

Approved: September 13, 2012

Posted: September 19, 2012



## Town Council Meeting Minutes



Thursday, August 16, 2012, at 7:00 PM, in the Town Hall Meeting Room

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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 Boyd, Councilor Dwyer, Councilor Flood, Councilor Harrington, Councilor Koenig, and Town Manager Eileen Cabanel.

### **Pledge of Allegiance**

Chairman Mahon led in the Pledge of Allegiance.

### **Announcements**

Alfred Turner, Deputy Health Officer, informed the Council a new sampling by the State of New Hampshire is showing an increased activity of West Nile Virus. Mosquito samples in the greater Manchester and Nashua area, which includes Merrimack, have shown increased activity. The New Hampshire Department of Health & Human Services has informed the Town they are recommending the Governor declare a public health threat concerning West Nile Virus.

Should the Governor declare a public health threat, the Town would have the following options with regard to public open spaces: closing of playing fields one hour prior to dusk and spraying of public parks, school grounds, and athletic fields. With regard to the possibility of spraying, Town Manager Cabanel stated a permit would have to be received from the State. The Town is in the process of completing the necessary paperwork for such a permit, which would not be available to the Town until August 27<sup>th</sup>. The Town Council would be responsible for determining whether or not spraying would occur. Should it be deemed necessary, spraying would be done every couple of weeks until the first frost. There is a minimum cost of \$5,000 per application.

Deputy Health Officer Turner stated the best course of action for residents is to take preventative measures by eliminating standing water and other mosquito breeding locations in their yards, keeping mosquitoes from entering their homes, and protecting themselves from mosquito bites by wearing long sleeved loose clothing and through the use of insect repellent containing DEET.

Communication channels available include [www.Merrimacknh.gov](http://www.Merrimacknh.gov), [www.Nixle.com](http://www.Nixle.com), Merrimack Television channels 20 and 21, and local media sources. The Town is being kept up to date on the changing situation through daily contact with the State departments including the Department of Health & Human Services.

The Crime Line Golf Tournament is scheduled for September 12<sup>th</sup> at Souhegan Woods. Officer Robert Kelleher can be contacted for further information.

The DEA Drug Take Back Day is set for Saturday, September 29<sup>th</sup> from 10:00 a.m. - 2:00 p.m. at the Police Department. Residents can drop off unwanted and unused prescription drugs for proper disposal.

The final two summer concerts will take place on Wednesday, August 22<sup>nd</sup> and August 29<sup>th</sup>.

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

#### **1. Recognition of John Segedy for his Service to the Town of Merrimack as a Member of the Planning Board**

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

The Town Council would like to recognize Dr. John Segedy for his years of service to the Town of Merrimack as a member of the Planning Board.

The Council recognized Mr. John Segedy for his dedication and commitment to public service during his appointment as a member of the Town of Merrimack Planning Board. Mr. Segedy served in this capacity from May 5, 1983 until June 30, 2012.

#### **2. Acceptance of Town Committee/Commission/Board Resignations**

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

The Town Council to consider the acceptance of the resignations received from Janice Brown of the Heritage Commission and from John P. Diggins III of the Conservation Commission.

**MOTION made by Councilor Rothhaus and seconded by Councilor Boyd to accept, with sincere regret and gratitude, the resignations of Janice Brown and John P. Diggins III. MOTION CARRIED 7/0/0**

### **Appointments**

#### **1. Request for Vote of Confidence of the Town Council for Stop Bullying Project**

*Submitted by David G. Yakuboff, Sr.*

The Town Council to be presented with the Stop Bullying Project.

Mr. David Yakuboff, Sr. stated the mission objectives of the project include: encouraging all adults, especially parents and members of the school communities, to help implement an effective school-based bullying prevention program, to promote awareness to the most effective approaches for bullying prevention, to advocate for increased awareness for bullying related research and prevention, to support the school-based bullying prevention initiatives through legislation, public policy, and community wide education and program development, and to provide students and parents an avenue to stop bullying problems through a third party intervention without fear of reprisal from a fellow student.

He spoke of the need to educate children on the affects of bullying through social media sources such as Facebook, Twitter, etc., and the inclusion of cyberbullying in State RSA 193-F:3.

