

Approved: January 10, 2013

Posted: January 11, 2013



## Town Council Meeting Minutes



Thursday, December 20, 2012, at 7:00 PM, in the Matthew Thornton 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.

*A moment of silence was observed for the tragic loss of twenty children and six adult staff members of the Sandy Hook Elementary School in Newtown, CT.*

### **Announcements**

Town Hall Offices will close at noon on Monday, December 24<sup>th</sup> and will be closed on Tuesday, December 25<sup>th</sup> in observance of the Christmas holiday. Offices will be closed on Tuesday, January 1, 2013 in observance of New Year's Day. Budget meetings are scheduled at 6:00 p.m. in the Matthew Thornton Room on Thursday, January 3, 2013 and Monday, January 7, 2013. On Thursday, January 10, 2013 a regular meeting of the Town Council is scheduled for 7:00 p.m. in the Matthew Thornton Room. On Monday, January 14, 2013 and Thursday, January 17, 2013, budget meetings are scheduled at 6:00 p.m. in the Matthew Thornton Room.

The annual food drive for local pantries continues to be a great success, and the Police Department would like to thank all for being so generous. The drive is still on-going; so feel free to donate. The Police Department's January Citizen Police Academy is full; however, they will still accept applications to have in reserve should they have anyone drop out or withdraw prior to the start date. They will also give preference to late applications for the next scheduled academy. For information, please contact Officer Kelleher.

The Library has an opening for a part-time custodian. The full job description is available on the library's website, and those interested can apply in person at the Circulation Desk. If you're hoping to receive an eReader for Christmas, Merrimack cardholders can sign up to attend an eReader workshop on January 30<sup>th</sup>. Learn how to borrow eBooks from New Hampshire Downloadable Books Consortium, a service of the NH State Library.

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

Patricia Murphy, 7 Collins Avenue

Stated she was President of the Merrimack Cardinal Football program in 1979. With her was Sue Sheridan who, at that time, was the Coach of the midget cheering team. She spoke of winning the state and regional titles and being invited to compete at the national competition in San Jose, CA. The midgets won the national title and the junior midgets were first runners up. She remarked they were as proud of them as they are of the group being recognized by the Council. She stated it has

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been 22 years since a Merrimack team has won a national title in cheering, and extended congratulations to the team, coaches, and parents for a job well done.

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

#### **1. Recognition of the Retirement of Linda P. Hall**

*Submitted by Human Resources Coordinator Sharon Marunicz*

Town Council will present a recognition plaque to Linda P. Hall in recognition of her retirement from the Town of Merrimack Town Clerk/Tax Collector's Office effective December 31, 2012. She has been employed by the Town of Merrimack since July 22, 1996.

*The Town Council recognized and thanked Ms. Hall for her dedication and service to the Town of Merrimack. Chairman Mahon spoke of Ms. Hall's contribution to the department and the community.*

#### **2. Recognition of the Retirement of Evelyn A. Gillis**

*Submitted by Human Resources Coordinator Sharon Marunicz*

The Town Council will present a recognition plaque to Evelyn A. Gillis in recognition of her retirement from the Town of Merrimack Community Development Department effective January 1, 2013. She has been employed by the Town of Merrimack since December 14, 1987.

*Chairman Mahon read, into the record, the following statement prepared by Tim Thompson, Community Development Director:*

*"All of us in Community Development are both happy for Evelyn and yet saddened to see her go. Throughout her 25+ years of service to the community Evelyn has been a model employee and a friend to us all. She departs Merrimack to begin a new chapter in her life, but leaves behind a legacy of kindness, compassion, friendliness, and commitment to her job and the community as a whole. She has worked with four different Community Development Directors and nearly thirty different staff members in the department during her tenure. In fact, she has served Merrimack since I was a 7<sup>th</sup> grader in the junior high school. Through it all, she has maintained a positive environment in the office, and as I said upon the recognition for her 25 years of service a couple of months ago, serves as the unofficial "Office Mom" for us all. We wish her nothing but the best in her retirement, and we will miss her presence in the office tremendously."*

#### **3. Recognition of the Merrimack Cardinal Midget Cheer Squad - Winners of the National Spirit Competition**

*Submitted by Town Council Chairman Tom Mahon*

The Town Council to formally recognize and congratulate the Merrimack Cardinal Midget Cheer

Squad for their achievement in taking 1st place at the Pop Warner National Cheer & Dance Championships in Orlando, Florida on December 7, 2012.

