

**Approved: November 15, 2012**

**Posted: November 16, 2012**



## **Town Council Meeting Minutes**



Thursday, October 25, 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, Town Manager Eileen Cabanel, and Finance Director Paul Micali.

### **Pledge of Allegiance**

Chairman Mahon led in the Pledge of Allegiance.

### **Announcements**

Chairman Mahon, on behalf of the Town Council, extended deepest sympathy to the family and friends of William Lefabvre, Senior who passed away on October 14<sup>th</sup>. Mr. Lefabvre was enlisted in the U.S. Navy and was one of the few survivors of the attack on Pearl Harbor on December 7, 1941.

Mr. Lefabvre had an extensive military service background, was a recipient of numerous medals for his service, and was known for his true patriotism. He will be sorely missed.

The Town Council has amended its regular meeting schedule for the months of November and December to the first and third Thursdays. Meeting date are Thursday November 1, 2012, November 15, 2012, December 6, 2012, and December 20, 2012 at 7:00 p.m. in the Town Hall Meeting Room.

Town Manager Cabanel noted voting will take place Tuesday, November 6, 2012 in the gymnasium of the Merrimack High School. Absentee ballots are available. Persons who are not registered to vote are encouraged to do so before the election. The Supervisors of the Checklist will hold a special voter registration session on Saturday, October 27<sup>th</sup> from 11:00 - 11:30 a.m.

The 20<sup>th</sup> Annual Halloween event at Wasserman Park will take place on October 26, 2012 from 5:00 - 8:00 p.m. Activities will include a Halloween egg hunt, indoor games, costume judging (7:00 p.m.), pumpkin decorating, and more. Merrimack High School's First Robotics Team will sponsor the haunted house.

Town Manager Cabanel reminded residents the town boat launch at Naticook Lake is closed due to the potential spreading of Milfoil. The major factor in the spread of Invasive Variable Milfoil occurs when propellers and other activities chop up the existing plants and fragments drift and reroute in new areas. Use of the boat launch will be re-evaluated after Milfoil management operations are completed in the early summer of 2013.

Trick or Treat hours are 6:00 – 8:00 p.m. on Wednesday, October 31, 2012.

Chairman Mahon noted polls are open from 7:00 a.m. to 7:00 p.m. on Election Day. There is one polling place in town; Merrimack High School. Handicap parking is available at the front (near cafeteria) and rear (near gymnasium) of the building.

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

#### **1. Recognition of the Retirement of Donald L. Doucette**

*Submitted by Human Resources Coordinator Sharon Marunicz*

The Town Council will present a recognition plaque to Donald L. Doucette in recognition of his retirement from the Town of Merrimack Wastewater Division of the Public Works Department effective October 31, 2012. He has been employed by the Town of Merrimack Public Works Department since October 28, 1985.

Richard Seymour, Director, Public Works Department, remarked Mr. Doucette was hired in 1985 and promoted to Mechanic II at the Wastewater Facility in 1986. As an Equipment Operation position opened in 2000, he transferred to the composting operation where he ran specialized equipment. In 2005, when Wastewater was reissued a new permit in regards to new sewer collection system requirements, he spent a great deal of his time maintaining and conducting an inventory of the Town's 70 miles of sewer pipe and 1,500 manholes. He is an avid hunter and fisherman, and will enjoy his time in retirement. He wished him well. Director Seymour accepted the plaque on behalf of Mr. Doucette.

### **Appointments**

None.

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

Barbara Watson, 130 Amherst Road

Read the following excerpts from an article, which appeared in the Merrimack Journal on Friday, January 27, 2012:

*"Harold and Barbara Watson donated the park to the town as a recreational center, local officials are working to honor the couple's wish to create the town's first dog park"*

*"From the very beginning, Mr. Watson did express ideas of wanting a dog park. This will honor his wishes," said Town Councilor Jackie Flood, who represents the board on the parks and recreation committee. "It's such a perfect place for (a dog park)," she said, referring to Watson Park, which sits on 12 acres next to the Souhegan River Bridge. "It's such a nice little alcove, it'll fit wonderfully."*

Ms. Watson stated, since that time, the Dog Park Sub-Committee has been working diligently on bringing that project to fruition. Only recently did they learn the Town no longer wants to place the park in that location. She stated the location was previously agreed to and an easement was discussed. She remarked a year ago August she discussed this with the Town Manager and had assumed everything was moving forward. She stated a desire for the final location to be agreed to by the sub-committee.

The sub-committee looked at Wasserman Park as a possible location, and determined the area beyond the girls' softball field to be the most suitable; clear, level, and would fit in with the character of the park. The area near the road would require the removal of a great deal of trees, is close to traffic, and would not enhance the look of the park. She noted the subcommittee was not provided a list of other possible locations.

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Rosemarie Rung, 21 Ministerial Drive

Stated her support of the Sustainable Communities Initiative. She noted 35-36 years ago she was employed by the Nashua Regional Planning Commission (NRPC) as a college intern, and into her retirement 3 years ago was the Project Leader for the Dow Chemical Company for their sustainable communities program.

She remarked one of the things this type of initiative lends itself to is supporting cooperation and coordination between the different regions of New Hampshire. She stated her belief Merrimack can benefit from what other regions are doing in their master plans. She suggested this would help spare Merrimack from any problems that might occur from the plans of other regions. She reiterated her belief it is the right thing to do and stated many states and private corporations are encouraging this type of collaboration.

She stated this type of initiative will help bring federal tax dollars to New Hampshire, and remarked sometimes we don't do a good enough job getting that money back from Washington. She remarked she would not want to think any public works or transportation project in New Hampshire was disadvantaged because we weren't working cooperatively with other regions. She encouraged the Town Council to work beyond some of the negativity surrounding the issue, and support it for what it is; a good thing for Merrimack.

Gary Watson, 6 Watkins Road

Remarked the Dog Park Sub-Committee recently received a request from the Town Manager that they speak with Director Seymour with regard to location of the dog park within Wasserman Park (Option 3). After coming to agreement on the location, they were informed the option is no longer available. Tom Thornton, Chairman, Parks & Recreation Committee, has stated the location is no longer acceptable as it is being used periodically for football practice as well as a softball field.

