

Approved: July 19, 2012

Posted: July 23, 2012



## Town Council Meeting Minutes



Thursday, June 14, 2012, at 7:00 PM, in the Town Hall Meeting Room

Chairman Mahon called the meeting of the Town Council to order at 7:00 p.m. Present at the meeting were Vice Chairman Rothhaus, Councilor Flood, Councilor Boyd (arrived at 7:13 p.m.), Councilor Dwyer, Councilor Harrington, Councilor Koenig, Town Manager Eileen Cabanel, and Finance Director Paul Micali.

### **Pledge of Allegiance**

Chairman Mahon led in the Pledge of Allegiance.

### **Announcements**

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. The next 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 its 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.

The Merrimack Skateboard Park summer schedule will begin on Monday, June 18<sup>th</sup> and run through Wednesday, August 29<sup>th</sup>. The park will be open every day except Wednesdays from 3:00 – 8:00 p.m.

The Town is accepting Naticook Day Camp registrations. The camp will be offered at Wasserman Park from June 25<sup>th</sup> through August 17<sup>th</sup>. The weekly resident rate is \$185.00, which includes daily Red Cross swim lessons, daily lunch, and all program supplies. For additional information please contact the Parks & Recreation Department at 882-1046.

The Summer Concert Series is underway at Abbie Griffin Park. For the remainder of June there are a variety of family-themed concerts planned. A concert of extraordinary children's music will be performed by Judy Pancoast on Wednesday June 20<sup>th</sup> from 6:00 – 8:00 p.m. On June 27<sup>th</sup>, the Fountain Square Ramblers will perform from 6:00 – 8:00 p.m. The Merrimack Concert Association will kick off Independence Day celebration with their annual July 3<sup>rd</sup> concert from 7:00 – 9:00 p.m. For a complete schedule of summer concerts, visit the Parks & Recreation website or call the Parks & Recreation Office at 882-1046.

The Merrimack Public Library kicks off its Summer Reading Challenge on June 18<sup>th</sup> with events for all ages. There are great donated prizes and other incentives. It is especially important that school-aged children read over the summer in order to keep their literacy skills. This year's overall theme is Dream Big Read. Enjoy the summer by participating in this worthwhile event at the library.

The Town of Merrimack Traffic and Special Event Management Plan went into effect at midnight on Thursday, June 13<sup>th</sup> and runs through Sunday evening. The no parking restriction includes the length of Industrial Drive from D.W. Highway to Continental Boulevard, Camp Sargent Road from Continental Boulevard to Exit 11 southbound off-ramp, Continental Boulevard from Contra Way to Tallant Road, and Greens Pond Road from Continental Boulevard to Naticook Road. Residents and their guests are exempt. Please call the Police Department Communications Center and provide information.

The local traffic only restriction applies to Camp Sargent Road from Continental Boulevard to Exit 11 southbound off-ramp. Residents and motorists can expect heavy traffic congestion in and around the Industrial Drive, Continental Boulevard, and D.W. Highway corridors as both Rib Fest and the Merrimack Premium Outlets Grand Opening are planned for the upcoming weekend.

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The Beacon Drive home, purchased through FEMA funds, has been demolished. The foundation will be removed and the site graded by Monday, June 18, 2012.

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

None.

### **Appointments**

#### **1. Merrimack Rotary July 4<sup>th</sup> Family Day Update**

*Submitted by Finance Director Paul Micali*

The Rotary Club of Merrimack to update the Town Council on the “Merrimack Rotary July 4<sup>th</sup> Family Fun Day”.

Mr. Steve Russell, President-Elect, Merrimack Rotary and Executive Committee Chairman for 4<sup>th</sup> of July activities, presented a slideshow of the committee’s activities to date. Maps were provided depicting the placement/location of the various events that will take place on the grass fields at the Mastricola Upper Elementary School, e.g., craft tent, information tent, vendor areas, bounce houses, demonstration areas, etc. Food vendors will set up in the parking lot. Three tents will be available for dining.

The event will feature live entertainment, for both adults and children, such as The East Bay Jazz Ensemble, The Bel Airs Doo Wop vocal quintet, The Sitting Ducks, No Guarantees Band, Judy Pancoast, Stephanie Beach, Marlina Philips, etc. Competitions will consist of arts & crafts, baking contests, races, etc.

Information was also provided on groups/individuals sponsoring who have committed to sponsoring the event. Power will be provided to the site through a combination of a new panel being installed to provide 220 Amp power (seasonal) and a low noise generator, with the potential for a second generator should it be necessary.

Mr. Peter Giacapuzzi, President, Merrimack Rotary, thanked the Town, and specifically the Parks & Recreation Department for the support and assistance being provided. Chairman Mahon thanked the Rotary for their efforts, and spoke of the amount of work involved in this endeavor. Councilor Flood echoed the remarks made by the Chairman and stated her appreciation.