He informed the Council of a website; No Excuse for Peer Abuse, which will provide an e-mail address for anyone wishing to talk privately (should be available in the next 2-3 weeks). Information provided will be kept in the strictest confidence. In the instance of an emergency, the individual reporting such abuse would be asked to contact the Merrimack Police Department. A hotline will also be available and will be manned from 9:00 a.m. - 9:00 p.m. Any messages left on the hotline will be returned immediately, and e-mail messages will be returned within 12 hours. Volunteers manning the hotline would receive training to act as the gateway to point callers in the right direction. He was encouraged to maintain close contact with the school as they could provide information on how to receive, investigate, and address complaints.

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Information on the resources available will be provided to the School Resource Officers for distribution in the schools.

Mr. Yakuboff stated he was not seeking financial support, but rather support in the form of a vote of confidence.

**MOTION made by Councilor Boyd and seconded by Councilor Rothhaus that the Town Council endorse Mr. Yakuboff's Stop Bullying Project entitled No Excuse for Peer Abuse, that he be encouraged to report back to the Council periodically on his efforts, and suggest ways the Council may be helpful to him in his cause. MOTION CARRIED 7/0/0**

**2. Hillsborough County Commissioner Carol Holden [Tabled at the July 19, 2012 Meeting]**

*Submitted by Carol Holden*

The Town Council to receive a presentation on the state of the Hillsborough County Budget for FY/13.

Commissioner Holden informed the Council the amount to be raised through taxes will not increase for the FY13 budget despite increased costs for personnel, benefits, etc. The budget maintains the essential services and continues to address some of the needs of the most vulnerable citizens, e.g., continuation of funding for Meals on Wheels.

Hillsborough County has been fortunate in maintaining a surplus, which allows the tax rate to remain level. In terms of increased revenue; a new tenant was added to the County Complex (Master Gardeners), the contract with the women's prison now calls for a 5% increase in each year of the three-year contract, and efforts to rezone some of the 450 acres of county owned land in Goffstown (agriculture) were successful resulting in the removal of some of the prior restrictions imposed on use of the land. An RFP is in the process for the buildings and land with the hope of gaining a return on investment through lease of the land.

Commissioner Holden spoke of efforts to reduce costs, e.g., going out to bid for electricity, the conversion of the boilers at the Department of Corrections facility and the nursing home facility from oil to gas, which can be converted back again should the market be more favorable for oil in the future, etc. Community service at the Department of Corrections has been suspended for the time being. As a result of cuts required to be made, some positions will be eliminated and others will have hours reduced.

Commissioner Holden provided the Council with a handout, which included a revenue summary that identified the amount of revenue for FY12 and FY13 remaining level at \$44,109,421, a budget analysis indicating the undesignated fund balance for year end as \$8,750,007, tax apportionment by town from 2005 through 2011 showing the apportionment for the Town of Merrimack at 7.4626% in 2005 and 7.4288% in 2011 (percentage for FY13 will be known in September), and a comparative budget and expenditure request for fiscal years 2010 through 2013, which identifies funding for Meals on Wheels (\$55,000 in FY13).

Vice Chairman Rothhaus questioned how the tax rate is set and whether or not population is a factor. Town Manager Cabanel explained the State equalizes the local assessed valuation of each municipality to bring such valuations to the full and true market value of the property, and base their apportionment on equalized land value only. She added she does not believe population is a factor.

**3. Senate President Peter Bragdon**

*Submitted by Senator Peter Bragdon*

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Senator Bragdon is running for re-election in state Senate District 11 which, due to redistricting, will also include Merrimack. He wants to introduce himself and hear the Council's views on community needs.

Senator Bragdon introduced himself to the Council and provided information on his personal and professional background. He stated a desire to understand concerns the Council may have regarding issues that would be addressed at the State level so that, should he be fortunate enough to be re-elected to represent District 11, he would be able to best represent the Town.

Vice Chairman Rothhaus remarked the issue of the toll system is one of concern for the citizens of Merrimack. He stated a desire for this system to be abolished and a more efficient manner of generating revenue devised. He commented on the downshifting of financial responsibility from the State to Towns/Cities that has occurred over the past few years, and requested consideration be given to the impacts of that downshifting and how those impacts could be alleviated by allowing individual communities the ability to identify programs to be funded.