Mr. Watson remarked, should the Council consider accepting Mr. Thornton's recommendation, the subcommittee would request a final decision be delayed to provide them the opportunity to consider other locations.

Vice Chairman Rothhaus stated the desire for the park to be located at Watson Park has been expressed from the onset. He supports that location because it was the expressed desire of Mr. Watson. However, if the Watson family is amenable to an alternative location, he would be supportive.

Mr. Watson responded the subcommittee has considered the Wasserman Park location and believes it would likely work. He stated his belief the Council's vote would override the ability for the dog park to be located at Watson Park. Vice Chairman Rothhaus explained it could; however, a vote has not yet been taken. He reiterated if Mr. Watson believes location at Wasserman Park would work, he can cast a clear conscience vote for it. Mr. Watson stated, as an alternative, it could work. He believes the family could be convinced.

Town Manager Cabanel remarked the Council charged her with directing Director Seymour to evaluate each option. The Council has not yet had the opportunity to review the information provided and has not ruled out any option. She stated a willingness to provide Mr. Watson with the information she has received to date.

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Charlie Benhardt, 16 Newton Street, Representing the Merrimack Youth Association (MYA)

Spoke of Option 3 at Wasserman Park; field between the Parks & Recreation Office and tennis courts. The MYA representative to the Parks & Recreation Committee has informed him the fields are used extensively during the week. During the time of year when wet conditions exist on fields, the rookie field is used quite a bit although not maintained at level other fields are. The football program uses the field for its junior high school team exclusively from the first of August through October. He spoke of the potential for conflict if a dog were to escape the required space, and stated a concern for the safety of all users of the facility as well as equipment.

Councilor Dwyer commented, speaking for himself, he could not foresee the desire to locate a dog park on a field, and noted the Council has been informed of the shortage of fields for years. He did not believe the Parks & Recreation Department would advocate for that either.

Lynn Wenz, Dog Park Sub-Committee member

Stated her belief the Town needs a dog park. With regard to the former girls softball field, she remarked everyone appreciates the work of the MYA and the Parks & Recreation Department; however, she believes there to be a lot of other baseball diamonds around that could be used as well as other open space within Wasserman Park that could be used for practice areas.

She believes Wasserman Park to be a good location for a dog park as it is within the confines of a family oriented, safe park with activities nearby and no neighbors who might object. She noted the requirement for dogs to be leashed when not within the confines of the fenced area. She stated the area is clear eliminating the need for extensive site work, and suggested drainage could address wet areas. She added it is also handicap accessible with a parking lot nearby. If need be, it could be expanded into the woods in the back.

The site recommended by the Parks & Recreation Department is located near the road and is a heavily wooded strip lodged right between the upper parking lot, the exit driveway, and Naticook Road. It would require extensive and costly site work. The end result would be similar to a long dog run kennel. She commented if unable to utilize Wasserman Park the subcommittee would like another site that would meet the objectives and needs of a dog park.

Michele Diciara, 10 Dick Drive

Stated she is a disappointed member of the Dog Park Sub-Committee. She remarked the subcommittee has been working for 9 months on the dog park they thought would be located at Watson Park. Abruptly on October 4<sup>th</sup> they were shocked to be told that it wasn't going to happen, that they were not going to be able to be at Watson Park. She remarked she takes this personally as she spent every Wednesday all summer long at the Farmer's Market talking to people from all over about the wonderful dog park we were going to have. She sold t-shirts and accepted donations for fencing. She feels responsible to haven taken all of that from people who believed her as she believed what she had been told.

She stated she feels like a liar and a fraud, two adjectives she does not like being associated with her name. She commented suggestions have been made as to where the dog park could be moved to; however, she feels it must be taken into consideration they have lost what is likely the best parcel of land in Merrimack and they don't want to just settle for the first thing that comes along, they want something that will be comparable. She supports the Wasserman Park, Option 3, for reasons previously stated. She

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remarked it would be closest to Watson Park without being Watson Park. The 4,000+ dogs and their 5,000+ owners deserve a nice surrounding for their dogs.

### **Public Hearing**

None.

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

Chairman Mahon informed the Council and the viewing public he and Councilor Koenig attended the NRPC Transportation Improvement Plan presentation to the Executive Board a few weeks prior to voice concern with the vagueness of the State Highway Plan. In the meantime, Richard Hinch, State Representative, was dealing with the Department of Transportation on the previous Bill to relocate the toll plaza to Merrimack (Exit 10), which had been sent to interim study. The NRPC has agreed not to include this in their Transportation Improvement Plan (TIP).

Tim Thompson, Director, Community Development Division, informed the Council during the Southern New Hampshire Regional Planning Commission's Technical Advisory Committee's meeting, which he attended with Mr. Tim Roach, Assistant Director/MPO Coordinator, NRPC, the committee voted to include the project in their TIP; however, the representative from the State Department of Transportation informed them there has to be consistency across the two regions in order for the plan to be included in the State's TIP. Because they are not going to be consistent, the project cannot be part of the State's TIP and will not be part of the project unless it is amended at some point in the future.

Richard Hinch, State Representative, stated the Bill is no longer. The concept of moving the Bedford overhead tolls to Exit 10 will receive further discussion, but is not expected to be part of the upcoming plan. More time is desired to study. He noted it was included in the last ten-year plan subject to the Executive Council raising the toll rates across the board.

A meeting was conducted with the Public Works & Highways Committee. They voted to not go forward with the Bill. The new Commissioner has stated his support of this piece and a desire to bring stakeholders together to review the ten and twenty-year plans to determine the best location, funding, etc.

Representative Hinch commented there will be more discussion of the gas tax versus toll revenue as a revenue source for the highway system. He suggested, at the earliest, some replacement of the Bedford toll may be seen in 2015. His expectation is it will be later and will go to an automated electronic tolling system, e.g., purely drive through, E-ZPass. He remarked the all electronic toll can be put into place for an approximate cost of \$2 million.