Councilor Koenig requested additional information pertaining to parking, access, etc. Mr. Russell noted most of the heavy work would be done a day in advance, e.g., stages, tents, and bounce houses. During the morning of the 4<sup>th</sup> vendors will be allowed to come in and set up. By 11:00 a.m. on the 4<sup>th</sup> all areas will be set up so that inspections can take place. The event will open at noon time.

Nothing will occur on the stages until after the parade, which is at 1:00 p.m. After the parade, O’Gara Drive will be closed off from Baboosic Lake up past the parking lot area. Closure of the road will allow pedestrians to cross the road to where the demos are taking place without traffic interference.

Parking will be allowed in the High School Parking lot and part way down O’Gara Drive. There will also be parking in the Mastricola Upper Elementary School parking lot. The American Legion will allow parking at their location. They will explore further, with the Police Department, whether parking would be allowed at areas where buses could run back and forth, e.g. The Commons, Zylas, etc.

Most vendors will be requested to close up between 7:30 – 8:00 p.m. Food vendors will likely remain open until 8:30 or 9:00 p.m. Larger structures, e.g., tents, staging, etc. will remain on the property overnight and be removed on Thursday July 5<sup>th</sup>.

Councilor Boyd expressed his gratitude for the tremendous amount of work done by the Rotary.

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Mr. Giacapuzzi remarked three opportunities used to solicit volunteers; locally televised interview where students from the Masticola Upper Elementary School interviewed him and appearances on Chatten' with Jeannine and Tony Pellegrino Show. However, volunteers continue to be sought. Mr. Russell stated community clubs that may wish to provide volunteers could work to set up a process whereby a portion of the profits from the nominal

charge for the bounce houses, etc. could be shared. Any club wishing to participate in such a way can contact the Rotary at the following numbers and e-mail addresses; 493-8963 or 424-2168 and [SRussell@Kollsman.com](mailto:SRussell@Kollsman.com) or [PGiacapuzzi@gmail.com](mailto:PGiacapuzzi@gmail.com).

## **2. Annual Review with the Planning Board**

*Submitted by Planning Board Chairman Robert Best*

Per Town of Merrimack Charter Section 6-6, at least annually, there should be an annual review with the Planning Board. This agenda item is to highlight the Board's significant actions, current projects, anticipated actions, and to raise any concerns the Council should know or could act on.

Mr. Robert Best, Chairman, Merrimack Planning Board, informed the Council of activities that have occurred since the last review: In 2011 the Planning Board met 25 times. It reviewed 14 site plan applications, which were all approved; 6 commercial, 6 industrial, and 2 residential. There were 9 waivers of full site plan review, 2 home occupation permits, two lot line adjustments, 6 sub-divisions; 1 industrial and 5 residential, and 6 voluntary lot mergers. The Board also manages performance bonds and maintenance bonds; 4 were approved, 2 reduced, 2 called, and 4 released. Other noteworthy projects include Atrium Medical and the Merrimack Premium Outlets. Throughout 2011 and into 2012 the Board has worked on the Master Plan Update, which should be completed later this year.

In calendar year 2012, the Board has met 9 times. There have been 14 site plan applications; 5 commercial, 6 industrial, and 3 residential, and 4 voluntary lot mergers. The Board approved the yield number on a cluster subdivision on Old Blood Road, which will consist of 66 residential lots. The Board also reviews and makes recommendations on the Capital Improvement Plans for the Town, School, and Merrimack Village District.

Membership consists of the Board Secretary Alastair Millns, Michael Redding, Lynn Christensen, John Segedy, Nelson Disco, Chairman Best and the Town Council Representative, Thomas Koenig. There are two alternates; Stanley Bonislawski and Pete Gagnon. As presently configured, there is 1 vacant alternate position. However, some current members, after long service on the board, are planning on retiring. Although 1 appointment is pending, another 2 or 3 are being sought.

Over the last year, the Board has progressed on the preparation of the 2012 Merrimack Master Plan Update. Since the end of June 2011, there have been 6 meetings of the Master Plan Steering Committee, chaired by Nelson Disco, at which various elements of the plan have been reviewed. Specific tasks have included preparation of the economic development housing and community facilities section with work left to complete on the natural resources, transportation, cultural resources, energy and utilities, and implementation sections of the plan. It is anticipated these plan elements will be completed this fall. The Committee is working towards a community forum to review the entire plan in late October/early November of this year in preparation for hopeful adoption by the Planning Board in the next fiscal year.

Mr. Best remarked an interesting aspect of the Master Plan process is that members of every board, committee, commission, interest group, and citizens are invited to and often participate. This provides for a broad spectrum of input.

Mr. Best took the opportunity to thank staff for the invaluable support they provide.

Chairman Mahon spoke of the Grand Opening of the Merrimack Premium Outlets as an example of the type of projects into which board members and staff put a great deal of time and work (8 years in the making). He

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commented the level of professionalism and the consistency of the contributions to such projects is to be commended. Councilor Koenig echoed Chairman Mahon's comments regarding the job done by the Planning Board and staff who have been very diligent in their efforts.

