

Approved: November 1, 2012

Posted: November 2, 2012



## Town Council Meeting Minutes



Thursday, October 11, 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 Harrington, Councilor Koenig, Town Manager Eileen Cabanel, and Finance Director Paul Micali. Councilor Flood was excused.

### **Pledge of Allegiance**

Chairman Mahon led in the Pledge of Allegiance.

### **Announcements**

The Town Council has amended its regular meeting schedule for the months of November and December to the first and third Thursdays; November 1st, November 15<sup>th</sup>, and December 6<sup>th</sup> at 7:00 p.m. in the Town Hall Meeting Room.

Students Against Destructive Decisions (SADD), Merrimack Police, and Merrimack Safeguard are recognizing "Red Ribbon Week" the week of October 22nd - 26th to symbolize their commitment to a healthy, drug-free lifestyle.

Merrimack Police Department's "Senior Information Fair" is scheduled for October 23rd at the Senior Center from 9:00 - 11:30 a.m. Information regarding services and programs for seniors will be available, and representatives from various agencies will be attending to answer questions.

Merrimack's Halloween hours are set for Wednesday, October 31st, from 6:00 – 8:00 p.m.

Absentee ballots are in for the November 6<sup>th</sup> election. Voting on November 6<sup>th</sup> will take place in the gymnasium at Merrimack High School. Persons who are not registered to vote are encouraged to do so before the November 6<sup>th</sup> election. The Supervisors of the Checklist will hold special voter registration sessions October 22<sup>nd</sup> – 25<sup>th</sup> from 7:00 - 8:00 p.m., and on Saturday, October 27<sup>th</sup> from 11:00 - 11:30 a.m.

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

None.

### **Appointments**

#### **1. Annual Review with the Technology Committee**

*Submitted by Technology Committee Chairman John Sauter*

Per Town of Merrimack Charter Section 6-6, at least annually, there should be an annual review with the Technology 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.

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Mr. John Sauter, Chairman, Technology Committee, noted the Committee has no budgetary or statutory authority; however, it does have a charge from the Town Council to provide ongoing assessment to the Town Council of the Town's use of technology, both hardware and software, as it is used today and looking into the future. The assessments may be broken down as the Committee sees fit by department, hardware or location, and will include recommendations on moving the Town and its employees forward in the use of technology.

Technology specific areas the Town Council would like the Committee to focus on are networking, software license compliance, website utilization, hardware compatibility, and power utilization. The Committee shall be looked at, by the department heads, as a resource to investigate and provide recommendations on future software and hardware purchases. In addition, the Committee should promote the Town to business.

Members of the Technology Committee are skilled professionals who contribute their time to help the Town address issues and take advantage of opportunities offered by modern technology. Their meetings are open to the public and input is always welcome.

With regard to responding to department heads, the Committee has reviewed plans to upgrade the Town's e-mail server and has reviewed the Fire Department's new software acquisitions. Another area the Committee addressed related to the use of licensed software without proper licenses. This exposed the Town to the threat of a lawsuit by the software owners. That problem has been corrected, and the Town is now fully licensed for the software it is using.

The State is moving toward the use of open-source software and data formats to replace licensed software and closed data formats. The Town is doing the same; initially replacing Microsoft Office by OpenOffice.org where the full capabilities of Microsoft Office are not needed. Mr. Sauter stated there had been a concern with regard to risk of exposure in that confidential data was being stored on USB thumb drives. That problem has been resolved through the use of encrypted thumb drives. There had existed a risky backup procedure whereby confidential data was taken to people's homes as a way to protect it from a building disaster, which risked exposure through misplacement. That problem has been resolved through the use of a fire resistant safe within Town Hall.

There remain unresolved issues, the largest of which is the lack of a comprehensive disaster plan. Mr. Sauter informed the Council Mr. Chuck Miller, Technology Coordinator, is currently working on an inventory of the Town's equipment, and plans are underway to split the Town's data between two buildings with a full copy in each. With regard to the physical security of Town Hall, it is believed too many people have access. The Committee looked into the use of Radio-Frequency Identification (RFID) cards; however, retrofitting all of the doors is cost prohibitive. The Committee continues to research alternatives. With regard to training, Mr. Miller is seen as a single point of failure in the Town's I.T. structure. Training has been requested for him; however, funds have not been allocated in the budget.

Councilor Harrington questioned the availability of offsite data storage. Mr. Sauter remarked there are companies that will provide offsite data storage such as Iron Mountain; however, that has an associated cost. Placing items in a fire resistant safe is much less expensive.

When asked about the level of work before the Committee Mr. Sauter spoke of recent difficulty obtaining the necessary quorum to conduct a meeting. Councilor Boyd touched upon discussions around the development of a social media policy, and questioned whether the Committee would be receptive to taking that on as an additional charge. Mr. Sauter stated the Committee would accept any direction from the Council as their charge is to do what the Council requests. However he does not believe the current makeup of the

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committee provides the proper skill set for such a task. If an idea were presented, they could assist in identification of an effective and cost efficient manner of implementation.

Chairman Mahon questioned whether Mr. Miller has personally requested funding for training. Mr. Sauter responded the Committee is only aware of what Mr. Miller has relayed to them; that he could make good use of training. Based on that, a request was made for funds to be added to the training budget, which did not occur. He made a formal request for funding to be included within the FY14 budget (\$5,000). Chairman Mahon requested detailed information, e.g. purpose, etc. be forwarded to the Town Manager. Chairman Mahon noted the facilitator of the June meeting offered a policy on social media, and questioned whether it has been received. Director Micali responded a copy of the policy as well as draft meeting minutes would be forwarded to the Council.

When asked whether the Committee has addressed the issue of a single point of failure within the I.T. Department, Mr. Sauter remarked the issues the Committee has considered revolve around Mr. Miller documenting responsibilities, practices, etc. Current workload has not provided the opportunity for that work to be completed. The Committee continues to look into that as the top priority and one that has to be addressed in advance of the creation of a disaster plan.

## **2. NRPC - Open Road Tolling**

*Submitted by Town Council Chairman Tom Mahon*

The Town Council to discuss implication of inclusion of toll plaza locations in the Nashua Regional Planning Commission 3-year transportation plan.

Chairman Mahon stated he, Town Manager Cabanel, Tim Thompson, Director, Community, and Kyle Fox, Deputy Director of Public Works met last week with Mr. Tim Roache, Assistant Director/MPO Coordinator, Nashua Regional Planning Commission (NRPC), to discuss the issue.

Mr. Roache stated the NRPC serves as the Metropolitan Planning Organization (MPO) for the region. The purpose of an MPO is to administer Federal transportation planning regulations. They do that through the NRPC and the Commissioners appointed by Town Councils and Selectmen around the region. A product of the MPO is the Transportation Improvement Program (TIP), which is a four-year list of projects that are federally funded or regionally significant to be implemented. Before the Council was a draft of the 2013-2016 TIP. Mr. Roache remarked most of the projects identified came from the ten-year planning process the Town recently completed. Having a draft in place, a recommendation for approval will be made to the MPO on October 17<sup>th</sup>.

The project in question, Bedford/Merrimack open road toll relocation or improvement project, came down from the ten year plan of the Turnpike Authority. It has been presented in the ten-year plan and the TIP, as being contingent upon a system-wide toll increase that would have to be approved by the Legislature. He has heard from the New Hampshire Department of Transportation (DOT) the project will remain at the current location and any relocation of the toll plaza would require Legislative approval.

The scope is undefined and simply says improvement or relocation of the toll plaza between Bedford and Merrimack. The exact location or impact it would have on Merrimack or the ramp tolls is not known. Federal regulations require projects listed in the first two years of the TIP have funding secured, projects in the second two years have to have a reasonable expectation that funding will be available. This project is listed for construction in 2015/2016 (2<sup>nd</sup> two years). They have questioned whether it was reasonable to anticipate funding coming through a contingent increase in tolls from the Legislature.