Senator Bragdon commented over the past four years a lot of downshifting has occurred as well as conversations regarding ways of reducing the impact, e.g., when the State contribution to the retirement system for the employer share was reduced to zero, the system was reformed to change the overall computation of the rate with the goal of having the Towns' and school districts' contribution in dollars be the same as it had previously been. He commented this as an issue he is keeping an eye on.

Councilor Boyd noted Senator White had introduced legislation regarding health exchanges and questioned whether that legislation would be brought back to the floor in the next session given the Supreme Court has ratified President Obama's Healthcare Reform plan. He also questioned whether Senator Bragdon sees the proposed legislation as a viable solution to the problem or if there are other avenues that need to be explored. Senator Bragdon responded it will likely depend on changes that occur in November both at the State and National level. He added, when Senator White introduced his legislation there was a great deal of debate over the best approach to take and what might be proposed as an alternative.

Councilor Boyd spoke of several pieces of legislation introduced relative to the tolls, and questioned whether rate relief at the tolls would be at the top of the Senator's agenda should he be re-elected. He further questioned what the Senator believes to be an appropriate avenue to provide relief to Merrimack. Senator Bragdon responded he would look to the Council to identify a resolution the Town would be able to buy into as there are a number of ideas from eliminating the tolls entirely to a discounted rate for those residing within Merrimack. He added an important factor is to be able to convince Senators and representatives from outside of this area of the need for fairness. He touched upon the need to become familiar with and understand issues of importance to other communities as well as educating others on the needs of the communities he represents and the good will that can foster with regard to gaining support. He commented there will be a number of issues coming up that deal with the highway system and the financial viability thereof and it will be important to keep an eye on all of the various moving parts.

Councilor Koenig remarked the toll way system extends from the New Hampshire border, through Nashua, Merrimack, and Manchester, and all work done on that roadway is financed through revenues gained from the toll system not highway taxes. He spoke of work being done in Manchester, which is benefiting many who do not contribute to the toll revenue unless they happen to come down to Merrimack or go up to Concord, and yet the Town of Merrimack cannot access highway funds because it is on the toll way system. He stated he too would like to see the disbanding of the toll system and movement to a single system for funding roads in the State of New Hampshire.

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Senator Bragdon remarked the concept of a toll road may work fine when everyone is contributing to it, but the current situation is that a large population is not. He stated the people in Manchester are very interested in significant additional work to the turnpike system going through their town and he will make it clear to them the issue of tolls in Merrimack is of great concern to him. He further stated to whatever degree he may have influence as President of the Senate he would like to see that addressed before more improvements are made to either Nashua or Manchester. He pledged; if re-elected to the Senator he would work with the Council to push for something the Council believes to be fair for the Town of Merrimack.

Councilor Koenig echoed remarks made by Vice Chairman Rothhaus with regard to the ability of individual towns/cities to determine what projects should be funded when the State shifts costs to the local level. He noted, in his time on the Council, he has experienced several instances where the Town wished to take a direction different than that of the State only to be informed it would require specific authorization from the State Legislature. Senator Bragdon remarked New Hampshire is not a classic home rule state and there needs to be flexibility at the local level. He agreed those at the local level have a better understanding of what would best serve their constituents as opposed to the general approach of a legislator up in Concord.

#### **4. Annual Review with the Economic Development Citizen Advisory Committee**

*Submitted by EDCAC Chair Susan Lee*

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

Ms. Susan Lee remarked when last before the Council, the Committee was charged with educating themselves on the various business incentives the State provides towns to offer businesses. As part of this effort, the Committee met with Mr. Doug Pearson, Chairman of the Bedford Business Resource Group. That group had some of the same challenges as Merrimack and has utilized a Tax Increment Financing District (TIF) as a means to move development forward. They also invited Town Manager Cabanel to speak on her experiences with a TIF District in Laconia, NH. A TIF District is one of three incentives the Committee is focusing on and continues to educate itself on. On April 5<sup>th</sup>, Mr. Matthew Walsh, Assistant for Special Projects for the City of Concord and someone involved in the drafting of some of the State RSAs provided the Committee with a presentation on the various incentives.