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

Town Manager Cabanel stated the Master Plan Steering Committee remains on target for completion of the 2012 Master Plan by early 2013. The Steering Committee will meet next on October 30<sup>th</sup> with a review of the implementation element and all elements drafted to date. A public forum on the draft Master Plan should be announced in the coming weeks.

Town Manager Cabanel remarked Director Thompson, attended a broker open house at 59 D.W. Highway (Nashua Corp. building) on October 17<sup>th</sup>. He established contacts and reviewed the property to get a feel for the real estate and to help move ahead with marketing efforts. The property has two structures (57 &

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59). Nanocomp has taken approximately 100,000 sq. ft. of the existing facility. The Town has been active in reviewing existing parcels and trying to connect them up with potential users.

Nine bids were open last week for the reconstruction of Wire Road over Baboosic Road Bridge. The low bid was \$832,000 (\$123,000 less than the engineer's estimate). The date for the start of construction has not yet been set.

Councilor Boyd requested an update be provided regarding the Local Government Center (LGC) and monies being returned to the Town. Town Manager Cabanel responded written correspondence was received from the LGC indicating the Town will be entitled to approximately \$81,000 in terms of relief funds for monies paid in. She noted the Town switched back and forth between Primex and LGC for insurance coverage, which is why it may not get as large a share as other communities.

### **Consent Agenda**

None.

### **Old Business**

#### **1. Appointment of Library Trustee**

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

The Town Council to appoint the recommended Library Trustee to fill Martha Wagner's term until the April 2013 election, pursuant to Charter Article 6-2 and RSA 202-A:10.

Chairman Mahon remarked although the Council is in receipt of a recommendation from the interview committee, it is not in receipt of one from the Board of Library Trustees. He suggested the item could be placed on a future agenda. Councilor Koenig suggested, as has been requested by the Board of Library Trustees, the item be moved to the Council's next meeting. Councilor Boyd questioned the Council's power of appointment. Chairman Mahon noted past practice of receiving a recommendation from the Board of Library Trustees prior to making an appointment.

#### **2. Dog Park Location**

*Submitted by Parks and Recreation Committee Chairman Tom Thornton*

The Town Council to discuss and consider the acceptance of the Parks and Recreation Committee's recommended location of a dog park in Merrimack.

Tom Thornton, Chairman, Parks & Recreation Committee, noted the Parks & Recreation Committee was asked to consider alternative locations for the dog park. Thirteen sites, including Watson Park, were reviewed. These sites are identified within the documentation provided with the agenda. Consideration was given to clear areas, which would require less site work, limited neighbors, and a minimum of a ¼ a mile from water. The Committee voted (8/0/1) to recommend Wasserman Park as the best location for a dog park.

Three areas within Wasserman Park were considered, and Option 2 was chosen (southwest corner). It is a family park, which is frequently visited, is the furthest away from Lake Naticook, is away from both the playground and ball fields, is close to parking, level, incorporates a tree buffer, 15-20' in from the road, only two neighbors residing across the street, is near public restrooms, and has access to the waterfront. The Parks & Recreation Department Office is located there for a few months out of the year.

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He noted, for the record, the field at Wasserman, Option 3, is used by the MYA baseball program from April to June and by the football program from August to October. When asked, he stated the area would be fenced, and some clearing would have to occur.

Councilor Flood commented everyone liked the idea of a dog park at Watson Park, and it was included in the Master Plan. However, the realization came about the situation should be approached as what would we like to see at Watson Park rather than Watson Park is a good location for a dog park. She too has been looking at potential alternatives. When driving past Wasserman Park she noticed you can see right through the woods, and believes no amount of buffer short of what exists presently would block the view of the dog park. She stated a concern with the residential nature of the area, and believes the location objectionable.

She noted the practice field is central to the MYA program. She shares in the frustration expressed by Ms. Dichiara with regard to having expressed to members of the public the park would be located in Watson Park only to later find out alternative locations are being considered. She spoke of the responsibility of the Town Council to follow a process and address the needs of the Town, and stated her opinion it is not in the Town's best interest to locate the dog park at Watson Park.

She proposed the Council consider locating the dog park further out in the southwest area of Wasserman Park. She remarked if the 200' between the parking lot and Naticook Road were left as an extension of the end of the driveway, the park would likely fit nicely. Another suggestion was to trade fields with the MYA providing them a cleared field to replace the current one and utilizing the football practice field for the area of the dog park.

Councilor Dwyer stated his agreement with the suggestions made by Councilor Flood, and his opinion Wasserman Park is the right location. He liked the idea of a larger buffer for the residents. He noted Director Seymour has stated the parking lot could be reconfigured to create a larger buffer. The intent would not be to clear-cut, but to allow the dozen or so established trees to remain to provide for better aesthetics. He suggested it is not cost prohibitive as tree service companies would likely perform the clearing in exchange for timber. Chairman Mahon stated they would take the trees, but leave the slash behind, which the Town would have to address.

Councilor Boyd thanked the Parks & Recreation Committee for taking on the task of composing a list of and giving consideration to alternative locations. He stated he too had been concerned with the amount of buffer, and believes what Councilor Flood has suggested is something he could support. When asked if he has considered or is familiar with the area and believes what has been suggested is possible, Director Seymour responded there is limited space, but clearing could be done. He agreed it is doable.

Councilor Koenig noted the Master Plan for Wasserman Park shows a road coming up along that side, and questioned how close to the end of the parking lot the road was envisioned to be. Sherry Kalish, Director, Parks and Recreation Department, responded when the road was included on the Master Plan was when it was envisioned there would be pods of parking lots, which she is not sure is realistic. It was also hoped there would someday be a large building for a library/community center. She was unsure of the exact dimensions.

Councilor Flood suggested time be provided for her and others, such as Director Seymour, to walk the site and give it further consideration. It was noted it would be helpful if the area were marked with stakes for clear delineation.

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Mr. Thornton questioned whether the site could be approved with conditions. Chairman Mahon responded he did not believe the Council was ready to take such a position, and stated a desire for the area to be reviewed by professionals and an opportunity for the Council to understand costs involved.