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The MPO has a Transportation Technical Advisory Committee (TTAC). Members of the TTAC are the planners, DPW Directors and technical staff of the communities that make up NRPC. They met the prior day and recommended approving the TIP, but listing the construction phase of the toll project as illustrative, e.g., informational with no available funding. As a result, if and when the Legislature takes action on this project and makes a decision as to where it might go, they would have to go back and amend the document, which would provide another opportunity for all of the communities in the region, through a public process, to weigh in and let their opinions be known as to whether or not the project should move forward. The TTAC believed this to be the best course of action given how the project was taking shape and understanding it would provide for maximum input on the project.

A public hearing will be conducted on October 17<sup>th</sup> at the NRPC at which the Executive Committee and members of the Commission will be present to adopt the document based on the recommendation from the TTAC. The Council is welcome to attend or submit comment up to that date. Chairman Mahon stated input can be e-mailed to [Comments@NashuaRPC.org](mailto:Comments@NashuaRPC.org) or mailed to: NRPC-Comments, 9 Executive Park Drive, Suite 201, Merrimack, NH 03054-2230.

When asked, Mr. Roache stated there were no legislators present to provide feedback at the TTAC meeting. When asked if their input was requested, Mr. Roache stated although noticed publicly, e.g. websites, newsprint, etc., the TTAC did not reach out directly to legislators.

Councilor Koenig questioned whether the identification of a Bedford/Merrimack toll plaza comes directly from the DOT. Mr. Roache stated the TIP is a federally required document, but in New Hampshire it is essentially the first 4 years of the State's ten-year plan, which lays out a list of projects to be implemented over the next ten years. The DOT takes the first 4 years and passes them down to regional planning commissions and MPOs to incorporate into the TIP. When asked if they have any option or control over what goes into the TIP, Mr. Roache responded the way the federal regulations are written and the way MPOs and planning commissions are designed to operate, it is the communities, the region, and the appointed representatives to the Commission that are intended to be the ones programming projects into the TIP. New Hampshire is a unique case in that the ten-year plan sort of drives the bus. It is something they struggle with. They try to do their best in cooperation with DOT to ensure they receive a balance of input on the documents.

Councilor Koenig stated he does not mind cooperating with DOT but does not particularly care for that particular project. He commented expending \$18 million to rebuild a toll booth that has been rebuilt in the last 5 years seems totally absurd. He does not understand why they are doing it, why a decision was made to change the name, and if in fact it is important to do that in the next 3-4 years. He questioned whether it has to be in the TIP. Mr. Roache stated the TTAC could vote to remove it completely and approve the document without it. That could happen at the Executive Committee meeting (public hearing). Under either scenario, should the Legislature make a decision as to where the project will go, the document would have to be amended before construction could advance.

Councilor Koenig remarked referring to it as "illustrative" identifies it as an option. He stated his desire for its removal from the TIP. He recommended the Council reach out to constituents and request they send e-mails and letters requesting its removal. Vice Chairman Rothhaus agreed. He questioned whether the NRPC would agree the most inefficient way to collect a tax for road maintenance, etc. is through tolling where almost 50% of every dollar raised goes towards operations, etc. Mr. Roache stated he could not speak for the Commissioners. Vice Chairman Rothhaus requested the project be removed from the TIP.

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Director Thompson noted because of the involvement of Bedford, the Southern New Hampshire Planning Commission's (SNHPC) TIP also currently includes this project. He and Mr. Roache will be attending their meeting next week to make the case for treating the project the same way in their TIP. He noted it is a new project to Merrimack's TIP as it was previously listed as Bedford alone. Mr. Roache noted the SNHPC is running the same process as NRPC, e.g. public comment period ongoing to solicit comments.

When asked for the most powerful manner in which the Town Council could express its desire for the removal of the project, Mr. Roache suggested attendance at the public hearing. He remarked, if the full commission agrees with the premise it would send a strong message. Town Manager Cabanel questioned whether it would be helpful for State Representatives to join Council members in providing testimony at the public hearing. Mr. Roache stated it would and stated his belief representatives from NH DOT and perhaps the Federal Highway Administration would also be in attendance, and would be able to hear input firsthand.

Chairman Mahon stated part of his reasoning for having the item before the Council was to generate discussion and consideration of forwarding a written opinion.

Councilor Boyd commented the old TIP identified tolling specifically for Bedford and is now referring to it as Bedford/Merrimack. He spoke of the airport access road, which was constructed with federal monies, and, as a provision for the bridge being built, could not include a toll. By inclusion into the TIP for Merrimack DOT is provided the opportunity to potentially relocate that open air tolling plaza southward just enough to capture the traffic coming to and from the airport access road. He commented, from his perspective it is a money grab and insulting to the Town of Merrimack. Chairman Mahon spoke of legislation introduced in the last session, which would have placed the toll at exit 10 just south of the Merrimack town line.

**MOTION made by Councilor Harrington and seconded by Councilor Boyd that the Council put in writing to the NRPC and the SNHPC, copying the Town of Merrimack's delegation, a request for the Bedford/Merrimack open road toll improvement project to be removed from the 2013-2016 Transportation Improvement Program.**

#### **ON THE QUESTION**

Councilor Dwyer remarked discussion of an \$18 million cost to remove the Bedford toll would not be occurring if not for the loss of revenue going to the airport. Chairman Mahon remarked a toll increase is foreseeable given the intent for other portions of the turnpike system and the widening of the F.E. Everett Turnpike from Exit 8 to the Bedford line.

**MOTION CARRIED 6/0/0**

Richard Hinch, State Representative, remarked the need exists to understand the State Legislature, House, Senate, and Governor are the ones responsible for either instituting or removing toll plazas. The Executive Council is the authority that determines toll rates. He commented the Legislative Delegation from Merrimack has, for 24 years now, been fighting for the removal of tolls (although acknowledge the Town of Merrimack, years ago, had requested them). Vice Chairman Rothhaus later clarified they asked for the interchange and knew the tolls were coming with it.

There are a number of Bills that are in process and have been in process over the past two years. There are sub-committee meetings taking place, which a number of Merrimack representatives are involved with. The DOT plans to mimic the open road tolling now present in Hampton. With open road tolling toll booths

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disappear and motorists (E-Z Pass users) are able to go through the toll at the prescribed speed limit. Those using cash utilize ancillary toll booths to the side. The theory is you eliminate traffic, pollution, etc.

Open road tolling is in construction in Hooksett and the thought process was to move it to the main line presently known as Bedford. There was a move afoot to relocate the Bedford toll booth to Exit 10. When the airport bypass was constructed it did not include a toll, which has resulted in some evasion of tolls, and, therefore, revenue loss. The opening of the outlet mall (Exit 10) has resulted in increased revenue, which has almost replaced what was projected for those individuals who were evading the tolls.

Representative Hinch stated the Delegation has grave concern about moving the main line toll from its current location in Bedford to any other location. There was discussion around if it were moved to Exit 10 others might be of the mindset to remove the tolls at Exits 11 and 12. When toll rates were increased three years ago, increases went into effect for tolls throughout the State with the exception of Merrimack. If the tolls are relocated any place else, Merrimack commuters, instead of paying \$.50, will pay at least \$1.00/each way. Location south of Exit 10 would result in a savings for motorists traveling north.

Representative Hinch noted Senator Bragdon is very actively involved with this situation. He remarked when the legislative public hearings were conducted last year (all 3 bills) the moment the Senate President walked people realized the bills may make it through the House, but would not make it through the Senate. He stated the Town Council has to vehemently oppose including this as part of the Highway Plan, which will also send a message.

Representative Hinch stated unless there is a change in how roads are paid for, open roll tolling is a reality for the State of New Hampshire at some time in the future. He added, the turnpike system is paid for 100% through tolls and the rest of the highway system in the State is paid for with the gas tax.

Councilor Koenig pointed out the turnpike system is from the border south of Nashua all the way to Concord. A lot of that area is not tolled in any way, and yet all of the work that goes on in Manchester and Nashua to rebuild and reconstruct roads is paid for out of toll revenue. Those Legislators are very vocal about not wanting a toll in their cities, but are more than happy to expend the funds on rebuilding their roads.