The Committee decided to first look to creating additional Economic Revitalization Zones (ERZ). The properties recommended for this designation were the former Zylas property and the old Shaw's plaza. A presentation was made to the Town Council and approval received to submit the required paperwork, which resulted in the designations being approved. This designation provides additional incentive for businesses to redevelop these properties, add new jobs, and receive tax credits from the State.

The Committee then turned its attention to the Community Revitalization Tax Relief Incentive. This incentive involves some tax deferral to the Town. Before making a formal presentation regarding specific properties, the Committee wishes to perform its due diligence to ensure the appropriateness of properties that would be recommended, e.g., it is unwise to designate too large an area or properties that would have been redeveloped without the incentive. The Committee anticipates being able to make a recommendation within the next month or two.

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In addition to its work regarding tax incentives, the Committee provided assistance at this past year's Fall Festival Business Expo., and intends to provide assistance again this year if requested. Discussions have taken place with the Community Development Director; Tim Thompson regarding projects the Committee could assist with once the study of business incentives is complete. One possibility discussed is efforts to enhance the Town's economic development presence on the Internet.

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

Tim Tenhave, 72 Amherst Road

Touched upon visions of planners who, many years ago, foresaw the desire for the townspeople to enjoy the property along the area of Marauders Bridge through the creation of a trail system, and the pedestrian bridge that came about as a result of the efforts of the Merrill's Marauders Bridge Trails Committee.

He spoke specifically of one of the visions being a means to pay tribute to the Merrill's Marauders. Merrill's Marauders were a group of folks who became the Army Rangers. They were headed by a gentleman by the name of Frank Merrill and together did tremendous things during WWII. The idea had been to erect a plaque, pedestal, or similar structure in the vicinity of the bridge, which would pay tribute to the Marauders and their sacrifices. He requested the Council give consideration to fulfilling this vision as part of the overall plan for the trail systems.

John Diggins, 6 Birchwood Drive

Thanked the Council for accepting his resignation. He commented his resignation was in some way a bit of a protest, but also related to the amount of travel required by his professional career, which does not provide him the time necessary to fulfill the commitments of being a member of the Conservation Commission. He stated a desire to be able to return to volunteer service in the future.

He spoke of his prior belief volunteering on the Conservation Commission would be an activity that would not be political in nature. He remarked he is disappointed with recent events concerning appointments to the Conservation Commission and stated his belief, in the instance of the appointment of Mr. Powell, the system failed. He commented on the lack of support for a gentleman who has dedicated many years working with the school, police, Fire Chief, and Town. He stated his hope the great community of Merrimack does not forget to get rid of politics and remember human beings are human beings and we need to treat each other with a little more dignity.

### **Public Hearing**

None.

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

None.

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

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The entryway doors to Town Hall have been upgraded and made handicap accessible. The next step in the process is putting in place a lower station at the Tax Collector's Office to better serve those who experience difficulty standing.

The Police Department would like to remind citizens school is opening and ask that they be mindful children will be on the roads and school zone speed limits will be in effect. Citizens were reminded of the opportunity to take advantage of the Police Department's house check program if planning on being away from home on vacation, etc. Anyone interested should contact the Communications Department at 424-3774 for additional information.

The Highway Division staff has replaced the failing 30" culvert at Meetinghouse Road. During a recent maintenance visit, the culvert was identified as having a severely corroded corrugated metal pipe. Highway staff has replaced several sections of the skate ramp surfacing material at O'Gara Skateboard Park. Work at the Amherst Road culvert replacement project is proceeding well. During the 10 day road closure period the contractor removed the existing culverts, installed a new precast concrete box culvert, reconstructed 750' of Amherst Road to improve site distance, and performed water line relocations. The base pavement was placed on Tuesday, August 14<sup>th</sup> with final pavement scheduled for August 27<sup>th</sup>.

### **Consent Agenda**

None.

### **Old Business**

#### **1. Sluiceway Deed – Land Transfer from Pennichuck Corporation to the Town of Merrimack**

*Submitted by Town Council Chairman Tom Mahon*

The Town Council will consider signing the deed to complete the transfer of land containing the sluiceway and headgates at Watson Park from the Pennichuck Corporation to the Town of Merrimack. This item was previously discussed at the March 8, 2012 Town Council meeting.