Councilor Harrington wished to better understand how the area would be reconfigured; however, stated she does not have an issue with the dog park being located at Wasserman Park. Councilor Dwyer questioned whether the Council could provide the Parks & Recreation Department a show of faith that the Council accepts the concept of a Wasserman Park location. Chairman Mahon suggested that was made evident, and stated the outstanding issue to be for the Parks & Recreation Committee and Directors Seymour and Kalish to work together to see what implementation would require.

When asked, Vice Chairman Rothhaus stated he is not yet sold; however would find it helpful to gain additional information.

*It was the consensus of the Council that the item be placed on the agenda for the December 6<sup>th</sup> meeting.*

### **3. Naming Recommendations for Town Hall Meeting Rooms**

*Submitted by Parks and Recreation Chair Tom Thornton and Director Sherry Kalish*

The Town Council will review and consider the acceptance of the Parks and Recreation Committee's recommended names for the Town Hall meeting room and conference room.

Chairman Mahon noted the item resulted from action taken by the Council in August regarding nominations for naming the rooms. Per policy, the Parks & Recreation Committee is asked to review and provide recommendation(s). The Committee has recommended the Town Hall meeting room be named the "Matthew Thornton Room" and the conference room in Town Hall the "Selectmen's Meeting Room".

Tom Thornton, Chairman, Parks & Recreation Committee, remarked in spring 2012 the Committee was tasked to solicit names for naming of the rooms. As a result 6 names were considered. The Committee has made the recommendations as stated. The name of the Town Hall meeting room was voted on at the August 9<sup>th</sup> meeting, and resulted in a 6/0/0 vote. The name for the conference room was voted on at the October 17<sup>th</sup> meeting, and resulted in a 9/0/0 vote.

When asked how the name Selectmen's Meeting Room came about, Mr. Thornton responded a committee member suggested the name as a way to honor the 250 or so members of the Board of Selectmen who have served throughout the ages.

Councilor Dwyer was not in favor of naming rooms, structures, etc. after politicians. He commented there are a great many citizens of Merrimack worthy of having a room named after them. He would prefer to see an individual's name associated with the room. Councilor Flood agreed there are current residents and could be future residents for whom the room could be named. She suggested a name such as the Merrimack River Room would be appropriate as a means of holding the opportunity for naming the room after an individual.

Vice Chairman Rothhaus remarked the name that stood out most to him was Bob Kelley; a gentleman who offered a great deal to the Town both in political and personal contributions. He stated his desire to name the room after him.

**MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to rename what is currently known as the Selectmen's Meeting Room, to the "Robert N. Kelley Meeting Room"**



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#### ON THE QUESTION

Councilor Boyd remarked his personal involvement in town government began with the Economic Development Citizens Advisory Committee of which Mr. Kelley was a member. Mr. Kelley was an individual who gave his time after meetings to provide input and his views on how the committee fit into the big scheme of things. The wealth of institutional knowledge he provided was invaluable. Mr. Kelley served us proudly in WWII, gave of himself to become involved in politics as well as programs such as Meals on Wheels, was a conscientious neighbor, etc. He personifies everything that is good about Merrimack.

Councilor Harrington commented when honoring an individual by naming a structure after him/her, you have concern you are somehow dishonoring other individuals not chosen for such distinction. She noted nominations were sought from the public, and there were a great many for Mr. Kelley. Because of that she believes there is justification to name the room after him.

Councilor Flood spoke of the many individuals who have served in the politics of the State and those who have served in other ways; many of whom have streets named after them. She felt that to be appropriate. She objected to naming an important room after a single individual. She noted two names that were also submitted for consideration; Admiral Forrest Percival Sherman, Chief of Naval Operations. Admiral Sherman oversaw the conversion of factories from peacetime to wartime, was very influential for many many years, and is truly eminent. A few destroyers are named after him as well as a few ball fields in Pensacola and Annapolis, but nothing here in Merrimack. Another was Brigadier General Edward J. Haseltine; a Judge, State Legislature, head of the bank, etc. He was a very able, intelligent, well educated man who guided Merrimack at a time when there were not many others to do so.

Councilor Dwyer suggested plaques could be placed in the room with the names of eminent individuals who are part of Merrimack's history as a way to memorialize them. He recommended the Heritage Commission be enlisted to provide assistance. Councilor Flood was pleased with the suggestion. Chairman Mahon spoke of his desire to see the name of John Lyons considered.

Councilor Harrington suggested consideration be given to naming the room something that would fit with the intent to honor Merrimack's history.

#### **MOTION WITHDRAWN**

**MOTION made by Councilor Koenig and seconded by Councilor Boyd to rename what is currently known as the Selectmen's Meeting Room, to the "Merrimack Memorial Room".**

#### ON THE QUESTION

Councilor Dwyer questioned whether there was consensus to place within the room plaques honoring individuals. It was suggested those mentioned and those included on the list would be appropriate names for initial consideration. The Heritage Commission will be asked to present names for consideration.

#### **MOTION CARRIED 7/0/0**

**MOTION made by Councilor Boyd and seconded by Councilor Harrington to rename what is currently known as the Town Hall meeting room, to the "Matthew Thornton Room".**

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Several Councilors spoke of the numerous things for which Matthew Thornton is remembered, e.g., signed the Declaration of Independence, State Senator, Physician, first President of the New Hampshire House of Representatives, Justice of the Peace, etc.

Councilor Dwyer suggested the painting of Matthew Thornton could be relocated to the room. Vice Chairman Rothhaus noted the Heritage Commission is working on identifying proper locations for portraits, etc.

**MOTION CARRIED 7/0/0**

Chairman Mahon noted descendents of Matthew Thornton were in attendance, and suggested the family group be contacted, informed of the action taken by the Council, and extended an invitation to attend the formal dedication of the room.

*There being no objection, the Council went out of the regular order of business to take up Item #1 under New Business, Acceptance of Donated Equipment for the Merrimack Police Department.*

**1. Acceptance of Donated Equipment for the Merrimack Police Department**

*Submitted by Captain Peter Albert*

The Town Council to consider the acceptance of ten (10) rifle rack gun locks valued at approximately \$2,310.00 for the Merrimack Police Department to be mounted in the trunks of the police cruisers, pursuant to RSA 31:95-e and Charter Article 8-15.