Councilor Koenig touched upon the statement that in 2011, the Planning Board reviewed 14 site plan applications, which were all approved, and requested additional information be provided, for the viewing public, on what is involved in the process of reviewing site plans and why the Planning Board would have accepted all applications brought before it.

Mr. Best explained presenting a residential or commercial project to the Planning Board is a process that begins with staff, where an idea is presented and staff provides information/guidance on Town regulations. Very often, before applicants ever appear before the Planning Board, their process begins to be shaped by what the regulations require. Commercial plans require peer review. CLD Consulting Engineers (CLD) is the peer review company. That peer review is performed at a cost to the applicant. The peer review company represents the Town of Merrimack and provides an engineering view of what is going on with a project. That information along with the staff's analysis is presented to the Planning Board. The plan first has to be accepted for jurisdiction, any waivers the project has requested have to be considered, and then ultimately a decision has to be made on final approval or final approval with certain conditions.

One of the reasons a high approval rate is seen is through that long process with staff, CLD, and the Planning Board itself, applicants are generally willing to shape their project so that they achieve their business goal at the same time they manage to comply with all of the site plan and subdivision regulations that matter to the Town and give Merrimack its character.

It is because it is a process with so much involvement that there are not often surprises when an application reaches the Planning Board for review and approval. Mr. Best added many of the applicants and/or their representatives are familiar with the process and will get a sense of when it is time to ask for a continuance and come back with a little bit of a different idea or plan.

Mr. Best stated the one issue he wished to bring to the Council's attention was that of sidewalks. He remarked sidewalks have been discussed in town for many years and have been a part of the Master Plan for a long time. He commented one of the challenges with sidewalks is there is rarely an opportunity to build sidewalks in a large stretch.

Applicants appearing before the Planning Board are required to construct sidewalks in front of their projects. This results in small sections of sidewalks, which are not interconnected and require maintenance. From the standpoint of the Planning Board and going through the Master Plan process, it is believed it is a good time to consider, as a Town, if there is an opportunity for all parties to be on the same page with respect to what is desired out of sidewalks and to question whether there is an opportunity to do things in a manner that is different than past practice.

Mr. Best spoke of a project recently before the Planning Board where installation of a sidewalk was not reasonably practical. Mr. Millns noted the actual owner of the piece of road on which the property fronts is not known. There is the possibility it is owned by the State or the Town. It is located where Industrial Drive meets Continental Boulevard down at Greens Pond, and the applicant cannot gain permission to construct a sidewalk until ownership is identified.

As a result, a section of the site plan regulations was imposed, which the current board had not previously utilized. The regulation, Section 4.20 Pedestrian Ways and Sidewalks, allows for the opportunity to accept a payment from an applicant in lieu of construction of sidewalk(s). Monies can be held in a "pooled cash account" to be utilized for the construction of sidewalk(s) in the general vicinity as a means of mitigating traffic impacts resulting from the project.

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The regulation, under subsection 7, Payment in lieu of construction, states: "The Planning Board may accept a payment in lieu of sidewalk construction if one or more of the following conditions exist: 1) the sidewalk does not connect to potential pedestrian destinations such as parks or schools; 2) a partial improvement is not feasible due to the inability to achieve proper design standards; 3) forthcoming installation of public utilities or street paving would be likely to cause severe damage to the new sidewalk; 4) a partial improvement would create a potential safety hazard to motorists or pedestrians; 5) development on adjacent properties is likely or that sidewalk improvements would be extended by the Town in the foreseeable future." The regulation further states: "Any funds collected under this Section will be used for the construction of a pedestrian way or sidewalks that are related to the needs created by the project and any funds collected under this section will be deposited into the Town's pooled cash account, to be held by the Town as restricted revenue. No funds generated under this section

may be expended for any purpose other than for sidewalk improvements approved and authorized by the Planning Board and no funds generated under this section may be released or expended without prior Planning Board approval...."

Mr. Best remarked the Board is unaware of how the process moves forward as the current membership has never before exercised this section of the regulation. He suggested a general discussion of sidewalks would be helpful as well as gaining some sense of common design for the goal/plan for sidewalks in town. Chairman Mahon agreed there is a need to get together as a group and reach common understanding of how the process will be managed. He suggested a joint meeting of the Council and the Planning Board to include the attendance of personnel to discuss the issue. He remarked in the areas of town where there is linkage of sidewalks there is an enormous amount of activity, especially in this kind of weather. Mr. Best agreed and added when you picture the ideal community it always has sidewalks and with sidewalks comes economic activity.

With the construction of sidewalks comes the requirement for maintenance. Mr. Best recommended a legal opinion be sought as to whether or not contributions to a sidewalk fund could also be used for maintenance.

Councilor Flood spoke of how much she has enjoyed the sidewalk installed in front of Watson Park, which was constructed with grant funding, and questioned the availability of future grant funding. Mr. Best responded that is not an area the Planning Board gets directly involved with.