Town Manager Cabanel stated part of the overall trail program is the desire for a sluiceway that would go underneath the Chamberlain Bridge and become a means for pedestrian travel from the side near the fire station over to Watson Park. Legal counsel was contacted regarding acceptance of a Deed for land currently owned by Pennichuck Corporation whereon such a sluiceway exists. Counsel was asked to provide an opinion on potential liability and asked to review the Deed and other issues relative to the structure and transfer of ownership. The opinion rendered was that acceptance of the Deed could be done with relative confidence.

Kyle Fox, Deputy Director/Town Engineer, stated the Pennichuck Sluiceway is a concrete box, adjacent to the Central Fire Station. There are two arches under the Chamberlain Bridge, one carrying the Souhegan River and the other carrying the sluiceway, which was used for the industry that was located at Watson Park in years past. The sluiceway is approximately 92' long. The FEMA flood elevation in the area is 118'. The elevation at the top of the arch is 126.5'. If a trail were to be built at the 118' elevation (out of the 100-year floodplain), there would remain 8.5' of headroom.

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The Town Center Committee's charge is to implement the Merrimack Town Center Pedestrian and Trail Master Plan. One of the key portions of the master plan is the connection under the Chamberlain Bridge. The sluiceway would allow for that connectivity.

Mr. Nelson Disco stated the Town Center Committee was given the charge to implement the trail system and discovered this piece of property, where a trail had been planned, was not owned by the Town. The owners, Pennichuck Corporation, having no further interest in the property, offered to Deed it to the Town. Ownership of Pennichuck Corporation changing hands delayed the process. However, agreement has been reached and Pennichuck has signed the Deed. The request before the Council was for acceptance of the Deed.

Councilor Flood noted the Council was in receipt of a communication from legal counsel providing assurance the Town has a do not sue letter from the State, which relinquishes the Town from liability for anything that might be found on the property in the future. Councilor Boyd stated he has been provided assurances acceptance of the Deed would not have any impact on the Town in terms of concerns he raised previously with regard to rights and reservations that existed with ownership prior to Pennichuck Corporation (ponding, ability to collect water, etc.).

When asked if there were any reason(s) to consider not accepting the Deed, Town Manager Cabanel stated there were not. She added a legal opinion was sought as the Deed is for an area that abuts a Brownfields area and the desire was to be diligent in conducting research to gain a comfort level with acceptance. She stated she feels confident the Council should accept the Deed.

Deputy Director Fox spoke of yearly requests received for painting of a crosswalk across from the fire station and Woodbury Street area, which they have not fulfilled due to poor site distance, which makes it hazardous for crossing. Completion of the proposed project would provide a crossing underneath the bridge. He noted there will be costs associated with trail development.

**MOTION made by Councilor Boyd and seconded by Councilor Rothhaus that the Town Council authorize the Town Manager to sign the Deed and any other applicable documents to complete the transfer of land containing the sluiceway and headgates of Watson Park from the Pennichuck Corporation to the Town of Merrimack. MOTION CARRIED 7/0/0**

### **New Business**

*There being no objection, the Council went out of the regular order of business and took up Agenda Item #4.*

#### **4. Committee Appointments**

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

The Town Council to consider appointing recommended individuals to the Merrimack Conservation Commission and Parks and Recreation Committee, pursuant to Charter Article 4-8.

*Vice Chairman Rothhaus stated the following candidates were recommended by the Appointment Committee to serve on the Conservation Commission; Simon Thomson, as a full member, and Ron Davies, as an alternate member.*

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**MOTION made Councilor Boyd and seconded by Councilor Rothhaus to appoint the following individuals to the Conservation Commission; Simon Thomson, as a full member, to fulfill the remainder of the term of John Diggins, which expires in 2014 and Ron Davies, as an alternate member, to serve the remainder of a term expiring on June 30, 2014.**

**ON THE QUESTION**

Councilor Boyd remarked Mr. Thomson and his Wife chose Merrimack as a place to work, live, and raise a family. He remarked the average median age of residents in New Hampshire is 40, which means a great many young people are leaving the State. He remarked it is a testament to have a member such as Mr. Thomson who has chosen Merrimack, but also New Hampshire as a place to work, raise his family, and serve his community. Mr. Thomson is the Grandson of former Governor Mel Thomson, was born and raised in Orford, worked on a farm, has a tremendous agrarian background as a result of living in a rural community. He also has his real estate license, which is applicable to the position.