Richard Barry, State Representative, agreed the use of turnpike revenue is an inefficient way to maintain roads and highways. He stated his belief the new Commissioner of Transportation is amenable and has in fact been promoting an increase in the road tax/toll, which is a gas tax that has not been changed since 1992. Representative Barry stated he introduced a Bill to change the gas tax from a flat number to a percentage. He commented nobody wants to raise taxes, but doing that may allow us to take the next step of getting out of the toll collecting business. It costs approximately \$.40 to raise a \$1.00, and if you raise the gas tax it might cost half a cent to raise a dollar. He touched upon loss of employment; however, added it could result in \$40 to \$50 million of revenue going back into the New Hampshire economy.

Representative Barry spoke of the Hampton tolls and stated traffic jams have been resolved through use of an open toll system. Our roads need to be maintained, widened, traffic jams addressed, etc. He remarked the airport access road did result in a loss of revenue because it could not be tolled except by placing a toll on the main line as ramps on the highway, which would result in the requirement to return \$13-14 million to the Federal Government. The overhead tolling (open air) is being looked at as a means of increasing revenue and removing administrative costs (personnel).

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He spoke of individuals with whom he has discussed HB 391, including both sponsors of the Bill, Senator Bragdon, who has stated he will support whatever the Town Council/Delegation wants him to support, and the Chair of the Senate Transportation Committee. He noted a meeting was scheduled for the following morning with the Commissioner of Transportation at which both sponsors of the Bill would be present. The focus of the meeting will be the financial impact. Once that is known he believes the support is in place, if open road tolling is to occur, for it to be at the Bedford toll plaza.

Chairman Mahon requested the Representatives provide periodic updates either through the Town Manager or at future meetings. Vice Chairman Rothhaus requested the Representatives request Senator Bragdon forward a letter in support of the Council's opinion for presentation at the public hearings.

### **3. Granite State Future**

*Submitted by Jeff Belanger and Kerrie Diers*

The NRPC would like to involve Merrimack in a new regional plan called "Granite State Future".

Ms. Kerrie Diers, Executive Director, Nashua Regional Planning Commission (NRPC), stated the NRPC is in the process of updating the Comprehensive Plan for the region. In accordance with RSA 36, the Plan is required to be updated every 5 years. Information relative to vision, values, etc. will be taken from Merrimack's Master Plan. The plan will incorporate transportation, land use, recreation, economic development, public infrastructure, etc.

The NRPC is mandated to perform a comprehensive housing needs assessment every five years. Under State law, that has to be done at the regional level so that it can be incorporated into the master planning process of towns/cities. The last assessment performed (5-6 years ago) was titled "Shaping our Future, the Nashua Region 2030". As part of the assessment, surveys were conducted, build out analyses were created for each community, costs of community services were identified based on buildout, etc. That planning process did not culminate in an adopted plan for the region. At the time, the NRPC did not have the resources to do that. All nine (9) regional planning commissions within the State are in the same situation where they are mandated to do the work, but do not have the necessary resources to do a full and complete job.

In 2010 the NRPC saw an opportunity to obtain grant funding to cover the costs of creating regional plans, through HUD, called the Sustainable Communities Regional Planning Program. They applied but were not successful. In 2011 they reapplied as part of a joint effort by all nine regional planning commissions. This coordinated effort is titled "Granite State Future". The project will result in 9 individual regional plans and a snapshot identifying relative priorities and values of the different regions across the State. As part of this project, they will also be evaluating current policy at the statewide level that affects communities, e.g., transportation, environment, etc.

The project has three phases; data gathering and analysis, public engagement, and writing. The first two are well underway. They have been meeting with state agencies and other statewide organizations to understand the policies that affect communities and the laws, etc. that influence the New Hampshire economy and landscape. Each commission will take that information to their community to discuss whether or not these policies are working and how they can be responded to. Citizen engagement has been in the form of attendance at different community events and solicitation of opinions through the use of surveys. Citizens are asked questions such as what they like best about the area and what can be done to make it even better.

Jeff Belanger, Project Manager, Nashua Regional Planning Commission, commented as a result of their attendance at the Merrimack Fall Festival, 117 responses/surveys were received, which included comments

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ranging from sidewalks to a more discreet downtown. A good number of responses stated Merrimack has a strong sense of community, recreational opportunities, etc. This input will be included in the plan and can be viewed at [GraniteStateFuture.org](http://GraniteStateFuture.org). This process will provide local town governments with information on what their citizens want for the future of their community and try to provide the tools to help them get there. He remarked in addition to attending community events they are meeting with private groups such as Chambers of Commerce, Conservation Commissions, etc. The desire is to gain input from as many individuals as possible and ensure that input is well represented in the plan, which will be completed and provided to the Town Council towards the end of 2014.

Ms. Diers remarked, over the next year, the information received will be categorized into areas such as transportation. Workshops will be conducted on specific topics of interest at which experts in the region will be invited to speak. She noted four individuals from Merrimack have been appointed to the NRPC, which will be evaluating the work being done by staff and providing guidance for future work. Discussions will take place regarding the types of infrastructure projects that are important on a regional basis.

Ms. Diers stated the reason for their attendance at the meeting was for the Council to provide direction for the plan, and make them aware of particular groups input should be sought from.

Councilor Boyd stated he received little information in advance of the meeting and believes broad strokes are being placed on something that is much deeper than what was presented. He remarked a review of the organizational structure indicates there is federal overreach even through the NRPC, which operates in an advisory capacity. When asked for an example, he stated the grant is a HUD grant, which imposes certain guidelines that have to be complied with. If, at any time, the process does not comply with HUD guidelines, HUD can intercede. Ms. Diers disagreed and stated HUD has the ability to intercede on the specific data they requested be collected, but has no interest in dictating what is in the plans.

She spoke of HUD's Notice of Funding Availability (NOFA) and stated the documents pertaining to this were supplemented by a number of webinars explaining what has to be adhered to. On its face the NOFA and terms and conditions of the agreement are boilerplate. She added HUD has spent a great deal of time working with the NRPC to customize what they are doing to New Hampshire, which is not really reflected in those documents. She stated there is a great deal of misinformation within the State about this project, and assured the Council HUD simply wishes to ensure the \$3.7 million is spent appropriately and that qualified individuals are being hired to do that.

Councilor Boyd remarked it appears to be a great deal of paperwork for \$3.7 million to be divvied up between 9 regional planning commissions, for each commission to create their own particular strategy for planning and sustaining communities, and to have somebody under the auspices of HUD synergize each so they are all in line to create a statewide policy.

Ms. Diers responded Jennifer Czysz; the Senior Regional Planner at the NRPC is the Project Manager responsible for putting the 9 plans together and creating that snapshot. She is the individual responsible for completing the paperwork. She reiterated HUD has been exceptionally flexible in how this is being done. As an example, she noted HUD had desired a consortium agreement; however, after the NRPC explained that would not fit for this group who are, at the very least, partners, HUD agreed that New Hampshire is a different situation and allowed for a partnership agreement instead. HUD wants to see this be a successful example of how a state can work together to plan each region and complete a statewide snapshot.



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She noted the New Hampshire Center for Public Policy has published a report on the need for communities and the State to look at the policies that have shaped the economy and landscape for the past 50 years, and how the things that have carried the State forward in terms of population growth, jobs, and the economy have changed significantly. There are some hard conversations that need to be had at the community, regional, and statewide level.

She suggested this program is a start and contribution to those discussions. Councilor Boyd remarked there are 13 communities in the NRPC, with Nashua, Merrimack, and Hudson being the largest. He stated some of the things the NRPC has done as it relates to the Town Center have been wonderful and added tremendous value, but when looking at something like this he feels it is going to impact our ability to decide how we want to grow our community.

As an example, Vice Chairman Rothhaus spoke of workforce housing, and stated that to be something Merrimack honestly doesn't need and would not benefit Merrimack; however, by State mandate it has to be incorporated in some fashion in the community. Councilor Boyd remarked State legislation regarding workforce housing was looked at at the Planning Board level and many were left scratching their heads trying to identify what houses in Merrimack would remotely come close to qualifying as "affordable". Looking at the fact this is a grant being administered by HUD, now you are getting into fair housing, equal access, and all sorts of things as they relate to HUD's ability to administer a housing program.