Town Manager Eileen Cabanel noted the Nashua Regional Planning Commission (NRPC) is working on a Safe Routes to School Grant for the construction of sidewalks. Councilor Flood commented she is in favor of a funding mechanism to create sidewalks to allow for something such as a town center area, etc. Mr. Best agreed; however, reiterated the current regulation requires contributions made as the result of a particular project to be used for the construction of a pedestrian way or sidewalks that are related to the needs created by the project.

Vice Chairman Rothhaus remarked if there is a likelihood of a sidewalk coming to completion in the center of town and down certain thoroughfares he is in favor of that. He spoke of a sidewalk that was constructed at the intersection of Bean and Baboosic Lake Road where there was a pile of stones from a wall that was ripped down at one end and a large tree at the other end with the sidewalk in between, which was ripped up ten years later. He suggested funds could be held for a period of time and released if not used for the identified purpose.

Mr. Best remarked because there is flexibility built into the system, it will work well for businesspeople who need some flexibility in what they are doing with their site and what they have to work around, e.g., wetland, phone polls, etc.

Councilor Dwyer questioned whether the intent is to bring the temporary signage ordinance back up for discussion this year. Mr. Millns noted the last action was that of the Planning Board bringing forth a proposal for consideration. Mr. Best commented the original objective of those who asked for the ordinance to be reviewed may no longer have the support of either the Planning Board or Council.

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Councilor Dwyer questioned the Town's jurisdiction relative to temporary signage placed on telephone poles, electrical boxes, etc. Mr. Best responded, with a properly drafted regulation and ordinance, enforcement could occur. That was part of what was hoped to be addressed, although less controversial than other pieces of the plan. In discussions with legal counsel, he was informed the way the ordinance is drafted sets the Town up to spend a great deal of money prosecuting with the likelihood of not prevailing.

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

None.

### **Public Hearing**

None.

### **Legislative Updates from State Representatives**

None.

### **Town Manager's Report**

Town Manager Eileen Cabanel noted vacancies exist on both the Planning Board and the Zoning Board of Adjustment. Anyone interested in participating in either of these boards should make that desire known to her office, and assistance with the appointment process will be provided.

The Welfare Department would like to thank the Merrimack High School First Robotics Team for their donation of 8 new bicycles for Merrimack children in need. This is the third year they have purchased and assembled the bikes as part of their way to give back to the community.

The Merrimack High School graduation DVDs will be made available beginning Monday June 18<sup>th</sup>. Copies need to be reserved by calling the Town of Merrimack Media Division at 423-8561 and leaving a name, phone number, and quantity desired. DVDs are \$5 each. This DVD is a 3 camera production where every student receives a close-up when receiving their diplomas. Merrimack TV is the only community media station in New Hampshire that offers such a high quality production of high school graduation.

### **Consent Agenda**

#### **1. Recommendations for Appointment of the Representatives/Liaisons to the Parks and Recreation Committee**

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

The Town Council to consider the recommendations to appoint the following individuals as the representative / liaison members to the Parks and Recreation Committee, pursuant to Charter Article 6-1:

- **Holly Lewis** – Merrimack High School Student Body Representative
- **Donald Nevers** – Merrimack Youth Association Liaison Member
- **John Schneider** – Merrimack Youth Association *Alternate* Liaison Member
- **Shannon Barnes** – School Board Representative Member
- **George Markwell** – *Alternate* School Board Representative Member

#### **2. Recommendations of Town Center Committee Representative Members**

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

The Town Council to accept the following recommended individuals as representatives on the Town Center Committee:

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- **Pat McGrath** - Library Board of Trustees Representative Member
- **Tracy Bull** - School Board Representative Member

**MOTION made by Councilor Rothhaus and seconded by Councilor Dwyer to move the Consent Agenda.**  
**MOTION CARRIED 7/0/0**

### **Old Business**

#### **1. Chamberlain Bridge Sign Discussion [Tabled at the May 10, 2012 Town Council Meeting]**

*Submitted by Town Council Vice Chair Finlay Rothhaus*

The Town Council to discuss the details of the proposed Chamberlain Bridge sign installation.

Vice Chairman Rothhaus informed the Council he and Kyle Fox, Deputy Director/Town Engineer, met earlier in the day and visited the site of the bridge. Deputy Director Fox suggested rather than installing signage on the top rail of the bridge, the proposed language (Chamberlain Bridge) instead be engraved into the wall similar to the current engraving on the west side of the bridge, which reads: "Town of Merrimack 1921". Deputy Director Fox had noted the walls of the bridge are more decorative in nature whereas the arch is more structural in nature. He also suggested an engraving project could occur at the same time as required repairs to the bridge.

Deputy Director Fox explained the bridge overall is in really good condition. However, repointing of mortar joints needs to be addressed as some are pretty severely cracked and others missing allowing moisture to get into the joints, which can cause rapid deterioration with freeze/thaw cycles. It was his recommendation the maintenance work be addressed in the FY14 budget.