*Chairman Mahon read, into the record, the following Proclamation:*

*"WHEREAS, cheerleading promotes teamwork, dedication, and life skills to prepare participants for the future,  
WHEREAS 12 committed and talented members between the ages of 11 and 15 demonstrated what is possible when a team is focused and determined,*

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*WHEREAS the Merrimack Cardinal Midget Level IV Spirit Squad has had outstanding performances all season,*

*WHEREAS this cheerleading team has won the State Championship New England Qualifier and the New England Regional Finals; AND*

*WHEREAS on December 7, 2012 the squad competed in the 2012 Pop Warner National Cheer and Dance Championship at the ESPN Wide World of Sports Complex in Orlando, FL*

*NOW THEREFORE be it resolved that we, the Town of Merrimack, are proud in joining New Hampshire Pop Warner and the MYA Merrimack Cardinals Football Spirit Program in recognizing the Merrimack Cardinal Midget Level IV Spirit Squad as the 2012 National Champions”*

**Appointments** - None

## **Public Hearing**

*Chairman Mahon opened the public hearing at 7:20 p.m.*

### **1. New Hampshire Fish and Game Department – Packard Estates**

*Submitted by Town Council Chairman Tom Mahon*

The Town Council will hold a public hearing, in accordance with the provisions of NH RSA 231:40-:42, to discuss a request received from the New Hampshire Fish and Game Department For temporary forest management access to a parcel known as the Dumpling Brook Wildlife Management Area (Tax Map Parcel 7E/018) and to request permission to use approximately 400’ of existing access road located on abutting Tax Map Parcel 7E/017, common land of a 51-lot development known as Packard Estates, to reach a section of stream that is feasible to cross with a standard skidder bridge for the purpose of a timber harvest on the Dumpling Brook Wildlife Management Area to improve wildlife habitats on the property.

Mr. Jim Oehler introduced himself as the individual who oversees the management of Fish & Game owned property referred to as Wildlife Management Areas (WMA), and Mr. Bryan Comeau as a Forester with the New Hampshire Division of Forests & Lands. Both departments have a long history of working together to implement timber harvest on State lands to improve wildlife habitat as well as other values.

Mr. Comeau noted there is road frontage (200’) on Back River Road for trucks to use in the removal of forest products and a staging area set up in the rear of the property. Access to the harvest area is blocked by a stream/wide wetland. Proposed is for equipment to travel along an existing trail, which begins on Fish & Game property and parallels the stream onto common land. The existing trail would be followed (400’) until the stream narrows down to a spot feasible to cross (2’ in width). Crossing would be by way of a standard skidder bridge (dry bank to dry bank). Access would be temporary in nature and scheduled for next summer (one-year contract; May through November).

The harvest is projected to generate approximately \$80,000 in revenue. The Town would receive a 10% timber tax. Project duration is anticipated to be 4-6 weeks. When asked whether abutter notifications were sent via certified mail, Mr. Comeau stated the Division of Forest & Lands sends out notifications; however, he does not believe they are sent via certified mail. Notification of the Public Hearing was sent via certified mail; however, no official notification from the State. Mr. Oehler added, with all projects on State lands, notices are sent to all abutters; therefore, individuals

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residing on Packard Drive as well as all other abutters to property along Back River Road were sent notification. Notifications inform abutters of a three-week period during which comments will be accepted (prior to moving forward). No comments were received during that period. A single e-mail was received from the daughter of a resident on Packard Drive a day or two in advance of the meeting.