Captain Peter Albert explained while attending the Law Enforcement Expo., members of the Department came in contact with representatives from Santa Cruz Gunlocks, LLC. The company is new to New Hampshire, based out of Webster, big within the law enforcement community out West, and is looking to become involved in local law enforcement. After learning of a need in Merrimack, they offered to provide assistance. In return, they requested the department showcase their product to other law enforcement agencies that might be interested.

The current gun locks are worn out and aged. The new gun locks would be adjustable, not firearm specific, sturdier, and would cause less damage to the actual weapon (Ar15 Rifle), which is itself valuable and costly to repair. The gun locks would make it ergonomically easier to get to in the trunk (hanging from the roof of the trunk), would experience less vibration, and provide more trunk room, especially in the new cruisers (Interceptors).

Councilor Koenig questioned whether there would be any limitations or assurances as to how they would use the Town of Merrimack in their advertising, etc. Captain Albert responded there was really no discussion on that; however, the impression was left if the Manchester Police Department, for example, were interested, they would inform them the Merrimack Police Department has the racks in their trunks if they wished to see them. He noted they would do that for any police department that were interested in viewing any equipment the department might have, and added the Merrimack Police Department would do the same if there were a piece of equipment another department had which they were interested in.

Councilor Koenig stated his agreement with that type of an arrangement with other police departments, but would like to understand whether Merrimack would be put out as part of the company's advertising. Captain Albert stated his belief the department would have the right to refuse being included in an advertising campaign. Chairman Mahon remarked he would anticipate mention in such things as trade publications, but not in local newsprint. He noted that would be something for the Chief to explore with

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the company and receive some assurances. Captain Albert stated he is dealing directly with representatives from the company and could request that be clarified. Chairman Mahon stated a desire for him to do so. Captain Albert guaranteed the department would not move forward without having an understanding in writing.

**MOTION made by Councilor Rothhaus and seconded by Councilor Harrington to accept ten (10) rifle rack gun locks valued at approximately Two Thousand Three Hundred and Ten Dollars (\$2,310.00) for the Merrimack Police Department to be mounted in the trunks of the police cruisers, pursuant to RSA 31:95-e and Charter Article 8-15. MOTION CARRIED 7/0/0**

*The Council recessed at 8:43 p.m.*

*The Council reconvened at 8:53 p.m.*

*There being no objection, the Council went out of the regular order of business to take up Item #3 under New Business, Direction for the 2013/2014 Budget.*

**3. Direction for the 2013/2014 Budget [Tabled at the October 11, 2012 Town Council Meeting]**

*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.

Town Manager Cabanel provided the Council with a PowerPoint Presented in which the following was depicted:

The FY13 approved operating budget was \$20,201,819. When originally reviewed at Town Meeting, the projected tax rate impact for the Town alone was \$5.25. Actual tax rate was \$5.15. Within the past few days a notification from the Department of Revenue was received indicating the tax rate will be set October 26<sup>th</sup>.

The difference in projected and actual tax rate for FY13 relates to new value the Town picked up. The increase in value to the Town as of April 1<sup>st</sup> was \$89 million. At least 1/3 of the amount is related to mall properties. From 2011 to 2012 the four mall properties saw an increase of \$50,272,000. In addition to that, substations for PSNH came in at \$26 million. There was also an adjustment made to the MS1 (assessed value numbers). When the numbers originally came out, Anheuser Busch wasn't valued in its totality. When the bills actually went out, they reflected \$14 million worth of additional value. Those three components together resulted in an added value to the Town property, which is approximately \$2.9 billion. A few years ago the Town was at \$3.2 billion. The value came down when the Town assessment came down approximately 15%.

The increase helped reduce the burden of the tax rate. Thirty million was the original estimate on the additional revenue the mall properties would bring in. A value of \$21 million was identified within the budget as originally presented. An additional \$30 million was showed for a total of \$51 million. In the end the total was \$72 million (at 85% completion). The estimate at 100% completion is \$82 million. It is anticipated the value of the Town will increase by \$12 million. Twelve million dollars in increased value represents \$58,000 in additional expenditures. Every \$29,000 is \$.01 on the tax rate.

Town Manager Cabanel noted the summary identifies other capital expenditures (\$98,000), which includes funding for 3 cruisers and work done to Town Hall, road resurfacing (\$800,000), and Capital Reserve Fund expenditures (\$2, 696,423).

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Total projected non-tax revenue for last year was \$8,109,296. Probably half of that is motor vehicle permits (approx. \$3.84 million/year). That revenue offsets expenditures in the general fund. After doing the overlay, e.g., abatements and Veterans tax credits the amount to be raised through taxes is \$14,829,523 (Town).

The \$5.25 tax rate is the target they tried to hit when looking at the daunting numbers the Town is faced with in terms of increases to benefit costs, etc.

Town Manager Cabanel stated the projected maximum rate increase for health insurance for employees is 15.8%, which represents \$470,155 to the general fund alone. There was also an increase in retirement contributions for police, fire, and regular employees at an additional cost of \$361,235. There are also projected increases for property & liability insurance (\$15,720) and workers' compensation (\$22,838). All six collective bargaining agreements will be out of contract as of the end of the current fiscal year. Any increased expenditures would have to be added.

The \$58,000 was reduced (positive side of ledger) as it represents the \$12 million added value. Another increase in revenue relates to the Local Government Center's (LGC) return of contribution (\$81,000).

In summary, the budget, as presented, results in an increase of \$.26 on the tax rate for the Town portion only. Town Manager Cabanel stated all parties involved in the preparation of the draft budget feel confident identified goals can be achieved.

Councilor Koenig clarified the \$.26 does not take into account union contract negotiations; therefore, any personnel changes as far as salaries, benefits, etc. would be in addition to that. Town Manager Cabanel stated her agreement. Town Manager Cabanel remarked some other items that had to be taken into consideration were the changes in elected officials at the State level; new biennial budget being looked at, which could result in additional challenges for the Town, e.g., rooms & meals taxes could change as well as the Highway Block Grant, which could decrease because of the gas tax.

