

Approved: July 19, 2012

Posted: July 23, 2012



Town Council Special Meeting Minutes



Thursday, June 7, 2012, at 6:00 PM, in the Town Hall Meeting Room

Chairman Mahon called the special meeting of the Town Council to order at 6:00 p.m. Present at the meeting were Councilor Flood, Councilor Harrington, Councilor Koenig, Town Manager Eileen Cabanel, and Finance Director Paul Micali. Vice Chairman Rothhaus arrived at 6:27 p.m. Councilor Boyd arrived at 6:48 p.m. Councilor Dwyer was not in attendance.

Pledge of Allegiance

Chairman Mahon led in the Pledge of Allegiance.

Announcements

Chairman Mahon informed the public the next regular meeting of the Town Council will be conducted on Thursday June 14, 2012 at 7:00 p.m. in the Town Hall Meeting Room, the Town Council will hold its Annual Retreat/Work Session on Friday June 15, 2012 beginning at 9:00 a.m. in the upstairs sitting room at Swans Chocolates located at 436 Daniel Webster Highway, and a regular meeting of the Town Council will be conducted on Thursday, June 28, 2012 at 7:00 p.m. in the Town Hall Meeting Room.

The Town Council has amended their regular meeting schedule for the months of July and August, and will meet on Thursday, July 19, 2012 and Thursday, August 16, 2012, at 7:00 p.m. in the Town Hall Meeting Room.

Town Manager's Report

Town Manager Eileen Cabanel informed the Council and the public the Department of Resources & Economic Development has granted the request to designate the two parcels (former Shaw's Plaza and Zylas) as Economic Revitalization Zones.

Consent Agenda

1. Traffic and Special Event Management Ordinance [Final Reading]

Submitted by Town Council Chair Tom Mahon

The Town Council to consider the acceptance of the proposed new Traffic and Special Event Management Ordinance to be added as a chapter in the Merrimack Town Code, pursuant to Charter Article V.

- First Reading; May 24, 2012
- Second Reading/Public Hearing; May 31, 2012

MOTION made by Councilor Harrington and seconded by Councilor Koenig to remove the item from the Consent agenda. **MOTION CARRIED 4/0/0.**

MOTION made by Councilor Harrington and seconded by Councilor Koenig to amend under §185-03 General Provisions, subparagraph 1, by adding the words "except for residents and their guests".

Approved: July 19, 2012

Posted: July 23, 2012

ON THE QUESTION

Councilor Harrington noted residents could contact the Police Department to inform them of parking anticipated to occur in front of their residence(s).

Town Manager Eileen Cabanel questioned whether the amendment would be more suitable to appear under subparagraph 2.

AMENDED MOTION made by Councilor Harrington and seconded by Councilor Koenig to amend under §185-03 General Provisions, subparagraph 2, by adding the words “except for residents and their guests” and to adopt Chapter 185, Traffic and Special Event Management Ordinance, as amended.

ON THE QUESTION

Councilor Flood remarked, during the first reading on May 24th, it was stated the special events management plan shall only be taken in conjunction with a public hearing on such plan, and questioned whether the intent was to require a public hearing on the particular Ordinance or any management plan proposed. Chairman Mahon stated the language referenced was deleted from the Ordinance. Councilor Flood questioned the purpose of the amendment. Chairman Mahon responded the original language called for a public hearing for every event. He added, the removal of the language was discussed at the public hearing, and the Ordinance, as amended, no longer includes that language.

Town Manager Eileen Cabanel stated her belief the purpose of the Ordinance is to provide a method by which the Council can have very specific special events without calling for a public hearing. The Ordinance itself requires a public hearing to be put in place; however, as written, each individual management plan would not. Councilor Flood questioned whether there would be public notification required for management plans. Chairman Mahon stated there would be, as the language currently states in part: “In the event the Town Manager, in consultation with the Chief of Police, Fire Chief and Director of Public Works, concludes that an upcoming special event is likely to create traffic and/or safety concerns, the Town Manager shall bring forth a Traffic and Special Event Management Plan to the Town Council for consideration and approval at any single regular or special meeting.”

Councilor Harrington added, any such items would appear on the Council’s agenda and would; therefore, be open for public comment.

Public Comment

Michael Mills, 7 Arbor Street

Stated a concern with how the public hearing on the Ordinance was publicized. He stated what was published on the agenda was not what was addressed at the meeting; in particular, the discussion of a public hearing 7 days prior to the implementation of a Traffic and Special Event Management Plan.