Ms. Diers stated the NRPC is creating a regional plan and there is nothing regulatory about it. The NRPC functions in an advisory capacity and has no ability to infringe on Merrimack's zoning authority. The workforce housing law was passed by the Legislature. Mr. Belanger commented there is no contract between HUD and the Town of Merrimack or any other town with regard to Granite State Future. The NRPC has an agreement with HUD that they will appropriately spend the funds given. That does not change NRPC's relationship with any of the Towns.

When asked about a memorandum of understanding, Ms. Diers stated what exists is a partnership agreement. When applying for the grant, the NRPC asked for letters of support from the communities, which Merrimack provided. Councilor Harrington questioned whether the Town Council approved that. Ms. Diers was unsure. Ms. Diers stated the partnership agreement was a grant requirement. The partnership agreement is for Merrimack's commissioners to do what they are already doing; attend meetings and participate in the program. From her perspective it is something HUD required to show they have the active participation and support of their communities, which they feel they have.

Councilor Harrington noted the letter of support, dated August 24, 2011, reads: "On behalf of the Town of Merrimack, I am pleased to convey my continued support for the New Hampshire Application to the Sustainable Communities Regional Planning Grant program as proposed by the consortium...." She stated the Council is the representation of the Town, and anyone signing on behalf of the Town has to be granted permission to do so. She questioned whether that procedure was followed and the validity of the letter of support.

Councilor Harrington referred to the organizational chart labeled sustainable communities initiative, which has as its top layer HUD/EPA. Councilor Boyd stated he had prepared the chart as an illustration. It is a summary of how he derived their organization chart. Ms. Diers stated the project has evolved through negotiation back and forth. The organizational chart included as part of the initial grant proposal was revised after the grant was awarded and a review conducted of how it would be administered (chart flipped so that communities are at the top). Councilor Harrington stated she has no problem with the NRPC being a conduit

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for data collection, etc.; however, in the information she has seen the only level of control is with HUD. She commented when accepting federal monies she is suspect of the cost.

Ms. Diers stated HUD, EPA and the Federal Highway Administration have partnered on sustainable communities and recognize a lot of money is granted to states that may not be well supported by local or regional communities. Part of what the NRPC is doing is identifying regional projects they feel, as a region, are important to our future. Should the Town, State or region apply for federal funds down the road the question will be asked of whether or not the particular project is included in the regional plan. If a project is not, they may be suspect as to whether it is supported by the community or region. Councilor Harrington responded if Merrimack were not part of the regional approval, future projects may not be eligible for federal funding. Ms. Diers stated whether or not a program is included within the plan will not dictate funding, but would assist in acquiring it. Mr. Belanger stated the NRPC commissioners have the most influence over what the plan looks like, and Merrimack has four representatives on the NRPC.

Councilor Dwyer spoke of the amount of State debt and the Town's cost for participation in the NRPC. He commented in a town of 1,800 people he could get behind a regional planning group that could assist with projects; however, coming from the 8<sup>th</sup> largest city/town in New Hampshire and having strong planning and zoning boards as well as community involvement, he does not view the regional aspect of the organization highly.

Ms. Diers remarked having a voice at the regional level straight to the DOT is something she believes to be valuable, and Merrimack has a mechanism through the NRPC to do that. Councilor Dwyer stated he respects that is what their job is, but the fact is Merrimack has Councilors, Representatives, people who go there every day who are in the thick of it. He added they have stated they are only advisory, and he does not see the value in \$3.5 million of taxpayer dollars being brought back to the NRPC to provide reports and advice.

Ms. Diers responded they stress advisory only because they have been under fire because of a misperception that they are out to usurp local control over zoning and regulations, which is absolutely not true. Councilor Dwyer spoke of the acceptance of grant funds and the cost of personnel to administer the grant. He suggested the spinning of paperwork and grants is one of the reasons why this state is in the trouble it is in. Ms. Diers spoke of the value of useable data. Councilor Dwyer noted there are a variety of avenues that exist for data collection.

Ms. Diers stated the value is in the message they can send to the State about what our region wants. Having conversations about the tolls and where we want our money spent and identifying priorities is a valuable thing to be sending to the policy makers. She remarked the representatives from our region cannot talk to every single person. The NRPC will have a nice document for them to look at and understand the values of this region, what are our priorities, etc. so that when they are making the tough choices about funding we can identify what is important to our region.

Councilor Dwyer remarked local matters are decided at the local level. Regional matters are addressed by those representing us in Concord. Ms. Diers commented there is strength in numbers, and if the 13 communities of the Nashua region are saying these are the things that are important to us it has an impact.

Mr. Belanger remarked if a new business goes in the next town over and employs 200 people it affects your real estate market, your tax base, and a wide variety of issues that go beyond the borders of where that business is. There is a huge number of planning related issues in economic development, transportation, environment, etc. that go across local control borders. The NRPC is advisory only and would not want to

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usurp local control in zoning and planning, but there are issues that do cross your border and you need someone looking out for that, which is why the State created regional planning commissions in the '60s so that there was a body delegated by the State of folks who are government employees who are solely interested in looking out for the best interests of the towns in their region. That is what they do. They will be collecting data on housing starts so that Merrimack can look at the next town over when they are saying we are getting a huge amount of new people in this age range and developers are building condos or four bedroom houses, etc.

Councilor Dwyer responded that is what makes him nervous. He does not want someone else looking out for him. He noted these types of details, e.g., a business moving in, condo development, etc. are readily available and public information. He does not see the value of NRPC's reporting. He does not want federal tax money filtered down to state regional governments to somehow be looking out for us.

Ms. Diers stated the NRPC is in the middle of this project, and hopes the Town of Merrimack will participate in a meaningful way.

Councilor Harrington questioned the expectation for the evening. Ms. Diers stated the purpose of their attendance was to inform the council of their actions as they are aware there are people out there spreading misinformation and fiction. They simply wanted to be able to put a face to the project and answer any questions the Council might have.

*The Council recessed at 8:40 p.m.*

*The Council reconvened at 8:52 p.m.*

**MOTION made by Councilor Boyd and seconded by Councilor Dwyer that the Town of Merrimack rescind the August 24, 2011 letter regarding Sustainable Communities Regional Planning Grant Application for New Hampshire Regional Planning Commissions (CFDA #14.703, Funding Opportunity #FR-5500-N-30) and the Memorandum of Understanding signed on behalf of the Town of Merrimack**

#### **ON THE QUESTION**

Councilor Boyd remarked the motion is made solely on the basis of the presentation and the research Councilor Harrington, Councilor Dwyer, and he have done that indicates there are numerous layers to this particular project that the NRPC is seeking endorsement of. He believes it best to rescind the initial support to them while the Town and staff conduct their own due diligence to determine whether or not it behooves Merrimack as a community to participate in this particular program.

Councilor Dwyer spoke of the letter of support and stated his belief it was viewed as a nicety and expressing general support of the NRPC. It is now apparent there is a great deal more to be learned with regard to Granite State Future, which cannot occur in a 20-minute discussion.

Vice Chairman Rothhaus questioned whether the Town Manager would be able to pull information together to allow the Council to revisit the issue at a later date. Town Manager Cabanel noted there are volumes and volumes of information available, and questioned the information the Council wished to receive. Vice Chairman Rothhaus requested Councilor Boyd provide the information he has gained to the members of the Council. Councilor Harrington suggested a public hearing be scheduled to solicit public input.

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Councilor Dwyer remarked by rescinding the letter it implies it will be brought up again at a later date, and stated, after researching and receiving additional information the Council will be better able to make a decision. Vice Chairman Rothhaus remarked with the limited information he was provided in advance of the meeting, he was surprised by the level of detail brought forward.