Town Manager Cabanel requested clarification of parcels owned by the State and those owned by Packard Estates. Mr. Comeau stated the red boundaries outlined on the map are owned by New Hampshire Fish & Game (150 acres). Private lands are not delineated on the map. The yellow dotted trail exits Fish & Game property for 400' before re-entering. That 400' is the Packard Drive common land.

When asked if an attempt was made to secure an easement, Mr. Oehler stated there is an easement on the buffer of the Dumpling Brook. The land they wish to cross is common land for a large residential development, which is without a homeowner's association; therefore, there is no single entity to contact to coordinate access with. Based on that, the decision was made to petition the Town knowing the need would exist for a Public Hearing. The easement owned by Fish & Game is from the center of the stream and parallel 75'. The existing trail is approximately 100' from the stream. Rather than place a trail within the 75' easement and have two parallel trails, the desire is to utilize the existing trail as a means of minimizing disturbance. Although the stream channel is narrow the wetland area is wide and impassable on Fish & Game property for forest management activities (heavy equipment).

When asked if the Turnpike was considered for access, Mr. Oehler stated temporary driveway permits cannot be gained off of a highway. Councilor Flood questioned where logging would occur, and was informed the proposal is from the stream north. She questioned whether there is northerly access, and was informed Fish & Game has explored access at the utility lines and has also worked with the Pointed Fish & Game Club, which abuts the property to the north; however, the stream channel to the north is a deep ravine, which is also impassable for equipment. She questioned whether consideration would be given to the construction of a semi-permanent boardwalk and bridge that would support heavy equipment and could be utilized for future projects. Mr. Comeau responded such a project would be expensive and the approach proposed minimizes environmental impacts.

The project provides an opportunity to create a habitat for a rare species; New England Cottontail. New England Cottontail requires a young forest habitat, which would be generated through timber harvest. The Town of Merrimack sits within a focus area targeted for restoration of New England Cottontails and the Dumpling Brook Wildlife Management Area is one of the few State lands in the focus area where the opportunity exists for habitat management. The project will also benefit other wildlife that has been declining for many decades. The project will open up the canopy significantly, resulting in a lot more sunlight hitting the forest floor, which will prompt new dense young growth, a 15-acre clear cut will take place on the north side of the power line outside of the trail system, which will produce the sought after dense young growth. It will add to the value of the power line, which is already young forest habitat.

Vice Chairman Rothhaus was in favor of utilizing the existing trail; however, remarked he wished there were a better means of contacting the homeowners. Mr. Oehler questioned the process by which approval would be gained, e.g., vote, etc. Vice Chairman Rothhaus remarked, prior to reading the RSA, he would have believed approval would have had to be gained by a court.

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Councilor Boyd suggested a majority vote of the 51 property owners would be needed to gain access. He spoke of a clearing just prior to the Bedford Town line, and questioned whether that option had been explored for access. The response was the area had been considered; however, the property is impassable.

Councilor Dwyer stated his opposition to the project. He commented although NH Fish & Game is the owner of the land, as a State agency that also means everyone in the room owns the land. He noted the forest serves as a buffer for the highway noise and suggested clear-cutting of the area proposed would result in bareness and scaring of the land. He remarked, out of all of the land owned by the State he is unsure why a small sliver of land in Merrimack is worthy of such attention.

Mr. Comeau stated there are very few places where New England Cottontail continues to exist in the State, and Merrimack River Valley is one of them. They are looking for every opportunity to create habitat for them in areas where it is feasible to do so. He added, their lands are dedicated to wildlife conservation, it is the mission of the Fish & Game Department to conserve the State's wildlife resources, and there is no more logical place to do that than on their own lands. The project would involve the removal of 20-40% of the tree canopy on 90 acres of the property. The area to be clear-cut would be 15 acres, and although it will look ugly for the first few years, in 4-6 years' time it will provide excellent habitat and will look much different than when initially cleared.