When asked for clarification of how the signage project would proceed, Vice Chairman Rothhaus stated the project would be put out to bid and would consist of the removal of two capstones to allow access to the bottom block, which would be taken out, engraved, and replaced. Chairman Mahon noted his concern had been placement of a plaque on the arch of the bridge would change the character of the bridge. Vice Chairman Rothhaus agreed it would change the character and added he was unsure of the structure's ability to handle the addition.

Councilor Flood was pleased with the recommendation and questioned what would be engraved on the block. Vice Chairman Rothhaus stated the intent would be to recognize the bridge as the Chamberlain Bridge. When asked, he stated the placement would likely be centered on the easterly wall (Route 3 side). The desire is for the lettering on both engraved sections to be black (existing engraving has faded).

It is believed doing the two projects simultaneously could result in economy of scale savings. When asked, Vice Chairman Rothhaus stated vendors questioned were not in favor of the work being done onsite. Director suggested the bid could provide the option of performing the work onsite or offsite.

Councilor Dwyer commented the sidewalk at that location is deplorable. The bridge is a focal point of the Town, a new sign is being proposed, and he would like to see some cement added to the area to patch the broken sections of sidewalk. Deputy Director Fox stated the sidewalk is a cantilevered sidewalk and would be a structural fix rather than a cosmetic one. It was suggested sidewalk work be budgeted for and done in conjunction with repair of the parapet wall. It was noted the Board of Public Works has been in conversations with the Town Senate Committee, which is trying to make that the spillway area into a walkway and combine the two projects; fixing the sidewalk and constructing the walkway area.

When asked why the lettering would be black, Vice Chairman Rothhaus responded the members of the Committee were of the belief the existing engraving was initially black in color and, with exposure to road salt,

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etc., has faded over time. Councilor Harrington suggested a review of historical information would be helpful. Chairman Mahon stated it would be helpful to have more of a concept from the Heritage Commission. Vice Chairman Rothhaus noted members of the Commission would have happily appeared before the Council; however, he had offered to make the presentation, and informed them their presence was not necessary.

Vice Chairman Rothhaus informed the Council the Commission would be coming forward with the proposal as outlined, and the desire is for the project to be completed in conjunction with identified bridge repairs. When asked for the cost of the engraving project, Vice Chairman Rothhaus stated the current estimate to be \$1,700; however, that would be adjusted given the change in scope.

### **New Business**

#### **1. Request for Use of Capital Reserve Funds for Public Works Department Equipment Purchases**

*Submitted by Public Works Director Rick Seymour*

The Town Council to consider the request from the Public Works Department for the use of Highway, Solid Waste and Wastewater Capital Reserve Funds estimating \$344,744 for equipment purchases.

Director Seymour noted the equipment list provided to the Council includes 9 equipment purchases and 2 equipment swaps. A comprehensive (cross department/division) fleet assessment was performed to determine

equipment needs for the immediate future. As part of that review a great deal of discussion occurred around vehicles which may have been purchased for a specific function that has changed over time resulting in the possibility to swap vehicles and avoid outright purchases as well as equipment available for trade-in toward new equipment purchase(s). Also considered was the purchase of similar brand equipment (Bobcats/Skid-Steer Loaders) to reduce costs associated with repairs and repair parts. Budget constraints and the need to keep up with an aging fleet were taken into consideration when preparing the proposal.

Speaking with regard to the roadside mower/utility vehicle, Director Seymour noted it is a public safety issue, and the department wishes to purchase a primary machine and retain the current equipment as a backup. He noted chronic problems that arise, particularly with sidewalk clearing machine, given utilization during winter months, the lengthy period of time which the equipment is run, and its exposure to cold weather, debris, etc.

Mr. Adam Jacobs, Operations Manager, provided a presentation on the municipal utility vehicle. He stated the Capital Improvements Plan (CIP) listed the utility vehicle as a mower for many years; however the unit up for trade-in (30 years old) is a tractor used solely for roadside mowing. A few years back the decision was made replacing it with a vehicle that is only used for 4-5 months out of the year was not the best use.

He explained, by policy, the department maintains 6 miles of sidewalks (23) in town. Sidewalks are maintained in order of priority; school travel routes, cluster/senior housing to essential services, and then the remaining 17. At present, the Town has one sidewalk vehicle, which is heavily used. Although labeled as a sidewalk vehicle, it spends a good portion of the summer months on actual roadways (roadside mowing). Need is increasing based on the expectation for service level of sidewalks and the need for a more inviting network of sidewalks (Safe Routes to School, Town Center, and Economic Recovery Zone areas).

Other maintenance needs the current 2005 unit is used for include mowing at the landfill, mowing of the grassy side slopes and removal of vegetative growth at the Stump Pond Dam, mowing in the area of basins, and roadside mowing. Some of these tasks are performed as proactive measures to address issues such as visibility at intersections, prevention of potential fire hazards, and potential future need for more expensive management, e.g., removal of small saplings before they grow into trees that would require a three man crew with chain saws and a chipper to remove to avoid impacts to power lines or roadways.