Councilor Koenig stated he was wholeheartedly against the motion. He believes the NRPC is there to work for the Town's benefit, has always had the Town's benefit at heart, and is a State established regional agency trying to accomplish their state mandated regulations and requirements. They can either do that by billing the towns for the cost or finding a different funding source. The fact the funding source is HUD or DOT or wherever, he does not think changes the concept of what they are working on.

He stated his belief what they are attempting to do with the regional plan is in fact going to be beneficial to Merrimack, and while the Council may not want to hear what they have to say about workforce housing or housing requirements, there exists State law that says we have to pay attention to that and have to take it into account. There are a lot of things in the regional plan that will be beneficial to the Town of Merrimack to understand how we interact with our neighbors. We have to realize we are part of an overall larger community. This is one of the best most efficient ways for us to get that information and share information about who we are with our neighbors. The proposal that has been put forth, in general, as he understands it will in fact give us the input and information we need to be able to do our jobs. He noted the NRPC has already pushed back to point out that New Hampshire doesn't work in a method that they had originally asked for, and he believes they will continue to work for the benefit of the people.

He remarked there are a lot of people running around hollering agenda 21 and losing our resources and property rights, etc., and he does not believe that is where this is going with respect to the NRPC. He does not see anything sinister here. He believes it important to continue to be supportive.

If we want to double our payment to them in order to have them fulfill their state obligations that is one way to do it. To reach out and use other funding sources is another way to do it. He does not find a difficulty in doing that realizing that is occurring all around the country; any time anyone has a chance to obtain federal money they tend to do so. For us to stand here and say we're not going to take any federal money any time, anywhere, we're just throwing a lot of federal money out to the government and not get any refunds, resources or efforts out of that.

To pull the Memorandum of Understanding at this point would send the wrong message to the NRPC and the entire regional program, and not give us any benefit at all. The grant funding has been disbursed and pulling out of that or even appearing to pull out of it would make it more difficult for the plan to be supported and worked on.

Chairman Mahon stated his agreement. Although he understands the anxiety over how federal monies are spent, the opportunity was there and they took advantage of it. He found it interesting all of the regional planning commissions got together to work on this, which they have never done before. He remarked we are not isolated, we live in a regional economy and it is not just a southern New Hampshire regional economy. As time goes on there will be more and more demand that we do things regionally. The economics that we are looking at demand that we deal with those issues. The NRPC is not demanding that we do something and has no influence or power; they are an information gathering organization. He does not find it productive to rescind support after the grant has been awarded.

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Councilor Dwyer stated his understanding Granite State Future is a new program within the program itself, which is what he objects to. Both Councilors Dwyer and Harrington expressed concerns with the process. Chairman Mahon suggested the way to address that is by voicing objections directly to the NRPC so that future projects would be handled differently. He agreed there should have been more transparency in how they were proceeding with this. He suggested rescinding a letter of support 15 months after the fact and after the grant has been awarded would not address the situation. Councilor Harrington stated a desire to symbolize her concerns.

Councilor Koenig stated Granite State Future is a title given to this particular project of redefining their regional plans, a process that is required to be undertaken every five years. He reiterated this has not been done for the last 6-7 years due to lack of funding. Councilor Harrington questioned whether federal funding has been used in the past. Councilor Koenig stated his belief it has not and remarked if HUD helps to fund that and asks us to share that information with them, he does not see a particular problem with that. There is nothing they can do to us because we are not receiving the money.

Vice Chairman Rothhaus remarked if the MOU is a moot point, he would prefer to gain a better understanding of the project and the implications, and forward a letter stating the concerns of the Council.

**MOTION FAILED 3/3/0**

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

Michael Malzone, 8 East Chamberlain Road

Stated his disappointment in the vote, and commented in his three years on the Council had voted not to fund Merrimack's participation in the Nashua Regional Planning Commission. He remarked Merrimack is a well-developed and established town that does not truly benefit from participation in the NRPC. He spoke of some of the organizations the NRPC is involved with such as Action Media, a public relations firm that provides communications for positive social change. He stated the Town has a Planning Board and a Zoning Board and operates under its own laws and regulations.

He remarked the NRPC speaks of providing assistance at the state level for issues of transportation, etc., and commented before the airport access road was built the Town received a lecture from Raymond Wieczorek, Governor's Executive Council, that any new roads built would have a toll on them. He did not see any regional planning commission standing up to help battle for Merrimack at that time, and the end result was the road went in without a toll.

He requested the Council consider not funding participation in the NRPC in the coming but and instead use those dollars to put another police officer on the streets.

Howard Coffman, Nashua

Quoted from the NOFA document (pages 60-61) the following:

*"Mandatory outcomes from the creation of a regional plan for sustainable development:*

- (1) Creation of regional transportation, housing, water, and air quality plans that are deeply aligned and tied to local comprehensive land use and capital investment plans.*

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- (2) *Aligned federal planning and investment resources that mirror the local and regional strategies for achieving sustainable communities.*
- (3) *Increased participation and decision-making in developing and implementing a long range vision for the region by populations traditionally marginalized in public planning processes.*
- (4) *Reduced social and economic disparities for the low-income, minority communities, and other disadvantaged populations within the target region.*
- (5) *Decrease in per capita VMT and transportation-related emissions for the region.*
- (6) *Decrease in overall combined housing and transportation costs per household.*
- (7) *Increase in the share of residential and commercial construction on underutilized infill development sites that encourage revitalization, while minimizing displacement in neighborhoods with significant disadvantaged populations.”*

From the section of the signed Cooperative Agreement entitled “Substantial Involvement”, which relates to HUD’s involvement, he quoted the following:

*“HUD's Office of Sustainable Housing and Communities will work in partnership with its grantees to advance the program objectives of the grant program. The Cooperative Agreement allows for substantial involvement of HUD staff to enhance the performance of the grantee in the completion of their deliverables.*

*Anticipated substantial involvement by HUD staff may include, but will not be limited to:*

#### *Studies and Reports*

- *Review potential amendment recommendations to the study design and/or Workplan.*
- *Review and provide recommendations in response to semi-annual progress reports (e.g., amendments to study design based on preliminary results).*
- *Review and provide recommendations on the final report/study, including final interpretation of study results.”*

#### *Approvals and Reviews*

- *Authority to halt activity if specifications or work statements are not met;*
- *Review and approval of one stage of work before another can begin;*
- *Review and approval of substantive provisions of proposed sub-grants or contracts beyond existing Federal policy;*
- *Approval of workplan adjustments based on changing conditions and needs documented in the cohort targeted for capacity building.*
- *Review and approval of key personnel*

*Participation and Monitoring....”*

He encouraged the Council to obtain all documentation they can, stated his appreciation for the Council’s concern to perform the due diligence, and commented witnessing the deliberations of the Council gave him faith in Merrimack.

Elaine Johnson, Merrimack

Thanked Councilor Boyd for the research he conducted. She stated she has conducted research herself mainly through governmental websites. She stated it is a top down project mainly with the EPA and HUD. She provided her perspective she does not want another layer of people interfering. The Council is the group of people the citizens of Merrimack have elected to represent them, and it is the duty of the Council to conduct due diligence in advance on voting on a particular issue.

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She remarked, as a person with a background in business, she would not value any data collected in the manner in which described by the NRPC, and she does not understand the value of the information they provide.

She referred to the attitude of regional planning as being similar to the New Hampshire Water Sustainability Commission, which was formed by an Executive Order of Governor Lynch in 2011. She remarked she has gained a great deal of information from the website [nh.gov/water-sustainability](http://nh.gov/water-sustainability). It seems they want to implement what they want to do with regard to water, some of whom, including Representative Spang have talked about the State taking over private well water. Their meeting minutes refer to things such as septic system monitoring and management, determining the priority of individual public use, etc. This is going to cost \$2-3 billion as a primary estimate. She remarked this is a commission the Governor created by Executive Order and not something she or those she elected to represent her voted for. She will make her voice known as well as those who represent her, not an unelected regional planning commission.