Councilor Koenig stated his understanding there is an existing easement that goes out 75' from the stream, and being proposed is the use of a pre-existing path 25' further from the stream, which would be improved to current or better condition at project completion. Mr. Comeau stated his understanding to be correct, and noted a performance bond is held on all contracts (\$5,000), which requires the contractor to restore the area to as good or better condition prior to leaving the site. When asked, he stated \$5,000 is sufficient by far. The alternative is for a new trail to be cut and the stream crossed within the existing easement. The end result would be two trails 25' apart, which would result in additional impact to the area. It was stated there is no cost associated with the creation of an additional trail.

Councilor Flood asked for clarification, and was informed, regardless of the decision of the Council and/or property owners with regard to access to the existing trail, the project will move forward. Councilor Flood remarked her only hesitancy is in the crossing of private property.

### Public Input

James Beaulieu, 12 Packard Drive

Noted his appreciation for the information presented and comments made; however stated his opinion what is being proposed is an injustice to the residents of Packard Estates. He remarked he cannot gain a clear understanding of the area through use of the map, despite having lived on the property for over 20 years. Based on what has been shown and explained, he is in total disagreement. He questioned where the staging area would be located, and was informed it is depicted by the red dot on the map. Mr. Beaulieu reiterated identification on the map does not provide him with a clear understanding of location, and he does not want the activity occurring in his back yard. He stated his belief the residents of Packard Estates need to be provided with additional information and a better understanding of the intent as well as an opportunity to voice concerns.

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Councilor Koenig explained the opportunity exists to move forward with the project despite objection. When asked how the project could be stopped, he explained it could not as the activity would be occurring on their land. Mr. Beaulieu suggested they could be stopped from gaining access through private land and that is what the property owners may want to do once they better understand the intention. Councilor Koenig explained they have a legal easement, which would allow for construction of a trail 25' closer to the border of the common land. What is being suggested is, instead of building a new trail closer to the stream, use an existing trail a little further away from the stream.

Councilor Harrington questioned whether Mr. Beaulieu received a letter from the State. Mr. Beaulieu stated he received a single letter a few days earlier.

Grace Beaulieu, 12 Packard Drive

Stated a letter was received from the State; however, the language used was not clear or easily understood. Mr. Oehler stated the letters sent out were the same as that sent to the Town (dated October 31, 2012).

Councilor Harrington restated the request before the Council is a petition for access to an existing trail located on common land. The planned forestry project will continue regardless of the decision rendered. Should the request be denied, a second, parallel trail would be constructed on land owned by NH Fish & Game as a means to gain access.

Mr. Beaulieu questioned the distance between the residences and the existing trail. Mr. Comeau stated his estimate would be a distance of 500-600' of untouched forested land from the back of the residences to the existing trail. He stated no harvesting would occur in the area immediately surrounding Packard Estates, and what was being requested was the ability to utilize 400' of access road on Packard Estates common land.

Ron Sloan, Packard Drive

Noted the staging area is directly behind his residence, and stated his major concern to be the area becoming a magnet for dirt bikes and ATVs once the project is completed. They are already in the area and the associated noise is a disturbance. He questioned if anything is planned to prevent this from occurring. Mr. Oehler stated they are working with the local Conservation Officer to try and bring more enforcement into the area. Public assistance is helpful as there is one Conservation Office responsible for covering multiple towns. Signs are posted on the trail stating no motorized vehicles allowed. Mr. Sloan stated neither the Conservation Officer nor the signage is effective. He stated a further concern there would be teenage parties occurring and increased target practice activity. He has walked the area for years, is very familiar with the activities that occur, is concerned with what will occur after the clearing takes place, and believes it will cause difficulties for those residing in the area.