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The current roadside mower, identified in the CIP as a 1981 Ford Farm Tractor was proposed to be replaced in 2009 (summertime only vehicle), and is again being proposed for replacement. The 2005 trackless utility vehicle (sidewalk machine) is the Town's only sidewalk snow removal vehicle. This vehicle has experienced extended down time due to maintenance issues.

In anticipation of coming before the Council, a bid was put out for a replacement vehicle in April. In addition to the base vehicle, various implements that could be used for winter maintenance; sand/salt spreader, snow blower and a front plow were also included in the bid package. The purpose for the recommendation of a front plow and snow blower was to provide the ability to address areas where snow reaches a depth that plowing alone is largely ineffective. A five-year warranty was requested, and is reflected within the pricing sheet (\$3,695) as well as costs for basic up-fits such as radio (all radios in town have to be switched over to digital narrowband by December 31, 2012).

Five responses were received. The low bidder is MB Tractor & Equipment out of Plaistow, NH. The recommended equipment is a Maclean MV. All units bid were demoed at one time or another and the Maclean was by far the most simplistic from a maintenance point of view. Mr. Jacobs noted some of the larger municipalities in the State have begun switching over to this brand. When speaking to his counterparts in those communities the reasons stated included reliability, cost, and ease of maintenance.

Director Seymour noted the total cost (\$143,480) minus the trade-in value of \$4,500 resulted in a cost of \$138,980. In discussion with the Town Manager, the decision was made to remove the mower attachment as a means of reducing the overall cost. Having done so, the final total cost would be \$109,991. He commented one of the nice features of the equipment is interchangeable parts with the trackless mower, which can be swapped

over during the summer time to gain functionality. He remarked, at some point in time, a request may be made for the mower attachment.

Councilor Harrington questioned whether parts from the existing mower could be utilized on the proposed equipment. Director Seymour stated, with some minor adaptation, that could occur.

Chairman Mahon spoke of a memo he received from the Public Works Department identifying the equipment requested for purchase/swap as; a roadside mower/utility vehicle, ¾ ton 4x4 pickup with plow, ¾ ton pick-up, 2 one-ton trucks, one of which will be an internal trade/swap, four-wheel drive utility, Skid-Steer Loader for the Transfer Station (replace a 1999 vehicle), ½ ton pick-up truck for Wastewater, ¾ ton 4x4 pick-up with plow for Wastewater, two Skid-Steer Loaders (replace two 2006 Skid-Steer Loaders), and a two-wheel drive light utility pick-up for Parks & Recreation. The total withdrawal from the Highway Capital Reserve would be \$227,706, the withdrawal from the Solid Waste Capital Reserve would be \$27,742, and the total withdrawal from the Wastewater Capital Reserve would be \$60,307 for a total cost of \$315,755.

Councilor Harrington requested clarification all items were being requested for purchase/swap, and was informed that was the case.

Vice Chairman Rothhaus questioned whether proposed expenditures from the Capital Reserve Fund require the conduction of a Public Hearing. Town Manager Eileen Cabanel responded transfers into the fund require a Public Hearing; however, expenditures from the fund do not. She added a Public Hearing is required to transfer monies into the fund for specific expenditures and is then considered appropriated for those expenditures. Expending funds for the approved purpose(s) does not require a Public Hearing. Vice Chairman Rothhaus added when the funds were appropriated they were intended for future purchases; however, specific purchases were not identified. Town Manager Eileen Cabanel noted proposed expenditures go through the Capital Improvements Plan Process as well, and the law does not require identification of specific items.

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Copies of the second page of the list of equipment requested had been omitted from the Council's packet. Director Seymour provided copies and reviewed the information with the Council. He explained the one-ton pick-up is intended for the Highway Department and would be funded out of the Highway Capital Reserve account. It represents the purchase of a new truck with an associated trade-in value of \$5,000 (2000 vehicle). When asked, he stated the viability of older equipment is looked at in terms of hours of use and mileage depending upon the function of the equipment. Unless experiencing extensive maintenance costs, the rule of thumb is to replace the vehicles based upon age (useful life expectancy). Adjustments are made each year as the Capital Improvements Program is reviewed/adjusted.

Town Manager Eileen Cabanel commented the Town is actually behind schedule with equipment replacement and they are trying to adhere more closely to the schedule. She also noted the importance of understanding which pieces of equipment are not cost effective due to ongoing maintenance requirements.

Councilor Dwyer stated his opinion, given the number of vehicles being considered for purchase/swap, the Council should consider postponing a decision until ample time and additional backup information has been provided for review/consideration. As an example of additional information he would like to receive, he questioned why the Town would be interested in purchasing a two-wheel drive light-duty pick-up truck. It was noted that vehicle is being considered as a swap. Councilor Dwyer commented four-wheel drive would appear to be more conducive to the environment in New England.