Also considered relative to the budget were some of the commitments made. There were 3 categories of goals; paving (\$800,000), and funding the capital reserve fund, and stabilizing the unreserved fund balance (4-8% of total annual revenue), which is basically retained earnings; monies set aside to offset any fluctuations in revenue and cash outflows. These categories were addressed during end of year discussions and consideration was given to utilizing some of the funds to increase the paving account and set aside funds for items such as additional salt and sand. What was achieved, through the audit, was an increase to the fund balance of approximately \$500,000 (close to 3%).

Chairman Mahon remarked those funds are not simply used to smooth out the Town's cash flow issues, but because the Town is the collector of taxes, the funds have to be available to smooth out collections and payments to the School District.

Last year's deposits into the Capital Reserve Fund were \$937,000. Other capital that falls within the category include; police vehicles (\$90,000), Building & Grounds (\$8,000), Road Infrastructure (\$800,000), and the 20% match for bridge/drainage projects (\$400,000). The snapshot of the Capital Reserve Funds includes obligated funds so that a clear understanding can be gained of the Fund. In 2009, the balance was \$6,510,584 (collectively). Town Manager Cabanel spoke of the sewer line extension (\$935,319), and noted the Town looked at expending \$915,000; however, have not come up with a list of

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what could be achieved with that amount. A report from the Public Works Department providing recommendations is anticipated.

The General Fund projected balance (through end of 2013) is \$2,738,733.

Town Manager Cabanel noted efforts with regard to addressing potential increases in order minimize the impact on the tax rate. She remarked over the past 4-5 years the Town has looked at reductions in labor force, services, etc., and will look at more evident types of service reductions if the level of increase is greater than anticipated. She has spoken with the Public Works Director around potential impacts of staff reduction such as the length of time required for plow routes, and the level of impact on response times, etc. for the various departments.

She requested the Council review the draft budget giving consideration to current services and the challenges that would result if all of the increases had to be absorbed into the budget. Of the \$870,000 anticipated increase, \$595,000 worth of potential areas of savings has been identified. She stated her belief good work has been done by all departments.

Town Manager Cabanel stated consideration has been given to minor reorganization within the Fire Department, staffing changes in agreement with the Police Department as it relates to command staff versus patrol officers, etc., a proposal for a reduction of \$52,000 has been drafted for the library, e.g., change in Director's salary (new hire), sharing in custodial type services, etc. Discussions have occurred with the Library Board of Trustees around the best way for them to move forward; perhaps hiring a part-time custodian rather than full-time, which would result in a reduction in wages, eliminate the need for health insurance, retirement benefits, etc. They have not yet concurred, but this is what is being offered to the Council.

She remarked some of the items listed include Solid Waste staffing, which relates to reconfiguring overtime in that department. Something looked at, which would require serious consideration by the Council is the cable franchise fee fund. Consideration was given to retaining some of the revenue in the general fund rather than having it all attributable to the staffing of media. That represents \$50,000 or 15%. What would be noticed in terms of the difference in the department would be a reduction in equipment purchases, etc. This proposal would mean a hold on spending, e.g., not purchasing another \$75,000 worth of new equipment. She stated her belief the current staffing and equipment is adequate to maintain the level of solid media representation.

With regard to paving, in order to get to the goal of \$595,000 in savings, \$125,000 is recommended to be reduced from the paving account, which would bring that account back to last year's level of \$675,000. She remarked the \$400,000 for the 20% match in bridge/drainage projects would remain. At the end of last year the Town set aside salt and sand in the storage shed (purchased in advance to gain savings). The proposal is to not replenish that at the end of FY14, if depleted.

The ending result is the need to identify an additional \$275,000 in savings. The Council was asked to consider a \$.10 increase to the Town portion of the tax rate. It is believed the tax rate will be in the area of \$5.15. That is what the proposed budget would do. Town Manager Cabanel stated her belief what has been proposed is a solid budget.

Vice Chairman Rothhaus questioned the elimination of a position (\$60,000), and was informed that relates to a position in Public Works.

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Councilor Harrington complimented the Town Manager and stated, although she has not had ample time to examine it in detail, she believes what was presented was the clearest budget proposal she has ever had presented. She stated her belief what was presented will expedite the process.

Councilor Dwyer echoed the statements made by Councilor Harrington. He stated a desire for the Council to address the issue of paving. He reminded the Council that account was not sufficiently funded for a number of years, a situation which was addressed last year. He does not wish to go back to defunding it, and would like to see savings found elsewhere. Chairman Mahon remarked if the tax rate does shake out at \$5.15, what is proposed is a 2% increase. If the \$125,000 were added back to the paving account, another 1% would be added to the tax rate (\$5.29). He noted, over the last 5-6 years, tax rates have been relatively stable.

Councilor Koenig echoed the comments made, and pointed out the starting point is \$870,000 in the hole, which represents about a 6% increase. Chairman Mahon spoke of the cooperation of the department heads and the appreciation for their participating in the process of providing a proposed budget.

#### **4. Grater Woods Memorandum of Understanding**

*Submitted by Town Manager Eileen Cabanel*

To review and consider the approval of the Grater Woods MOU which was approved by the School Board at their October 15, 2012 meeting.

Chairman Mahon remarked the MOU has undergone numerous revisions. He noted he, Vice Chairman Rothhaus, and Councilor Dwyer have worked on the MOU attempting to come up with a reasonable process and language. He noted the area highlighted in red is recommended as a way to try to build more flexibility into it, identify an end to the event, and mirrors language in the Town Charter.

**MOTION made by Councilor Boyd and seconded by Councilor Harrington to approve the Grater Woods Memorandum of Understanding.**

#### **ON THE QUESTION**

Councilor Boyd thanked the School Board and his colleagues on the Council for coming together and creating a solid document. Councilor Flood echoed his remarks.

**MOTION CARRIED 7/0/0**

#### **5. Chronology of Council Action Regarding Nashua Regional Planning Commission Grant Application**

*Submitted by Town Council Chairman Tom Mahon*

To review the dates and actions authorized by the Town Council regarding the NRPC planning grant application.