He stated his belief access could be gained in the area of the power lines. The lines were installed utilizing heavy equipment. Two fires have occurred over the past 20 years, and fire apparatus was able to gain entry using the existing access roads. Mr. Comeau reiterated all possible access points have been explored. The area is not suitable for logging equipment, e.g., steep slopes, streams, etc.

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Mr. Sloan questioned what would be done to the area of the log yard, and was informed it would be seeded (conservation mix grass seed) and maintained every 3-5 years with a brush hog to be maintained as a grassy opening (3/4 to 1 acre).

Tim Tenhave, 72 Amherst Road

Spoke of an area in the trail that turns to the right, and noted a skidder dragging a 100' log would require much more space than a skidder alone given when it makes the turn it will cause the log to drift. He questioned whether picot points would be established, and, if so, if existing trees would be utilized and later replaced as a way to avoid the logs making the area of the turn very wide. Mr. Comeau remarked the area appears on the map to be a harder angle than it is. He noted there would be a pivot (bump) tree once the stream is crossed (within easement zone) as a means to ensure the logs turn on more of a 45 degree angle. Mr. Tenhave questioned whether the existing trail would be seeded at project completion to avoid the potential for invasive species to take hold. Mr. Comeau remarked the trail is currently down to bare dirt, and would be smoothed and cleared of brush.

When asked, Mr. Comeau clarified what was being sought was a one-year/one time access agreement. The proposed skidder bridge would be temporary in nature. Once removed brush would be cleared and the slopes of the bank stabilized.

Ron Sloan, Packard Drive

Questioned whether the existing bridge (30+ years old and makeshift) would be removed, and was informed the crossing would not be at that location.

***Chairman Mahon closed the public hearing at 8:14 p.m.***

Councilor Flood stated she would be opposed to granting access over private land without positive feedback from property owners. Vice Chairman Rothhaus stated his agreement. He remarked it is a great project and will be a benefit 5-6 years down the road, he understands the desire to cause the least amount of disturbance, and believes if provided all of the information, property owners would be agreeable to the request. He stated his preference for the request to be made of property owners.

Chairman Mahon offered to assist in the facilitation of such a meeting and suggested it may be helpful to conduct a site walk as well. Mr. Comeau questioned whether the only available option would be that of the creation of the parallel road, if they are unable to get a minimum of 26 landowners to attend a meeting and come to agreement. Chairman Mahon stated that is likely correct. He reiterated part of the concern is the landowners are not quite sure of what is being proposed. Chairman Mahon stated a desire to recess the public hearing, leaving it for another date subsequent to a meeting with the common land owners. Councilor Koenig stated, in general, he is in agreement with the suggestion; however, reiterated what is being discussed is whether or not to grant permission to utilize an existing trail located 100' from the stream versus creating a second trail that would be within 75' of the stream. If denied access to the trail, the activity will occur closer to the stream, which is environmentally more sensitive.

**MOTION made by Councilor Koenig and seconded by Councilor Boyd to table the Public Hearing until the Council's meeting of January 24, 2013. MOTION CARRIED 7-0-0**

**Legislative Updates from State Representatives** - None

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

The Town has been approved by the Federal Emergency Management Association (FEMA) for Super Storm Sandy. We should be seeing reimbursement to the Town during January 2013.

The replacement of the bridge over Baboosic Brook at Wire Road is moving right along. This week piles were driven onto each side of the brook, and these piles will hold the new bridge abutments. Completion of the bridge is expected to occur in late spring of next year (2013).

### **Consent Agenda** - None

### **Old Business**

#### **1. Six Month Review of the Long Range Planning Session**

*Submitted by Finance Director Paul T. Micali*

The Town Council to be presented with a six month review of the items discussed at the Long Range Planning Session/Retreat held on June 15, 2012.