Scott Morales, 46 Woodward Road, Merrimack

During his research of Granite State Future, he came across a document entitled “Partnership Agreement A Granite State Future”. After reviewing the document he has several questions, the most important being how are the people of Merrimack represented in all of this and what guarantee does the Town and individuals have against being swallowed up by this behemoth. He spoke to his frustration with the lack of documentation and remarked it found it disturbing to hear Ms. Diers state the document available online is not current and has been evolved through webinars, etc. He urged the Council to conduct a public hearing on the issue.

Jeanine Notter, 19 Whittier Road, State Representative

Remarked they have heard about the program at the State House, and actually tried to block it there. The first committee it went to didn't know what to do with it. By the time it got to her committee there was not enough time to properly vet the Bill and get it out to the House. They ended up trying to attach it to something else. She is sure it will come back.

She stated she has a show on local television during which she did a special on Agenda 21. She has requested that be aired again. The Granite State Future is an umbrella program for the Sustainable Communities Initiative, a Federal HUD/EPA/DOT program that is being implemented in New Hampshire, which brings to mind questions such as should the Federal Government have input into our New Hampshire State programs bypassing the elected bodies of our House and Senate (dangerous precedent), why do special interest groups receive a special privilege to have direct input into state programs by bypassing the elected bodies of our House and Senate, why have our State Representatives, Senators, Town Selectmen, and planners been excluded from this entire process, and most importantly the goals of the Granite State Future Sustainable Communities Initiative Program are in direct violation of the New Hampshire Constitution Article 2 – Natural Right, Article 7 – State Sovereignty, and Article 8 - Accountability of magistrates and officers; public's right to know.

She suggested the intent of the partners and their goals are clear; to bypass our elected representatives with hand-picked appointed administrators to push the agenda of this unconstitutional program.

Michael Malzone, 8 East Chamberlain Road

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Requested the Council put a motion on the floor for a public hearing.

Thomas Flaherty, Milford

Stated he too has researched this issue. He reviewed NRPC's budget for 2011-2012; approximately 60% goes to salaries and benefits for a staff of about 12-13. \$3.4 million is coming in and being spread around. More than half of it is being spent on staff. Some personnel are administrative and others subject matter experts. The more important statistic on the income side of the budget was of all of the money the NRPC took in 10% comes from towns and the remaining 90% from a combination of the State projects/grants and Federal grants. Some of that 90% comes from non-government organizations such as New Hampshire charitables. There are about 30 of them and they all contribute either in-kind or cash contributions. On the chain of influence and allegiance, the towns are 10%, the State used to be the majority of the 90%, but now the federal government is really the majority because of the large grant that came in last year. He suggested the Council think about where they stand on that tree.

Mr. Flaherty stated page 17 of the grant application narrative includes a section that reads: "anticipated barriers to implementing the program include New Hampshire's strong tradition of individual property rights and resultant resistance to planning and zoning. The policy committee whose members include decision makers from DOT, DES, and OEP will work together to identify potential statewide strategies for reducing and/or eliminating the barriers. These strategies will also be incorporated into the statewide sustainable development policy framework." In the NOFA document it states: "HUD is committed to ensuring that programs result in the achievement of HUD's strategic mission."

Rosemary Landry, Meredith

Stated she attends a lot of town hall meetings because she is very interested in "We the People of New Hampshire". She has been to NRPC meetings, and believes their discussions to be around taking away the rights of citizens in New Hampshire in many different ways. She stated the surveys obtained through community events are collected by the NRPC, and only those that are in agreement with the direction the NRPC wishes to take are utilized. She suggested these meetings are against "We the People of New Hampshire".

She stated she has also attended She has also been to meetings of the Water Sustainability Commission, which seeks to take away property rights (well rights). What they are doing is writing up a protocol for Governor Lynch and defined everything inside of it according to their values not public values.

Kenneth Eyring, Windham

Stated when this first came to Windham there were a lot of unanswered questions. He has spent over 1,000 hours researching this program. He does not believe it is a done deal for the Town. He believes what the NRPC was seeking was for the Council to sign the Agreement. The agreement signed last year was an interest to participate in the program so they could go back to HUD and say yes we have 50% of every regional planning commission and therefore 50% of the State of New Hampshire and will meet your requirements if we are approved for the grant.

Although it was stated the regional planning commissions have nothing to do with workforce housing case law, the New Hampshire Housing Finance Authority (NHFA), one of the partners of this program, hired  
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New Hampshire Legal Assistance to prepare a document called the Analysis of Impediments, one of the documents that will be incorporated into the Granite State Future program. A member of NHLA, Elliott Berry, Esq., was lead counsel on many groundbreaking appellate cases including Wayne Britton v. Town of Chester, a landmark affordable housing decision codified into law under RSA 674:58, the new Workforce Housing Law. They are connected to this program.

He stated the testimony received from Ms. Diers was very ingenuous. He commented he too has prepared a chart identifying all of the different agencies involved; federal, state, non-profit NGOs, which all have direct input into this program.

He stated the HUD 1044 (signed contract) references 11 other “legally binding agreements, which define the scope of the program”. The Granite State Future Agreement states: “Whereas a partnership has been created comprised of the State’s nine regional planning commissions, cities, town, counties, state agencies, quasi-governmental organizations, the University of New Hampshire, and non-profit organizations will work to create nine coordinated regional plans and one statewide development policy framework...”

From the NOFA, one of the legally binding documents states: “Aligned federal planning and investment resources that mirror the local and regional strategies for achieving sustainable communities.” That is a mandatory outcome. The agreement has a section that says: Whereas partner cities, towns and counties within each region commit to participating in this cooperative effort by joining in the regional visioning process, advising in the development of regional policies, identifying strategies and prioritizing implementation measures to achieve the goals identified in their Regional Plan....”

He pointed out a chart that lists all federal and state agencies and the outside non-profit organizations that have direct input into the state policies that will then be cross-integrated into all of the participating agencies at the federal and state level. It says so in their documentation; each of the regional planning commissions will integrate its regional plan for sustainable development into other federal and state funded initiatives as well as integrate the work of these other programs into the RPSD. He questioned where state sovereignty is.

Mr. Eyring remarked the entire program has no representation on the state level, the Executive Council, the Senate, the House, Town Selectmen, Town planners; not one person is elected.

Mr. Eyring stated he has a letter from the Windham Town Attorney stating the observations of Mr. Eyring and others regarding impacts or consequences from the plan, if developed, may very well be legitimate. It states the consequences are not related to the agreement to participate but most certainly could be consequences of the final outcome.

With regard to the Water Sustainability Commission, he noted their website has links for public input, and the talk about how they want to incorporate input into their final plans. The letters can be downloaded from their website but are not incorporated into the summary statistics. They are bypassed completely. They acknowledge the group discussed whether to address the topic of water rights, and the general consensus was to acknowledge concerns had been raised; however are beyond the scope of the commission’s work and timeframe to address.

Lisa Gravel, Manchester, NH

She remarked members of the Council are elected and have responsibilities. To relinquish those responsibilities to others who will gather data is a disservice to the people that elected you.

## **Public Hearing**

### **1. Grant Acceptance from the New Hampshire Fire Academy**

*Submitted by Fire Chief Michael Currier*

The Town Council will hold a public hearing to consider the acceptance and authorization to expend a grant from the New Hampshire Fire Academy of up to \$60,500 (estimated) for “boots on the ground training” for the Merrimack Fire Department, pursuant to RSA 31:95-b and Charter Article 8-15.

Fire Chief Michael Currier informed the Council the New Hampshire Fire Academy has announced, to all fire departments throughout the State, acquisition of a grant fund for Boots on the Ground training. This training is intended to be provided to all first responders in all communities throughout the State of New Hampshire giving communities the availability to train and prepare their full-time volunteer and call personnel to a higher level.

The Homeland Security Grant Program (\$4.4 million) was designed to provide technical rescue programs to include rescue skills, Rescue Systems I & II, technical trench rescue, technical rope rescue operations, technical confined space rescue, and swift water rescue programs. It also included programs for Incident Command and hazardous materials with the desire to bring the level of training up throughout the State. When first started the portion of grant funding being sought was approximately \$40,000. To date, the cost had reached approximately \$47,000, and with remaining training is estimated to have a maximum final cost of \$60,500.