He remarked comments have been made this evening that placing such a plan on an agenda would allow for public notification, and reiterated the public notice of the May 23rd agenda was not representative of what was discussed at that meeting. He questioned, if that is an example of what would occur, why residents would believe they would receive notification if there isn’t a specific requirement that notification be published.

Approved: July 19, 2012

Posted: July 23, 2012

He added he reviewed the agenda for this evening, which did not include a description of what would be discussed at this meeting. He stated he raised his concern in a visit to the Town Manager's Office a week or so prior and was told a Councilor would contact him to address the issue, which did not occur, which led him to lose faith in the Council. He added, having talked to many residents throughout Camp Sargent acres, there is a concern, and those residents would like the right to know beforehand that their street could be closed and they could be restricted or inconvenienced, and be aware of the need to contact the Police Department and make them aware of an event they may be having at their home.

He remarked if the Council is suggesting notification would be provided through the inclusion of management plans for special events on agendas why not amend the Ordinance to include the language requiring a public hearing for such plans. He stated his belief the current situation is that the Council is under time constraints with regard to the grand opening of the outlet mall. He reiterated the residents of his neighborhood want to be notified seven days prior to implementation of any plan that may impose on their rights to use their property.

He commented there would have been greater attendance at the May 31st Public Hearing had residents understood that hearing was their opportunity to speak to their concerns. He stated when he was asked if the May 31st meeting was the meeting residents should attend, he had responded it was not as the agenda clearly stated there would be another meeting 7 days prior to implementation of any such plan. He stated the Ordinance that was read at the Public Hearing was entirely different than what was posted on the Town's website (even two days after the meeting).

He reiterated the desire of the residents to be notified in advance and have the opportunity to appear before the Council, at a public hearing, prior to implementation of any such plan. He requested the Council amend the Ordinance to include the requirement for public hearing(s).

Councilor Harrington noted language regarding 7 days notice is part of the Ordinance, and does not mean discussion of the Ordinance had to take place 7 days in advance. She stated her belief residents would be informed of a public hearing in the same manner they would be informed of items appearing on an agenda, e.g., publication on the Town's website.

Mr. Mills responded as long as the Council is willing to state the public will have the right to address concerns at meetings wherein management plans were discussed. Councilor Harrington and Chairman Mahon stated that would occur.

Councilor Flood questioned if there was a means of providing advance notification of a pending road closure. Police Chief Mark Doyle responded that could take place. He commented, in this particular instance, the intent is to work closely with the Public Works Department and utilize changeable message boards, which will be posted in the Watson Park area next week informing drivers of the potential for traffic congestion in the area of Industrial Drive, Daniel Webster Highway, etc. With regard to an instance of road closure, he stated it would be responsible to inform residents by any available mechanism. He added he and Councilor Harrington have discussed utilizing social media, newsprint, etc. to provide notification to residents.

They are now in the process of getting the word out and will ramp up those efforts at the beginning of next week. There will be a lot of information coming from the Police Department about traffic concerns and congestion, and when adopted, what some of the restrictions are pursuant to the new change in the Ordinance. They are ready to go as far as getting that communications piece put in place and using that as

Approved: July 19, 2012

Posted: July 23, 2012

what they believe to be the best mechanism to get the word out to the folks that will be directly affected by changes to their roads and access routes.

Jamie F Macfarland, 12 Whittier Road

Mr. Macfarland questioned if the management plan currently before the Council were to be approved, whether the Police Department would have the authority to remove vehicles parked along Camp Sargent Road without enacting a management plan and going before the Council. Chairman Mahon responded it would depend upon the circumstances. He added, if a foreseeable event, the Police Department would have had to come before the Council with a management plan. Under those circumstances they would have the authority to enforce the restrictions. Whether that includes removing vehicles or not he was unsure. He noted there are other mechanisms within the law the department has at its disposal to address other issues, e.g., an emergency situation that could not be anticipated.

Michael Mills, 7 Arbor Street

Suggested notification could be placed on Merrimack TV.

MOTION CARRIED 5/0/0

Councilor Koenig departed at 6:27 p.m.

New Business

1. Traffic and Special Event Management Plan for the Merrimack Premium Outlets Grand Opening Event

Submitted by Police Chief Mark Doyle and Town Manager Eileen Cabanel

The Town Council to review and consider the Traffic and Special Management Plan for the Merrimack Premium Outlets Grand Opening event scheduled for June 14-17.

Chairman Mahon noted the plan has been developed by the Police Department in conjunction with several other entities, e.g., State Police, New Hampshire Turnpike Authority, New Hampshire Department of Transportation, Town of Merrimack Public Works and Fire Departments, and the Premium Outlet management team.