Mr. Davies impressed the committee with his demeanor, he is very active with girls softball, has been an abutter to Grater Woods for 20-30 years, is a user of the facility, and is committed to not only expanding the usage of Grater Woods but also appropriately managing other open spaces in Town. Above all he is a gentleman who readily admits he never wanted to get involved in government or politics, but now that his children have graduated and his coaching days are over, he has time available to participate and be a part of the process to continue to nurture open spaces in the community.

Councilor Flood remarked she is pleased to see younger, well qualified individuals joining the Commission; however, would not be supporting the motion as she disagrees with the allocation of the positions. Councilor Harrington stated a concern with the lack of notification and commented the Council did not receive information for review in advance of the meeting, therefore, she would be abstaining from the vote. Councilor Koenig stated his frustration with the lack of written information provided the Council. As a result, he would not support the motion. He suggested the Council consider tabling the item. Vice Chairman Rothhaus noted the Council receives its agendas the Friday prior to its meeting and if questions arise or further information is required, it should be requested in advance of the meeting.

**MOTION WITHDRAWN**

**MOTION made by Councilor Boyd and seconded by Councilor Dwyer to table until the Council's next regularly scheduled meeting. MOTION CARRIED 7/0/0**

**MOTION made by Councilor Flood and seconded by Councilor Dwyer to appoint Phil Straight to the Parks & Recreation Committee for a term to expire June 30, 2015. MOTION CARRIED 6/0/1  
*Councilor Harrington Abstained.***

Councilor Koenig stated, for the record, the Council received a letter of recommendation for Mr. Straight and a letter from him requested re-appointment.

*The Council recessed at 9:02 p.m.*

*The Council reconvened at 9:15 p.m.*

**1. Proposal to Disband the Merrill's Marauders Bridge Trails Committee**

*Submitted by Town Center Committee Chair Peter Flood*

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The Town Council to consider the proposal to disband the Merrill's Marauders Bridge Trails Committee and shift the responsibility for trail activity in the area to the Town Center Committee.

Mr. Peter Flood stated the Town Center Committee stands ready to assume the responsibilities of what had been the Merrill's Marauders Bridge Trail Committee. He thanked the members of the Trail Committee for their service. He remarked the pedestrian footbridge created through the efforts of the Trail Committee was a large undertaking, which has made it possible for the Town Center Committee to connect the trails in an iconic way that would be difficult to do otherwise.

He informed the Council the Town Center Committee has an application in for administrative assistance from the National Park Service. He stated his belief it is now appropriate to disband the Trail Committee.

**MOTION made by Councilor Dwyer and seconded by Councilor Rothhaus to disband the Merrill's Marauders Bridge Trail Committee and shift the responsibility for trail activity in the area to the Town Center Committee. MOTION CARRIED 7/0/0**

## **2. Dog Park Subcommittee Presentation**

*Submitted by Dog Park Subcommittee Member Lynne Wenz*

Members of the Dog Park Subcommittee will present the Town Council with their ideas for the proposed dog park.

Ms. Lynne Wenz thanked the Town DPW crew for their removal of broken trees and debris. As a result of this work, what was revealed was an area tucked into a hillside of the Northwest corner of Watson Park, which would be suitable for a dog park. There are Birch trees (to the east) that would provide shade and a buffer zone. There remains some work to be done such as repair of the broken industrial fence (west side) and work on a steep slope (upper west side).

The subcommittee wishes to make use of the used chain-link perimeter fence, which was saved for this purpose (east side). Once site work is complete, fence companies can be invited to bid on the job. Ms. Wenz commented, after all of the work done on the site by the DPW, this fencing project should be a very easy one to do, e.g. a roll of fence will be able to be brought onto the hillside to patch certain areas, which were nearly inaccessible a week ago due to terrain and undergrowth.

Fundraising has occurred. It is hoped grant monies will be extended to assist in completing the work. There is a cleanup station being considered for the park, and other aspects of dog park usage such as rules, groundcover, maintenance, and supervision have been reviewed and will be outlined at a later date. Discussions have occurred with the Parks & Recreation Committee regarding the use of existing native Ivy to decorate the fencing, understanding, over time, the appearance of fencing diminishes.