Councilor Boyd echoed the remarks made by Councilor Dwyer and noted in reviewing the equipment listing provided, he noticed although several vehicles include information pertaining to the amount of miles/hours of use, some do not. He commented it is not that he is opposed to the proposal, but that he would like to have a better understanding of the overall plan for vehicle replacement. He believed the Council should engage in a policy discussion around the long-term plan for a fleet replacement schedule.

Chairman Mahon reminded the Council, as part of the budgeting process over the past few years, equipment purchases were deferred in order to meet targeted budget figures. As a result, the age of the fleet has increased and caused the need to address several pieces of equipment in one cycle.

Town Manager Eileen Cabanel stated the Town does have long-term plans (2 year, 5 year, etc.) to address vehicle needs. As was stated, those plans have not been funded in past years. Councilor Dwyer commented if there are 1 or 2 items that require immediate action such as those for which bids have been received, he would be willing to entertain discussion of those purchases.

Vice Chairman Rothhaus stated his desire to be provided with information on past and anticipated future maintenance expenses for the individual pieces.

**MOTION made by Councilor Boyd and seconded by Councilor Dwyer to table until the Council's meeting of June 28, 2012. MOTION CARRIED 7/0/0**

Chairman Mahon questioned whether there was any additional information the Council wished to receive in advance of its June 28<sup>th</sup> meeting. Councilor Koenig spoke of the roadside utility vehicle and its associated costs. He requested the Council be provided with a better understanding of why such a piece of equipment come at such a high cost, and if the decision is to make such a purchase, whether or not it is in the Town's best interest to forego the purchase of the mower attachment. He also questioned whether the previously utilized tractor would continue to be utilized for sidewalk clearing, be retired, or used solely for roadside mowing.

Councilor Dwyer echoed the comments made by Councilor Koenig. He questioned the effectiveness of a sidewalk plow, and commented weather conditions being what they are in New England; sidewalks can be impassable due to buildup of ice, etc. He made mention of an item of discussion to take place at the retreat

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scheduled for the following day regarding the potential to subcontract work, and questioned whether it would be financially beneficial to subcontract for sidewalk plowing.

Councilor Harrington informed the Council she was advised information relative to equipment mileage and hours of operation was placed in the mailboxes of Council members. Councilor Boyd reiterated receipt of additional backup information such as that associated with equipment requested for the Wastewater Department would help facilitate the discussion.

## **2. Request for Road Acceptance of Linda Lane and Holts Landing**

*Submitted by Public Works Deputy Director Kyle Fox*

The Town Council to consider the recommendations from the Planning Board and the Public Works Department to formally accept Linda Lane and Holts Landing, pursuant to Charter Article 4-8 and Subdivision Regulation Section 5.01.1 (f).

Chairman Mahon stated the Planning Board has released the Performance Bonds for the two roads and has recommended the Council approve the recommendation to waive the requirements for the two-year maintenance bonds and approve the acceptance of Linda Lane, which is 1,292 linear feet of roadway and associated improvements and Holts Landing, which is 1,433 linear feet of roadway and associated improvements.

Deputy Director Fox informed the Council each of the roads was finished this past spring. After inspection by the Public Works Department a recommendation was forwarded to the Community Development that the Planning Board accept the roads. Following the procedure within the subdivision regulations, the Planning Board is required to submit a recommendation to the Town Council.

It was noted the Council was only provided with a copy of Deputy Director Fox's recommendation regarding Holts Landing. Deputy Director Fox read into the record his communication to the Community Development Director: "A final inspection of Linda Lane was performed by the Department of Public works on April 6, 2012. The right-of-way improvements are found to be in substantial accordance with the Town of Merrimack subdivision regulations and the approved plans. The department recommends that the \$51,908 Performance Bond

for the project be released. The department further recommends that the two-year maintenance bond requirement for this project be waived. The majority of the work for the project was completed more than two years ago and minor issues that were discovered during a March 2012 inspection have been remedied by the developer. The department proposes that the Planning Board recommend acceptance of the 1,292 linear feet of roadway by the Town Council in accordance with Section 5.01.1(f) of the subdivision regulations."

Councilor Harrington questioned the meaning of substantial conformance. Deputy Director Fox explained the language comes straight from the subdivision regulations. The meaning of the language is that the road was built per the plans, but instead of saying precisely per the plans it says in substantial accordance with the plans.

Councilor Koenig stated his dislike of the term. He questioned whether the work was done in conformance with the spirit of the request or as much work as could be performed based on the amount of bond funds available. Deputy Director Fox stated all of the improvements were completed for the Holts Land project as per the plans.

Councilor Boyd suggested there may be a need to review/amend the ordinance. Councilor Koenig agreed, and stated he would pose the question of the meaning of the phrase with each request for acceptance to determine whether or not each particular project was completed. Deputy Director Fox explained it is a standard phrase in the road building industry. He provided the example of a road project where the contractor finished all improvements and put down grass seed, but the grass had not yet grown, that would be something that is in substantial completion. He added there is the responsibility that the contract still maintains that the grass will grow. That is also part of the reason why two-year maintenance bonds are required.