The Council conducted a discussion around the various items believed to require focus during the upcoming year. Primex, facilitator of the discussion, generated a list of goals addressed at the retreat (copy attached), which included: Infrastructure, Financial Concerns, Capital Projects, Department-by-Department Continuing Process Improvement, Commitment of Volunteers, Communication Issues, and Emphasis on Single Stream Recycling. The list has been enhanced to include information pertaining to progress being made and/or identification of project placement within the Capital Improvements Plan or general budget (highlighted in blue).

Councilor Dwyer stated his appreciation for the timely review of discussions that occurred at the retreat. He stated a desire for the Council to provide guidance on the issue of whether or not the structure located at 15 Bishop Street "Red House" should be razed. He remarked the Council has discussed this issue for quite some time, and challenged the Council to make a decision. Councilor Dwyer also spoke of a decision being made on the razing of the dining hall located at Wasserman Park.

Councilor Boyd suggested the opportunity for slow burn training for the Fire Department. Vice Chairman Rothhaus stated he was not opposed to disposing of the Red House if it is a structure not utilized by the Town. Town Manager Cabanel responded the building is utilized (storage); however, has an issue with black mold developing. Councilor Dwyer remarked, if not willing to heat and properly maintain the building, other action should take place. He suggested a for sale sign could be placed on the property for a period of 6 months to see if any interest comes about. Chairman Mahon remarked the Town would be required to remediate. Vice Chairman Rothhaus stated he does not wish to sell the property, but was thinking of potential future use by the Town. He does not wish to allocate monies to the property, and would be in favor of disposing of it if it cannot be used as is. Councilor Flood spoke of the value of the land, and suggested it be cleared. Councilor Harrington was in agreement; however questioned whether the foundation would have to be filled in/capped. Finance Director Micali suggested the foundation could be pushed in on itself and soil used as fill. With regard to the Red House, he stated the garage structure could remain and continue to be utilized.



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The Council was in agreement the items would be placed on a future agenda for formal action, given the current agenda did not anticipate action. Town Manager Cabanel stated a desire to also include discussion and possible action on the other areas of concern at Wasserman Park. The Council was in agreement.

*The Council recessed at 9:20 p.m.*

*The Council reconvened at 9:34 p.m.*

### **New Business**

#### **1. Consideration of Changes to Chapter A198 – Administrative Code [First Reading]**

*Submitted by Fire Chief Michael Currier*

The Town Council to consider the presentation of proposed changes to Chapter A198 by the Fire Chief that reflect a recommended reorganization of the administration staff in the Merrimack Fire and Rescue Department, pursuant to Charter Article V.

Town Manager Cabanel remarked when a department loses an employment as a result of retirement, etc. the department is challenged to conduct a review of the organizational structure to determine how, if given the opportunity, duties/responsibilities could be addressed differently. The Chief has gone through that process, and is prepared to present a plan for consideration, which, if approved, would result in an approximate savings of \$15,000.

Chief Currier remarked with the retirement of the Assistant Chief, an opportunity existed to review the positions required and the needs of the department to identify the direction to pursue. Through the evaluation process, every option was exhausted. The process revealed major concerns with the ability to maintain appropriate command staff during emergencies, to increase emergency medical, fire, and rescue training, and the need to have an emergency management focus.

The final review was to investigate the department's need compared to the ability to save the Town costs associated with personnel, create viable positions throughout the Fire Department, and maintain current staffing to address the agencies major weaknesses and remain technically proficient with adequate staffing.

The reorganization plan is two-fold; replacing the current Assistant Chief and realigning that positions duties to focus more on department emergency medical, training and safety by realigning the Operations and Support Services Divisions, and putting in place additional responsibilities with the Fire Marshal to focus on Emergency Management to develop plans for emergency sheltering, warming and cooling stations along with planning and assisting the public with sand bags, informational documentation, training and safe evacuation plans as needed.