Police Chief Mark Doyle informed the Council and the public the plan outlines specific restrictions surrounding the Merrimack Premium Outlet Grand Opening event. The plan would be effective from June 14th through June 17th and affects the following: Camp Sargent Road, Continental Boulevard, Industrial Drive, and Greens Pond Road.

Specific restrictions will include a local traffic only restriction to Camp Sargent Road from the Continental Boulevard intersection to the Exit 11 southbound off-ramp intersection with Camp Sargent Road off of the Turnpike. There will be several parking restrictions put in place as well; on Industrial Drive, from Daniel Webster Highway all the way to Continental Boulevard, which runs east and west across the Everett Turnpike (both sides of the road), Greens Pond Road from Continental Boulevard to Naticook Road, which runs east and west between Naticook Road and Continental Boulevard (both sides of the road), Camp Sargent Road from Continental Boulevard intersection to the Exit 11 southbound off-ramp of the Turnpike intersection, and Continental Boulevard from Contra Way, which is the four-way intersection at Continental Boulevard and Camp Sargent Road (which is the entrance to Fidelity on the

Approved: July 19, 2012

Posted: July 23, 2012

west end) to Tallant Road, which is roughly a quarter of a mile from the intersection of Camp Sargent Road as you head east on Continental Boulevard (just after bend as traveling westbound on right hand side).

There are two designated offsite parking locations; 40 Continental Boulevard and 11 Continental Boulevard (designated employee parking). The designated traffic management requirements specific to those restrictions include Police Officers at each intersection of the Exit 10 northbound and southbound off-ramps onto Industrial Drive, two Police Officers at Industrial Drive and Spartan Way, two Police Officers at Industrial Drive and Continental Boulevard, and one Police Officer regulating offsite parking control ingress and egress out onto and in from 40 Continental Boulevard.

Chief Doyle remarked, with regard to pedestrian circulation restrictions, because there is no approved or condoned pedestrian access in and around that location, they did not feel it necessary to regulate or restrict pedestrian access. However, as the Security Director at Fidelity and the Premium Outlets has expressed concern for the potential of pedestrian traffic across Industrial Drive from the Fidelity property that will be prohibited.

Councilor Flood noted the form needs to be corrected under "Section IV. Designated Offsite Parking" by reversing the designations cited; 40 Continental Boulevard should state: "(Designated offsite Parking Location)" and 11 Continental Boulevard should state: "(Designated Offsite Employee Parking Location)".

Chief Doyle continued by stating Section VII includes items needed for physical setup of restrictions to include no parking signage and local traffic only signage pursuant to the restrictions outlined. He noted, the Police Department has an ample amount of no parking signage and will be able to put that in place the night before the grand opening (June 13, 2012). The local traffic only signage will be provided by the Public Works Department. He stated his understanding town personnel are working to secure signage for both of the intersecting roadways where the restriction starts and ends.

Comments from the Council

Councilor Flood stated a concern with pedestrian traffic, and questioned whether there could be a designated location where those who might enter from the Fidelity parking lot could cross over. Chief Doyle responded, on the Fidelity property, the closest parking location to the intersection of Spartan Way and Industrial Drive is ¼ to ½ a mile away. Walking from that location would require traversing that distance plus an additional ½ mile or so up the hill to the mall. If people are intent on doing that, he believes word would filter back quickly that is probably not the right thing to do. The General Manager of the mall property has informed the Police Department she is working with Fidelity to provide shuttle service from their complex to the mall in the event they see there is a need to do that at specific times of the day to prevent pedestrian traffic.

When asked if pedestrian traffic from the Fidelity property is being anticipated, Chief Doyle stated it is not. Chairman Mahon questioned whether it is believed Fidelity would instruct employees not to access the mall on foot. Chief Doyle stated the Security Director at Fidelity has informed the Police Department Fidelity Corporate has engaged in a communications campaign to its employees and has instructed them not to cross the road on foot. If a shuttle bus does become available, that information would be communicated as well.

Approved: July 19, 2012

Posted: July 23, 2012

Chairman Mahon stated a preference to include language such as “none” or “no roads subject to closure” and “no pedestrian circulation restrictions” rather than the abbreviation “N/A” in instances where it occurs within the form provided, e.g., under sections I and VI. He remarked it is not that the sections are not applicable it is that nothing is being invoked from the Ordinance to do that, which would be clearer if spelled out.

