motion was intentionally left simple. He remarked he understands and respects the opinions of his colleagues; however, wished to put a motion on the floor for consideration.

### **MOTION FAILED 2/5/0**

*Councilors Koenig, Mahon, Yakuboff, Harrington, and Boyd voted in opposition.*

Chairman Rothhaus suggested Mr. Moore might consider reaching out to the Conservation Commission for ideas. Councilor Dwyer suggested a procedure driven body might be more receptive to a proposal that is supported by the Conservation Commission, Agricultural Commission, etc. and addresses areas of concern such as liability. Councilor Harrington commented the Agricultural Commission may be aware of private landowners who may have an interest.

### **3. Souhegan River Local Advisory Committee (SoRLAC) Reappointment Nominations**

*Submitted by Town Manager Eileen Cabanel*

The Town Council to consider nominating George May, Nelson Disco and Michael Redding as Reappointed members on the Souhegan River Local Advisory Committee, pursuant to RSA 483:8-a.

**MOTION made by Councilor Boyd and seconded by Councilor Dwyer to nominate George May, Nelson Disco, and Michael Redding as re-appointed members on the Souhegan River Local Advisory Committee pursuant to RSA 483:8-a:**

### ON THE QUESTION

Councilor Boyd remarked Messrs. May, Disco, and Redding are well known to the Council and members of the community, and their continued willingness to volunteer is exemplary. He thanked them for seeking re-nomination and for their service. It was noted the term length is three years.

### **MOTION CARRIED 7-0-0**

### **4. Donation Acceptance for the Merrimack Police Department**

*Submitted by Captain Dudash*

Town Council to consider the acceptance of a donation/gift from Dick Tinglof's State Farm Agency

for the Merrimack Police Volunteer Program, pursuant to Charter Article 8-15 and RSA 31:95-b.

Lieutenant Paul Trepaney, Merrimack Police Department, informed the Council the Merrimack Police volunteer Program was organized this year, and has received Community Emergency Response

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Training (CERT). The volunteers have been utilized twice since program inception. The volunteer group has conducted its own research, and has expressed a desire to acquire high visibility winter/rain coats. The intent is to provide the volunteers with the winter gear and protective safety that will make them visible to traffic. They would utilize an orange color so as not to be mistaken as police officers. Dick Tinglof's State Farm Agency has offered to provide a \$500 donation, which will purchase the coats for the volunteer organization.

**MOTION made by Councilor Yakuboff and seconded by Councilor Harrington to accept the donation/gift in the amount of Five Hundred Dollars (\$500.00) from Dick Tinglof's State Farm Agency for the Merrimack Police Department Volunteer Program pursuant to Charter Article 8-15 and RSA 31:95-b**

#### **ON THE QUESTION**

Vice Chairman Yakuboff remarked he has known Mr. Tinglof and his Daughter Jodi for many years. The family has been very generous with this donation and has always been a part of the community. He expressed his gratitude. **MOTION CARRIED 7-0-0**

#### **5. Donation Acceptance for the Holiday Parade**

*Submitted by Kelly Valluzzi*

Town Council to consider the acceptance of donated merchandise and labor from the Merrimack Flower Shop for the decoration of the Abbie Griffin Park gazebo for the Merrimack Holiday Parade/ Tree Lighting Ceremony, pursuant to Charter Article 8-15 and RSA 31:95-e.

**MOTION made by Councilor Boyd and seconded by Councilor Harrington to accept donated merchandise and labor valued at Four Hundred Ten Dollars (\$410.00) from the Merrimack Flower Shop for the decoration of the Abbie Griffin Park gazebo for the Merrimack Holiday Parade/Tree Lighting Ceremony, pursuant to Charter Article 8-15 and RSA 31:95-e**

#### **ON THE QUESTION**

Councilor Boyd thanked the Merrimack Flower Shop for being a good business partner with the community and for decorating the gazebo for the holiday season. **MOTION CARRIED 7-0-0**

Councilor Mahon requested, as a means of providing the information to the general public, dollar values be identified on agendas when requests are made of the Council to accept donations.

#### **Minutes**

Approve the minutes from December 5, 2013 Town Council meeting:

*The following amendments were offered:*

Page 3, Line 27; reverse the order of the words "and any" so that it reads "any and"

Page 4, Line 43; replace the acronym "YMA" with "MYA"

Page 4, Line 13; replace the words "to be" with the word "is"

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**MOTION made by Councilor Boyd and seconded by Councilor Yakuboff to approve the minutes of the December 5, 2013 Town Council Meeting as amended. MOTION CARRIED 7-0-0**

**Comments from the Press** - None

**Comments from the Public** - None

**Comments from the Council**

Vice Chairman Yakuboff spoke of Carolyn Dube's departure from Merrimack. He commented Ms. Dube has always reported responsibly, and he knows she will be missed by all. He thanked her for the assistance she has provided and wished her well in her future endeavors.

Vice Chairman Yakuboff wished his colleagues and the residents of Merrimack a Merry Christmas and Happy New Year.

Councilor Koenig noted the prior Tuesday meeting of the Planning Board was postponed until January due to weather conditions.

**MOTION made by Councilor Mahon and seconded by Councilor Boyd to adjourn the meeting.**

**MOTION CARRIED 7-0-0**

*The December 19, 2013 meeting of the Town Council was adjourned at 8:09 p.m.*

Submitted by Dawn MacMillan