Chairman Mahon noted the chronology of events associated with the Sustainable Communities Initiative Grant:

*July 23, 2010 Letter from Kerrie Diers requesting letter of support for the HUD Sustainable Communities Initiative,*

*August 5, 2010 Town Council meeting approved support letter to be signed by Council Chair,*

*August 5, 2010 minutes approved on September 9, 2010,*

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*August 11, 2010 Letter of support from Council Chair to HUD for the Sustainable Communities Initiative,*

*NRPC's request to Tim for updated letter of support,*

*August 24, 2011 Tim's support letter (addressed 120-day time limit),*

*November 21, 2011 NRPC was awarded \$3,369,648 for the Sustainable Communities Initiative; and April 9, 2012 signed partnership agreement*

Chairman Mahon informed the Council the Town Manager will provide historical data relative to issues appearing on future agendas. Councilor Dwyer stated his appreciation for the information provided. He reiterated his concerns with the country's level of debt, and his desire to identify a line where the value gained by acceptance of certain federal grants may not be beneficial. Chairman Mahon noted one of the fundamental issues with this situation is to try to get the information together in one place so that when an entity in the State desires applying for a HUD Grant, Highway Grant, etc., there is a document existing that identifies the plan as one of the goals and objectives.

Chairman Mahon spoke of the work being done by the consultant working on the Master Plan (draft plan). When asked, he stated he would provide the information he has to the members of the Council in electronic form. Councilor Flood stated in general the purpose of federal grants is to equalize those without opportunity in this country. She spoke of the number of areas of the country that don't have regional planning.

Vice Chairman Rothhaus stated his opinion New Hampshire in general, Merrimack in particular, lacks in the area of getting back funds we expend on federal taxes. The concerns he has are the potential strings that are attached. With regard to this particular grant, there are apparently tons of strings attached both good and bad. He stated a desire to ensure Merrimack residents get their just due, to get back what is beneficial.

Councilor Dwyer agreed and remarked when these things come through you have to really dig deep to understand the strings attached. He spoke of the research conducted by members of the public who presented at the last meeting, the obligation of the Council to understand their hesitations, and the need to have the research conducted prior to a Council decision.

Councilor Koenig stated if you look at the grant in detail you will find it is similar to almost every other grant that HUD and many other government departments put out. He has argued against grants in the past because of associated management costs, but he does not believe this one stands out as anything special. He stated he is pleased the Council supported the effort and remarked the benefits to the State through the Regional Planning Commissions and the work that will go on, will be extremely vital to the various regions. He noted this is the first time they have had the funding source to be able to do a statewide regional plan. Each of the regional planning commissions is contributing their section, which will be accompanied by an overriding state section to identify how all of the pieces come together.

He stated his belief a lot of people are looking at statements like make sure the plans align with the federal plans, etc. as if it is a bad thing. From his perspective, the Federal Government is not this bad thing trying to damage everybody, it is a government of the people, by the people and for the people, and while we may feel like we have very little control, there is not some behemoth thing out there intentionally trying to damage and harm our communities. He stated his belief Merrimack will receive a lot of value from this program. He added the cost of the grant includes grant management.

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He spoke of public comment provided at the last meeting with regard to water sustainability, which has absolutely nothing to do with this grant. He commented the Council signed the letter with intent and integrity at that time, and he still believes the program is a good one.

## **New Business**

### **2. Reestablishing the Office of Cemetery Trustees**

*Submitted by Town Council Chairman Tom Mahon*

To establish the time line for amending the Town Charter to reestablish the office of Cemetery Trustees and to consider appointing interim trustees to serve until the trustees are duly elected, pursuant to RSA 289.

Chairman Mahon remarked this has come up over the last 5-6 months when it was discovered the law requires the Town to have cemetery trustees, which have not been in place since 1971. There is a provision in the law that allows a Board of Selectmen, in a traditional annual town meeting forum, to designate themselves as trustees. He was unsure if that is what occurred in 1970/1971 or whether they simply did not take action knowing vacancies would be appointed by the governing body.

He noted none of the cemeteries have been closed. Town Manager Cabanel remarked, as the Council is considering appointing trustees, consideration should be given to the level of effort that is required to reconstruct records. She commented, from the point of view of a statewide issue, cemeteries in general are a problem area as there is a requirement that the governing body provide a cemetery for those who want it. Each cemetery has to be reviewed; an identification of where individuals are buried has to be done and a pronouncement made as to whether or not there remains room within the cemetery. She noted staff is willing to assist in that endeavor. With the exception of the Last Rest Cemetery, Town cemeteries are owned by the Town.

Councilor Koenig remarked there are two points in RSA 289; one says we can delegate all of the duties and responsibilities of the Cemetery Trustees to the Town Manager. The other says we may adopt, by a vote at the Town Meeting, to have the Board of Selectmen serve as the elected office of the Cemetery Trustees during their term of office. Chairman Mahon remarked that is for a traditional town meeting, which we are not. Councilor Koenig noted, further within the chapter, for a municipal charter form of government, it says we may specify, in the Charter, the procedure to be utilized for election, which has not been done.

Chairman Mahon noted legal counsel has provided language for a charter amendment; however such an amendment would require a public hearing and a determination by the Council to place the item on the ballot. He suggested counsel be requested to identify the timeline and required steps necessary to place a Charter amendment on the ballot. Councilor Koenig noted RSA 49-B requires a vote of the Council to place an item on the ballot, sixty (60) days prior to Town Meeting.

Councilor Dwyer questioned the ramifications of no action, and questioned the value. Vice Chairman Rothhaus responded he believes the Council should take action given an individual has made a request, and he personally believes the opportunity should be provided. He suggested the Council appoint the Town Manager and allow her to address the request, and then close the cemeteries. He suggested, by closing the cemeteries, there would no longer exist the need for identification/surveying. Chairman Mahon questioned how the Council would know whether or not, in years past, someone bought a plot and never used it. Councilor Koenig remarked if it has been abandoned for 20 years there is a process to go through to reclaim it and be able to resell it, which is identified within the statute.