When asked for clarification on the impact the classes on hazmat and incident command would have, Chief Currier remarked most firefighters have participated in programs such as hazmat awareness, hazmat operations, and hazmat technicians. As you go through basic firefighter certifications you get the awareness operations classes. To move on to the technical class (80+ hour program) you have to go to a Level 3, which is costly to most communities. What that does is allows you to handle hazardous material spills at a technician level. You train to actively respond to and mitigate the stop of release of material.

As an example he spoke of an incident the department was called to the previous evening to repel the smell of a fuel oil spill. The engine company arrived on the scene and realized the homes in that area were constructed some 20+ years ago. At that time, building codes did not require fuel oil lines going under the concrete to be encased in a PVC sleeve. The concrete ate through the fuel oil and created a leak under the homeowner's cellar floor. As time went by their fuel tank emptied. The homeowner refilled the tank, and within a period of 3 days the core of the tank was gone. They arrived on the scene, identified the problem, the oil company came in and replaced the line to stop the leak, and the problem was mitigated. With the advanced training they have had they were able to go to the affluent where the perimeter drains in the house were (drain into a swale), and identified oil that was flowing down the swale about 200'. They were able to develop and design an underflow dam, which causes water to pool up and allows oil to be collected and water to flow under the dam. This ceases the damage to the environment and liability to homeowners. Today a cleanup firm is onsite mitigating the situation.

As part of the technician program a class is taken with NH DES. During this class it was learned DES has a fund to help offset the residential cost of cleanup. The homeowners' insurance will cover a portion of the cleanup. The department made the homeowner aware of the DES fund, and they have contacted DES and are being provided assistance.

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Technical rescue classes are designed to bring the responders up to a level of being able to look at ropes, knots, harnesses, levers, digging skills, trenching, confined space air systems, etc. Once the emergency personnel have that bank of technical skills they put them together and you have a very effective rescue squad that can take care of a trench collapse for a construction site, a building collapse, etc. What is good about the program is 98% of the fire department has attended these classes and are certified. The other percentage is within the building department and secretaries that weren't available to go to the program.

Knowing that Amherst has sent people to those same programs as has Bedford, Hollis, Londonderry, etc. when they respond to mutual aid they know they are getting trained qualified people coming into our town that have these level 3 programs.

The incident command system offers ICS 300 and 400, which are 24 and 16 hour programs and are the basic fire ground programs that a lot of departments don't have their command staff trained to. Career people have to be trained to that but some volunteers do not. This provided the opportunity to bring those programs up so command staff is on the same level. He noted Merrimack's staff is trained to ICS 500, 600, 700, and 800, which means they can run an incident command system for a major event that affects most of the state.

When asked to clarify the grant funding, Chief Currier stated the \$4.4 million was a grant from Homeland Security given to the State a few years ago. From his understanding they were planning to use it for other measures and other planning programs. They did not use the funds within the specific timeframe (was ending this year), and were able to obtain permission to run these classes to ensure those funds were allocated to the state of New Hampshire for first responders.

*Chairman Mahon opened the public hearing at 10:09 p.m.*

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

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

**MOTION made by Councilor Harrington and seconded by Councilor Boyd to accept and authorize the expenditure of a grant from the New Hampshire Fire Academy of a sum up to Sixty Thousand Five Hundred Dollars (\$60,500) (estimated) for "boots on the ground training" for the Merrimack Fire Department, pursuant to RSA 31:95-b and Charter Article 8-15, and that the Finance Director, Town Manager or his/her designee be authorized to sign any and all documents necessary to effectuate the transaction. MOTION CARRIED 6/0/0**

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

None.

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

The Town has finalized the Beacon Drive grant and has been reimbursed by FEMA. The building at 14 Beacon Drive has been demolished. The Town Manager is in the process of reviewing possible uses for the

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property. Once review is complete, recommendations will be brought before the Council for consideration.

Merrimack is looking at an approximate \$.18 decrease in the overall tax rate. The Town portion of the tax rate is being reduced by \$.10, the County by \$.05, the State School portion by \$.10 and the local School is increasing by \$.08. The Department of Revenue Administration expects to begin setting the tax rate shortly.

The Highway Division responded this week to a relatively large sinkhole due to old corrugated metal pipe failure on South Baboosic Lake Road. They are currently in the process of replacing 300' of pipe.

### **Consent Agenda**

None.

### **Old Business**

None.

### **New Business**

#### **1. Committee Appointment**

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

The Town Council to consider appointing Kristen Newhall to the Merrimack Heritage Commission, pursuant to Charter Article 4-8.

Chairman Mahon noted the Council is in receipt of a supplemental package regarding the recommendation of the interviewing group.

**MOTION made by Councilor Rothhaus and seconded by Councilor Harrington to appoint Kristen Newhall to a two-year term on the the Merrimack Heritage Commission.**

### **ON THE QUESTION**

Vice Chairman Rothhaus remarked he and Chairman Mahon interviewed Ms. Newhall and found her to be very enthusiastic. She has a degree in Anthropology and a minor in Business Administration. They believe she will be a great asset to the Commission.

Councilor Boyd commented Ms. Newhall is another young person from the community who is stepping up and volunteering to serve. She has expressed a real desire in communicating the history of Merrimack and the people that have occupied this town since its inception.

**MOTION CARRIED 6/0/0**

*Oath of Office administered to Kristen Newhall by Chairman Mahon.*

#### **2. Historic Home Plaque Presentation**

*Submitted by Heritage Commission Chairman Anita Creager*

The Town Council and the Merrimack Heritage Commission will distribute 20 plaques to the homeowners with homes built in the 19th century.

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Ms. Anita Creager, Chairman, Heritage Commission, stated the Commission has distributed signs to homes over the past ten years. This year, forty (40) additional signs were considered for presentation. Letters were sent out to each of the 40 homeowners (addresses from A – E). Twenty (20) homeowners responded with interest, nine (9) of which forwarded a contribution to help cover the cost of the plaques. The list of addresses for which plaques were presented is attached.

### **3. Grant Acceptance from the New Hampshire Highway Safety Agency**

*Submitted by Lt. Matthew Tarleton*

The Town Council to consider the acceptance of the Operation Safe Commute Grant which is available through the New Hampshire Highway Safety Agency and valued at \$4,950, pursuant to RSA 31:95-b and Charter Article 8-15.

Lt. Matthew Tarleton, Merrimack Police Department, stated the grant is a distracted driver grant. What they are looking for in a distracted driver is erratic driving, texting while driving, etc. It does not preclude them from going after other moving motor vehicle violations; speed, following too close, etc., and those will be enforced as well. The main thing is getting out there and gaining public awareness that the police will be out there and will not tolerate distracted driving. It is a statewide campaign and they will be working with other communities as well as the State Police. They conduct the patrols during certain morning and afternoon hours (6:00 – 9:00 a.m. and 4:00 – 7:00 p.m.). Patrols will be conducted on 12 separate dates with 2, three-hour shifts per scheduled day. The officers will be off duty in an overtime capacity. He stated his opinion it is a good program for the Town and a problem that needs to be addressed.

Councilor Boyd questioned the success of last year's program. Lt. Tarleton responded a good deal of feedback was received from the public, and they did pretty well addressing distracted drivers as well as monitoring other driving issues. He stressed the program allows the officers to be focused solely on this and dedicate time to traffic enforcement.

Councilor Dwyer questioned whether the police are inclined to issue tickets or warnings. Lt. Tarleton replied either could be issued depending upon the particular situation. He reiterated it is more about educating rather than writing tickets. It is a problem that needs to be highlighted. He added texting and driving is the biggest problem and is the major focus of the exercise.

**MOTION made by Councilor Boyd and seconded by Councilor Harrington to accept the Operation Safe Commute Grant available through the New Hampshire Highway Safety Agency and valued at Four Thousand Nine Hundred Fifty Dollars (\$4,950), pursuant to RSA 31:95-b and Charter Article 8-15, and to authorize the Town Manager and/or the Finance Director to execute any paperwork necessary to effectuate the grant. MOTION CARRIED 6/0/0**

### **4. Lake Naticook Boat Ramp Closure Recommendation**

*Submitted by Parks and Recreation Director Sherry Kalish*

The Town Council to consider the recommendation to temporarily close the Naticook Lake boat ramp to address the milfoil problem.