Councilor Dwyer questioned why black coated rubber fencing was not considered. Ms. Wenz responded black coated fencing is a thinner gauge and not as sturdy as chain-link. Although it would not experience the same level of corrosion, it is more costly. She noted the perimeter fencing that was saved would cover most of the area and is chain-link. With industrial fencing already in place on the south, west, and north sides, and perimeter fencing for the front of the park, what is required is an area of fencing for the inner section, which would be used for smaller and older dogs as a means of separating them from the more athletic dogs. The utility gate will be 12' in length. A gate will also be installed to allow for entrance into the inner section.

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Councilor Rothhaus suggested a comparison be done for the area of new fencing given the greater life expectancy of black coated fencing.

Chairman Mahon questioned the timeline. Ms. Wenz remarked prior to the work done during the past week by DPW, they didn't have access. Now that access is available, fence companies have been contacted. Funding is another factor that will affect timing. It is hoped the project could commence this fall or the spring of 2013.

Town Manager Cabanel remarked there is an easement along the edge of the property where the dog park is being proposed (denoted on the map with hash marks). Negotiations would have to occur with the easement holder or access across the property provided. She stated her belief Mr. Upton is presently in contact with the easement holder. Ms. Wenz stated the issue has been addressed and they await written concession.

Councilor Koenig questioned whether discussions have taken place with abutters to determine whether or not they have concerns with regard to noise, etc. Ms. Wenz responded she has spoken with all of the neighbors, and they have expressed a desire to utilize the dog park. Town Manager Cabanel commented the intent of the presentation was to provide the Council with an update on progress. Councilor Koenig stated he is not supportive of a dog park in the proposed area, and commented what has occurred to date is simply a presentation absent of a request for or receipt of approval of the Council.

### **3. Watson Park Pavilion Subcommittee Presentation**

*Submitted by Pavilion Subcommittee Members Phil Straight, Peter Flood & Bill Wilkes*

Members of the Pavilion Subcommittee will present the Town Council with the proposed pavilion design.

Mr. Phil Straight stated the Pavilion Subcommittee is close to a final design for the pavilion and wished to provide the Council an update. He noted a structure was proposed in the approved Master Plan, but delayed due to financing. The subcommittee was established to look into three distinct directions; stick built (local expertise), prefabricated products, and timber frame.

Mr. Peter Flood noted this project has been contemplated for the past three years and discussions have picked up over the past several months. When Mr. Duhamel passed, his family suggested donations be made to the Rotary Club of Merrimack being confident contributions would be well spent. He noted Mr. Duhamel's family was present for the meeting. The family made a contribution and has added to that contribution significantly. The impetus for the activity has been to memorialize Mr. Duhamel's life and appreciate what he did, over a period of over 40 years, in his generosity through the Rotary, his excellence in home building, and how he built up the builders associations of Nashua, Manchester, and the State of New Hampshire. He stated his hope the Council would believe it proper to dedicate the pavilion to Mr. Duhamel's memory.

The Council was provided with a detailed presentation outlining the history of how the subcommittee reached the realization of a finished and accomplished plan that is thoroughly engineered and financed. It is a five-sided pentagon that allows the practicality of having 21' open spans and a maximum square footage underneath the roof of over 759 sq. ft. The pavilion will be 1.6+ times the size of the bandstand with a high roof pitch. An example of the beam size that would be used was provided. In the Master Plan, the placement of the pavilion was back in the corner by Baboosic Lake and the Souhegan River. The Subcommittee has proposed moving it somewhat forward, but keeping it outside of the 100 year floodplain. There were several reasons for this, one being to provide easier access from the parking lot.

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The project was sent out to bid three weeks ago and received 7 bids. A building permit was applied for and granted earlier in the day. Mr. Bill Wilkes stated construction costs to be; Phase I (fully functional completed pavilion) approximately \$32,500 (could vary 5% in either direction) and Phase II (electricity) at an approximate additional cost of \$5,000. The desire also exists to add decorative items such as pavers leading up to the pavilion, planters, etc. It is believed, if approvals can be gained, the work could be completed by the middle of November.