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Councilor Koenig questioned why the Council was being asked to waive the requirement for the two-year maintenance bonds on these particular roads. Deputy Director Fox explained, on Holts Landing, the town completed the work under the bond money and insufficient funds remained to cover a maintenance bond. He added there would be no sense of the Town to require a bond because the Town has duty for the road because the bond was called. On Linda Lane the issue that dragged out acceptance for so many years was a relatively minor offsite drainage issue having nothing to do with the roadway itself. The developer finally finished that part of the project to complete the project. Per discussions with the developer, it was agreed the road has been in place with wearing down for more than five years and has performed very well. There was one minor crack, which the developer went back and crack sealed.

Vice Chairman Rothhaus questioned why the bond requirement would not have been sufficient. Deputy Director Fox explained the developer requested a bond release prior to going out of business. Through discussions with several individuals within the Town it was decided it was an appropriate level to reduce the bond to. Councilor Dwyer asked for additional details, and was informed the Public Works Department made a recommendation and those in a higher position made a different decision.

**MOTION made by Councilor Dwyer and seconded by Councilor Rothhaus to accept Linda Lane and Holts Landing as publicly accepted roads in the Town of Merrimack. MOTION CARRIED 6/0/1. Councilor Koenig Abstained.**

**3. Monetary Donation Acceptance for Naticook Day Camp**

*Submitted by Parks and Recreation Director Sherry Kalish*

The Town Council to consider the acceptance of \$185 from the SnoBuds Snowmobile Club of Merrimack to assist Merrimack families/low income families in sending their children to Naticook Day Camp, pursuant to RSA 31:95-b and Charter Article 8-15.

Chairman Mahon informed the Council a request has been received to table the item until the Council's meeting of June 28<sup>th</sup>. The request was based on an additional donation being made, the potential for a third donation, and the desire to address all donations at one time.

**MOTION by Councilor Koenig and seconded by Councilor Harrington to Table until the Council's meeting of June 28, 2012. MOTION CARRIED 7/0/0**

**Minutes**

Approve the minutes from the May 24, 2012 and May 31, 2012 Town Council meetings.

*As draft meeting minutes were not provided to the all of the Council for review, no action was taken.*

**Comments from the Press**

None.

**Comments from the Public**

None.

**Comments from the Council**

Councilor Boyd extended congratulations to the Merrimack Tomahawk Lady Laxers as the Division II State Champions in Lacrosse.

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He extended his congratulations to everyone that attended the Grand Opening of the Merrimack Premium Outlets and personally commended the Chairman for his brevity in his remarks and noting that Merrimack is on the move. He remarked it was a great day for the community.

Councilor Dwyer thanked Town Manager Eileen Cabanel, the entire staff, and the Police and Fire Chiefs for all of the work they did to ensure a flawless opening.

Councilor Flood remarked she too enjoyed the Grand Opening. She reminded the Council and members of the public of a yard sale taking place at Watson Park on June 23<sup>rd</sup>. She noted there is nearly unlimited space for set-up and plenty of parking. Those interested can contact her.

Vice Chairman Rothhaus noted he received a Nixle alert suggesting avoiding Industrial Drive for two hours this evening (during rush hour), and questioned what the actual traffic results were. Councilor Boyd stated his experience was that traffic flowed wonderfully. Vice Chairman Rothhaus remarked what he saw earlier in the day was very impressive, he was very proud, the Planning Board and staff should be proud of the work that went on, and he is hoping it proves out that in fact it is not the panic that a lot of people were concerned about.

Chairman Mahon remarked there was a gentleman standing in line at the New Balance store saying he hadn't even known where Merrimack was and couldn't find it on the map until he went to other places on his GPS and plugged it in.

Councilor Dwyer stated right around 5:00 p.m. he met a girl named Nicolle, a lifelong resident of Merrimack of the same age as his daughter, who worked at The Meat House in Bedford two years ago, was laid off, has applied to 50 different jobs over the past two years, and it took her from the age of 18 to 20 to find one. She is happy to now be working at Nautica. That story made him realize there are 800 stories out there of what this mall has done for people.

Councilor Koenig pointed out back in the early discussions of the Premium Outlets there were quite a number of people who complained about retail versus industrial jobs and things of that nature; however, listening to the discussion with members of the Planning Board, the projects coming before them are a mix of industrial, commercial, and retail. He believes the Merrimack Premium Outlets is bringing the Town up a level and bringing in a lot of ancillary things, which will bring in some other types of jobs. Atrium and industrial businesses like that coming into Town are tremendous opportunities for the Town to grow. He reiterated there are a lot of great things happening in Merrimack and they are not all \$8 or \$9 an hour retail jobs and things of that nature. There is a mix that will fill out the community and allow it to continue to be a great place to be and be from.

### **Adjourn**

**MOTION made by Councilor Boyd and seconded by Councilor Dwyer to adjourn. MOTION CARRIED 7-0-0**

The June 14, 2012 meeting of Town Council was adjourned at 9:19 p.m.

Submitted by Dawn MacMillan