Comments from the Public

Michael Mills, 7 Arbor Street

Stated his recollection, from having attended most of the Planning Board meetings, was the Board had been quite adamant that all parking had to be onsite and offsite employee parking during special events would not be allowed. He questioned whether the Council checked with the Planning Board as to what restrictions remain in effect.

Chairman Mahon stated he did not recall that as a restriction placed on the site plan. Town Manager Eileen Cabanel stated all Town departments have spent a great deal of time over the past several months going through detailed lists of all items required of Simon Malls as part of the mall approval. If that requirement were there it would have appeared on the lists. She added she does not anticipate the designated employee parking location for this event (40 Continental Boulevard) to be utilized on an ongoing basis. She added the property has been purchased.

Mr. Mills suggested another review of the restrictions take place as he was of the belief offsite employee parking would not be allowed. He asked for clarification no parking signs would be posted the evening before the start of the event. Chief Doyle stated they would. When asked if they would be enforced the evening prior to the event, Chief Doyle responded they would not. When asked if enforcement would be 24 hours/day during June 14, 2012 through June 17, 2012, Chief Doyle responded there is no caveat in the plan that would restrict it otherwise.

Mr. Mills questioned whether it would be beneficial to the residents to allow them to park in front of their homes when the mall is closed. Chairman Mahon noted the Ordinance was amended to allow that to occur. Mr. Mills re-stated there would be no parking signs posted during the June 14, 2012 through June 17, 2012 timeframe, which are enforceable 24 hours/day. Chief Doyle responded the Ordinance that regulates the traffic management plan has been amended to accept residents and their guests; therefore, they will be able to park there.

MOTION made by Councilor Rothhaus and seconded by Councilor Harrington to approve the Traffic and Special Event Management Plan for the Merrimack Premium Outlets Grand Opening with event dates from June 14, 2012 through June 17, 2012.

ON THE QUESTION

Vice Chairman Rothhaus addressing the comments made by Mr. Mills, stated discussion had occurred with regard to offsite employee parking, and noted his understanding of the discussion was that it was regarding parking on roads/streets rather than other properties. He suggested the Town Manager review the discussion that took place. Chairman Mahon remarked, although there was discussion, he does not believe requirements were imposed.

Approved: July 19, 2012

Posted: July 23, 2012

Councilor Flood questioned the purpose of the gated entrance off of Camp Sargent Road and was informed it is for emergency access. When asked if foot traffic would be anticipated in that area, Chief Doyle stated it to be a possibility. Councilor Flood suggested side streets could be added to the next management plan, if needed. Chief Doyle agreed and stated, in the event situations occur which had not been anticipated, any future management plans would take them into consideration. He noted the department would be conducting a review of the effectiveness of the management plan at the conclusion of the event.

Councilor Harrington questioned what neighbors should do in the event unforeseen situations arise. Chief Doyle responded residents should contact the Police Department.

MOTION CARRIED 5/0/0

Comments from the Press – None

Comments from the Public – None

Comments from the Council

Councilor Boyd apologized for his late arrival, and noted he was in Laconia attending a wake for Mrs. Jean Bryar. Mrs. Bryar had been an ambassador for sled dog racing for well over 50-60 years, and her Son, Keith Bryar, III, has been a mentor to Councilor Boyd and his wife in the sport of sled dog racing over the past ten years. He expressed his condolences to the Bryar family.

Councilor Boyd spoke of the road race that took past the prior Saturday and stated the Vaccaro family collected over 2,000 pairs of shoes for the Haitian orphanage. Approximately 150-160 walkers and runners participated in the event in the pouring rain. He expressed special thanks to Chief Doyle and the Merrimack Police Department who helped out with the logistical aspects of the race.

Councilor Boyd noted June 6th was the 68th anniversary of the Invasion of Normandy. He stated a desire to honor the soldiers and sailors that stormed the beaches of Juno, Gold, Omaha, Utah, and Sword and the 225 rangers that made the ascent up Pointe du Hoc. He remarked, when looking at that particular point in history you realize the sacrifices made on that particular day, and he is hopeful 100 years from now people will still be talking about it. Over 250,000 soldiers made an assault to not only preserve the freedoms that we have here, but also to liberate a continent.

Chairman Mahon noted Council members were provided with a draft agenda for the upcoming retreat, and requested suggestions/recommendations be provided by 10:00 a.m. the following morning.

Adjourn

MOTION made by Councilor Harrington and seconded by Councilor Flood to adjourn. MOTION CARRIED 5-0-0

The June 7, 2012 special meeting of Town Council was adjourned at 7:00 p.m.

Submitted by Dawn MacMillan