A donation has been received to cover the costs of excavation work. There is a hope the project could receive \$10,000 from the Parks & Recreation grant. If grant funding is made available, there would be in place a total of \$29,000. Mr. Wilkes spoke of untapped sources being explored for donations, e.g. Home Builders Association, private and corporate donations, etc. He stated his belief the Subcommittee could easily come up with enough funds for Phase I and hopefully Phase II, if approved. Mr. Flood spoke of promises of labor donations and cited several local individuals and companies who have expressed a willingness to provide services/equipment.

Mr. Straight stated a desire for the Subcommittee to return to the Council with firmer numbers at its next meeting. Mr. Wilkes requested guidance from the Council with regard to the proper procedure to be followed, and stated a desire to proceed with the foundation work at the earliest possible time. Mr. Flood noted a timber frame structure requires at least 8 weeks advance notice to the framer.

Town Manager Cabanel explained there would be a formal request of the Council, from the Parks & Recreation Committee, for the disposition of the \$20,000 in grant funding, which remains from the Watson Park project.

Councilor Koenig questioned how the structure would be attached to the foundation. Mr. Straight stated the basic structure would be a post and beam (heavy duty timbers) structure anchored into a monolithic slab, a.k.a. Alaskan slab, which would be reinforced with Rebar. He noted 3-4 different sources were consulted, including the Building Inspector and all agreed, given the constraints of the EPA site and following best practices, Alaskan slab is the best way to proceed.

Councilor Harrington requested clarification, at the next meeting, the Council would receive a request to release grant funds, a request to accept the donation by the Rotary, and a request for approval of a finalized plan for the pavilion. Town Manager Cabanel stated that to be correct.

**MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to suspend the rules and allow the meeting to continue. MOTION CARRIED 7/0/0**

##### **5. Draft Joint Town Council/School Board Meeting Agenda Discussion**

*Submitted by Town Council Chairman Tom Mahon*

The Town Council to look over and discuss the draft joint Town Council/School Board meeting agenda.

Chairman Mahon provided a draft agenda for discussion. He noted the draft agenda came out of a recent meeting with the Chairman of the School Board and the Superintendent of Schools. He remarked the issue of the sewer line was not included on the agenda as there is no commitment for financing for the rehabilitation of the sewer line; therefore it is believed final acceptance of the line by the Town would be premature. The School Board agreed it was not in either party's interest for that to occur.

Approved: September 13, 2012

Posted: September 19, 2012

The Memo of Understanding for access to Grater Woods has been finalized, and will be brought forward at the joint meeting for discussion. Final action is anticipated to be taken at a separate meeting of each body.

Councilor Koenig commented on the various discussion items identified on the agenda and requested all backup documentation be provided in advance of the meeting.

### **Minutes**

Approve the minutes from the July 19, 2012 meeting.

**MOTION made by Councilor Boyd and seconded by Councilor Dwyer to approve the minutes of the July 19, 2012 Town Council Meeting as presented**

*The following amendments were offered:*

Page 6, second paragraph, fourth sentence should read: Councilor Dwyer questioned whether consideration was given to a gravel floor.”

Page 6, delete the following: “Councilor Koenig moved the question.”

**MOTION CARRIED 6/0/1**

*Vice Chairman Rothhaus Abstained*

### **Comments from the Press**

None.

### **Comments from the Public**

None.

### **Comments from the Council**

Councilor Boyd noted on Thursday, August 23<sup>rd</sup> at 5:30 p.m. Senator Ayotte will speak to voters at a Town Hall meeting to be held at the Merrimack High School.

Councilor Flood remarked the Town is mourning the death of Frank O’Gara who served the Town for many years volunteering on with many organizations such as the Merrimack School Board. The Town is grateful for his long life and good service.

Councilor Koenig informed the Council the Library Board of Trustees, in their search for a new Library Director, has received quite a few applications and is moving forward with the interview process.

**MOTION made by Councilor Boyd and seconded by Councilor Harrington to adjourn. MOTION CARRIED 7/0/0**

*The August 16, 2012 meeting of the Town Council was adjourned at 10:37 p.m.*

Submitted by Dawn MacMillan

Town Council Meeting Minutes – August 16, 2012