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Mr. Micali stated the records for the cemeteries were lost in a fire.

**MOTION made by Councilor Rothhaus and seconded by Councilor Boyd to delegate the duties and responsibilities of a Cemetery Trustee to the Town Manager until the Council reaches a final disposition on whether or not to reestablish the office of Cemetery Trustees**

#### ON THE QUESTION

Councilor Koenig remarked Section II of the RSA talks about appointing the Town Manager, but it has to be done by a vote of the Town. Section I refers the ability of the Board of Selectmen to fill vacancies. He suggested the motion could be amended to appoint the Town Manager until such time as the Council could hold a vote to have the Town ratify that or propose a Charter amendment to define that (Section IV). Vice Chairman Rothhaus noted the RSA states the option of appointing the Town Manager “may be adopted by a vote of the town meeting”. Chairman Mahon stated his belief the intention of the law was not to place emphasis on the word “may” as opposed to the use of the word “shall”.

Chairman Mahon noted Town property is under the purview of the Town Manager by Charter. The cemeteries are Town property. From that standpoint he does not believe the motion is necessary.

Vice Chairman Rothhaus questioned whether the Town Manager would be able to resolve the issue at hand. Chairman Mahon stated his belief she would. Vice Chairman Rothhaus questioned whether the Town Manager has communicated with legal counsel on the matter. Town Manager Cabanel stated what the Council would be charging her with is the task of making a decision about this particular cemetery and whether or not there is room for this particular individual to be buried there. She remarked, with the support of the Council, she would be able to make a decision based on the best information she can gain.

Chairman Mahon noted the lack of mechanism for the designation of a plot and the conveyance of that plot to an individual. Councilor Koenig stated the need for the opportunity to be open to the public. Councilor Flood remarked it has been open for 100 years, and now someone has and has gone through the effort of researching availability.

Town Manager Cabanel stated she would bring a recommendation back to the Council.

#### **MOTION WITHDRAWN**

**MOTION made by Councilor Dwyer and seconded by Councilor Boyd that the Council choose not to act on the matter until such time as it might be brought again before the Council**

#### ON THE QUESTION

Councilor Flood remarked it has come to the attention of the Council there is a resident who is generally interested in the matter, and it does not seem appropriate to ignore the request and possibly cause that individual to have to bring the issue before the courts for resolution. Councilor Harrington noted the motion is to choose to not act on the matter of appointing trustees and is not specifically related to addressing the individual's request.

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Councilor Boyd commented the Town has gone 41 years without a Trustee, and he has not seen any repercussions. Chairman Mahon stated RSA 289:6 I states every municipality shall elect a board of cemetery trustees. Councilor Koenig stated he cannot simply ignore this. It is an issue that has been brought to the Council's attention that the Town has been in violation of for a period of time. Councilor Harrington stated her agreement.

***Councilor Dwyer motioned to move the question.***

**MOTION FAILED 1/6/0**

#### **4. Amend Town Council Rules of Procedure**

*Submitted by Town Council Chairman Tom Mahon*

To consider revising their Rules of Procedure to amend the order of business of the Town Council agenda.

Chairman Mahon remarked it was evident at the Council's last meeting that comments from the press and public should be moved up on the agenda to appear after recognitions, resignations and retirements. He spoke of instances where a member of the public might wish to address the Council regarding appointments.

**MOTION made by Councilor Boyd and seconded by Councilor Koenig that the Rules of Procedure be amended by moving "Comments from the Press and Public" up in the order of business so as to appear after "Announcements". MOTION CARRIED 7/0/0**

#### **5. Staffing of Polling Place – Election Duties**

*Submitted by Town Manager Eileen Cabanel*

The Town Council to assign shifts for Election Day, pursuant to the NH Constitution, Part 2, Article 32.

Chairman Mahon noted a Warrant is posted for the elections, which requires four (4) Councilors be present when the polls are opened (official action of the Town). Four have to be present for the opening and closing and two throughout the day. A request has been made that Councilors man the new registration/no I.D. table.

Councilor Dwyer stated his official protest of an official in Concord dictating members of the Council be present. Chairman Mahon noted presence is mandated by State Law. Councilor Dwyer remarked he understands the necessity for their presence to count the ballots at the end of the day, etc., and he will be present for that, but to be told Councilors are required to sit at a desk for 14 hours when paid officials are put in place to be there all day long, does not seem right to him.

The following schedule was established:

Chairman Mahon:	9:00 a.m. to close
Vice Chairman Rothhaus:	7:00 – 8:00 a.m. and 3:00 p.m. or 4:00 p.m. to close
Councilor Harrington:	7:00 – 8:00 a.m. and 4:00 p.m. to close
Councilor Boyd:	7:00 a.m. (departing prior to close)
Councilor Dwyer:	4:00 p.m. to close
Councilor Flood:	9:00 a.m. – 4:00 p.m.
Councilor Koenig:	7:00 a.m. – 9:00 a.m.

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**Minutes**

Approve the minutes from the September 27, 2012 meeting.

**MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to approve the minutes of the September 27, 2012 Town Council Meeting as amended,**

**ON THE QUESTION**

*The following amendments were offered:*

Page 7, Line 21; replace the words “Vice Chairman” with the words “Councilor Boyd”

Page 7, Line 27; replace the word “He” with the words “Councilor Boyd”

Page 7, Line 30; replace the word “polls” with the word “poles”

Page 7, Line 37; replace the words “Vice Chairman Rothhaus” with the words “Councilor Boyd”

Page 8, Line 22; it was Councilor Koenig who voted in opposition

Page 14, 4<sup>th</sup> Paragraph; add to the end of the last sentence the words “, and that he was now satisfied that it was followed, based on tonight’s discussion.”

**MOTION CARRIED 7/0/0**

**Comments from the Press**

None.

**Comments from the Public**

None.

**Comments from the Council**

None.

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

**MOTION CARRIED 7/0/0**

*The October 25, 2012 meeting of the Town Council was adjourned at 10:36 p.m.*

Submitted by Dawn MacMillan