Ms. Sherry Kalish, Director, Parks & Recreation Department, informed the Council the Lake Naticook Conservation Association contacted her with regard to Milfoil in Naticook Lake.

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Chris Christensen, State Representative/Chairman, Exotic Aquatic Weeds & Species Committee, informed the Council there is concern with the spread of Milfoil. He referred to maps provided in advance of the meeting, which indicate a considerable expansion of growth in milfoil infestations in Naticook Lake from July to September.

Mr. Murray Collette, President, Lake Naticook Conservation Association, informed the Council the Association is a group of residents and other interested parties who desire to maintain the health and safety of Lake Naticook for all area residents.

He stated Milfoil was first noticed by a member of the Association in early July. A sample was sent to Amy Smagula, Limnologist/Exotic Species Program Coordinator, NH DES, who tested it and identified it positively as exotic invasive Milfoil. A survey of the lake was done on July 9<sup>th</sup>, which identified an area that totaled approx. 4 acres of the 79-acre lake to be infested at that time. A mitigation plan was created that included State funded divers conducting manual removal of weeds, and, if necessary, chemical treatment some time next year.

The Association noticed significant growth and expansion of the area and requested Ms. Smagula return. She was able to review the area in the September timeframe and identified Milfoil has spread to about 20 acres of the lake going from the boat ramp into the Camp Sargent waterfront area, several houses beyond, across the lakefront into the island area owned by the Town, and into the dam area where the water exits the lake into Naticook Brook and enters into Greens Pond. Ms. Smagula has put together a plan to treat that area chemically next year.

Given Milfoil is spread primarily through two methods; lake to lake or water body to water body by boats and trailers that pick it up and inadvertently move it, even after long periods of storage (plants can be viable for transplant for over a year and seed pods for more than 7-8 years). Interlake the transport is by fragments of the Milfoil breaking off primarily due to motor boats, propellers, activity in the water.

The request is for the Town Council to consider temporarily restricting access to the Town owned boat ramp to minimize activity in the area of heaviest infestation to prevent further acceleration of the Milfoil spread in the lake. At present, it is at the point that it is possible to treat and eradicate but if it expands and reaches that point experienced in Horseshoe Pond it would be extremely difficult and expensive to eradicate permanently and may not be possible. They are trying to do a stopgap measure so that when treatment happens in the springtime it is contained to about what it is today.

A survey was done and buoy markers were placed out in the area of the boat ramp to try to warn boaters to keep away from the worst areas. They were able to leave about an 8' lane where the boat ramp is but primarily left that to not restrict access at this point. If marking all of the Milfoil in the boat ramp the floats themselves would have encompassed the entire area. Right now the Milfoil plants are in about 3' of water right where boat trailers go in so there is no way to launch a boat without disturbing it and causing it to spread throughout the lake.

When asked, Mr. Collette stated divers have done some hand pulling, but the situation has worsened. He remarked it has been a healthy growing season with the amount of heat and early ice out. Ms. Smagula's data shows they pulled out 210 gallons in their first effort (around the boat ramp), came back a few days later and pulled 90 gallons out in the area near the boat ramp launch, and then came back a month later at which time it had filled back into that area. It is re-growing, spreading, and getting disturbed. Councilor Dwyer questioned how cold temperatures affect Milfoil. Mr. Collette stated one of the pieces of data provided is that Milfoil will continue to grow under ice. During the summer months it is growing about 1" a day.

Approved: November 1, 2012

Posted: November 2, 2012

Representative Christensen commented what they are doing now is defensive. Ms. Smagula is working on a master plan for long-term control, which will be a multi-year approach. When that is developed (likely November/December timeframe), they will come before the Council to provide additional information on how that plan might work.

He stated the request to be for a restriction. They would not want complete closure as there may be a need for emergency services and there is a need for DES to get their boat in and out. They are talking primarily about the infestation in the area of the boat ramp from Veteran's park. However, there is concern if that one is closed there may be increased use of the launch area on Camp Sargent Road, which, according to the tax maps, is also owned by the Town. The thought process is to restrict access to both launch areas.

Councilor Harrington requested clarification the restriction would be for motorized only, and was informed that is accurate. She questioned the meaning of temporary, and was informed closure would be temporary until the time the Milfoil has been reduced to a point that it is not subject to continued spreading. That is a function of how well the treatment happens. Representative Christensen remarked a time limit could be placed on the closure and they could come back to the Council for renewal if necessary. If an herbicide type treatment were used (usually occurs in mid-June) you would not want a lot of boat traffic stirring up the water for a 3-4 day period. He suggested if the Council were to restrict use until the end of July it could be reviewed at that time.

Councilor Dwyer stated he would just as soon as possible close the access down and noted this is an important body of water for the Town and the only truly good boat access to the lake. The need exists to do whatever is necessary to protect the water body. He suggested if a Jersey barrier were to be used to eliminate access it should be coordinated with the Fire Chief. In an emergency situation they would be aware of the barriers and would be equipped to remove them if necessary.

**MOTION made by Councilor Mahon and seconded by Councilor Dwyer to close the Camp Sargent Road and the Veterans Park boat ramp access to trailers and motorized boats subject to the approval of the Town Manager or her designee.**

#### **ON THE QUESTION**

Councilor Koenig questioned whether the lake could be closed to motorized boats. Chairman Mahon stated his belief that would be an issue for the State. Mr. Collette stated areas could be closed; however the entire lake could not be quarantined. He remarked one of the things that would be discussed the following Monday is whether or not that law could change. Although the Town cannot close the lake it can restrict access so that NH DES can get their boat in or the divers can get their pontoon boat in for the suction harvester and for access by emergency services.

**MOTION CARRIED 6/0/0**

Councilor Boyd questioned State access to Lake Naticook, e.g., whether there is an issue as to who owns the access. Mr. Collette responded he believed there to be when some of the earlier e-mails and material were provided. It has since been clarified the Town owns that property (based on tax records).

***Given the lateness of the hour, the general consensus of the Council was to table Item #5 and approval of meeting minutes until the Council's next regularly scheduled meeting.***

Approved: November 1, 2012

Posted: November 2, 2012

## **5. Direction for 2013/2014 Budget**

*Submitted by Town Manager Eileen Cabanel*

To ask the Town Council to contemplate budget parameters for the 2013/2014 budget season which will be discussed at a future meeting.

## **Minutes**

Approve the minutes from the September 27, 2012 meeting.

## **MOTION CARRIED**

**Comments from the Press** - None

**Comments from the Public** None

## **Comments from the Council**

Councilor Boyd noted his participation in the Merrimack Firefighter's 5K at the Merrimack High School. Over \$3,000 was raised to subsidize their foundation to assist local community programs, e.g., oil, heating, donations for a child to attend a camp for burn victims, etc. He thanked the participants and expressed gratitude towards the new corporate sponsor, Nanocomp.

Councilor Boyd spoke of the Michael LoVerme Memorial 5K Run/Walk to be held on October 14, 2012 at 1:00 p.m. at the Merrimack High School.

Vice Chairman Rothhaus spoke of the Police Department making Mr. Milton Sanborn an honorary Police Officer for the day in recognition of his 90<sup>th</sup> Birthday.

Councilor Boyd stated he had not received a single call or e-mail with regard to Granite State Future, and that a single piece of paper included within the meeting packet was all that was received. After hearing the discussion that took place, he now understands there is a great deal more information for review.

Councilor Dwyer remarked former Councilor Mike Malzone requested a public hearing. He stated there is nothing to prohibit a Councilor requesting the item be placed on the agenda to provide the opportunity for a more formal presentation. He suggested the Council give consideration to including a public hearing on its next agenda.

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

**MOTION CARRIED 6/0/0**

*The October 11, 2012 meeting of the Town Council was adjourned at 10:39 p.m.*

Submitted by Dawn MacMillan