Chief Currier went over the organizational chart and noted areas where reporting structure would be adjusted. He highlighted areas of change requested to Chapter A198 – Administrative Code, as a means of achieving the proposed reorganization of the administrative staff within the department. The individual recommended changes were noted on the copy of the Code attached to the agenda.

Councilor Koenig questioned the proposed change under Article XI Section B9, Call Fire/Emergency Medical Services, Training and Safety Division, which reads: "Administer

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collective bargaining agreements and process all related grievances.”. He suggested, if intended to be the responsibility of the Assistant Chief of Support Services, the language should not appear in the area related to the division. Chief Currier noted the intent was to break it down by areas of responsibility under the Assistant Chief. He noted Section D, Fire Prevention/Fire Marshal Division, is also under the Assistant Chief, but run by the Fire Marshal. There are responsibilities of the Assistant Chief for actions of the Fire Marshal, which pertain to emergency management, but are performed by the Fire Marshal. He noted the language is consistent throughout the document whether referring to the Fire Department, Police Department, Public Works Department, etc.

Councilor Boyd questioned Section D 10, which reads: “Provide fire prevention, emergency preparedness education for the community, Emergency Management planning, implementation of pandemic planning, emergency shelters, and evacuations. Coordination of the Merrimack Local Emergency Planning Committee (LEPC) as directed by the Fire Chief or designee.” specifically why the Fire Marshal has been tasked with that terminology as opposed to an individual within the Emergency Management Division (Section C). Chief Currier explained the only individual within the Emergency Management Division is the Chief. He further explained in an emergency, Support Services would address sheltering, sand bags and that planning aspect, and working with the community and warming centers. Operations would address areas such as downed wires, blocked roads, etc. as those issues affect operations., e.g. equipment being able to get to emergency scenes.

He added the last line of the sentence addresses the Local Emergency Planning Committee, which is a group within the community for emergency planning. That emergency planning has to do with preplanning of facilities based on what they have in-house for chemicals, fire protection, fire hazards, etc., which all ties into HAZMAT response along with types of prevention during an emergency for protection of chemical spills, etc. Those areas tie in with fire protection and monitoring systems.

Councilor Boyd stated his preference would be to read through the language again to determine if there is a better way to provide the sought after alignment. Councilor Harrington stated her understanding the ultimate responsibility remains that of the Chief, but by designating an individual other than himself, the individual could spend the time much more specifically planning and investigation emergency items proactively. Chief Currier stated that to be accurate. Councilor Dwyer commented by not having an Assistant Fire Chief, more responsibilities are being placed on the Fire Marshal’s position. Councilor Boyd remarked he does not see pandemic, sheltering, emergency preparedness, etc. falling under the Fire Marshal.

Town Manager Cabanel stated there will still be two Assistant Chief positions, the Fire Marshal will get additional duties, and the second Assistant Chief will be focusing more of his efforts towards emergency, medical, training, etc., which have been discovered to be approximately 70% of the calls.

Councilor Boyd , referring to Attachment D, Job Description, Assistant Chief - Operation, questioned why a residency requirement has been assigned to Support Services and not Operations. Chief Currier stated, it was the recommendation of the Town Manager as a way to try to alleviate some of the requirement placed upon the Chief to be on call 24/7 365 days a year.

**MOTION made by Councilor Dwyer and seconded by Councilor Harrington to accept the first reading of proposed changes to Chapter A198 – Administrative Code, and move to a Public Hearing. MOTION CARRIED 7-0-0**

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## **2. Transfer Station Swap Shop Discussion**

*Submitted by Finance Director Paul T. Micali*

Town Council to decide if they would like to move forward with relocating the Swap Shop into its own building or keeping it in the Recycling Facility.

The committee established to review the Transfer Station operations consists of, Eileen Cabanel, Town Manager, Paul Micali, Finance Director, Richard Seymour, Director, Public Works Department, Steve Doumas, Foreman, Solid Waste Department, Ian Robinson, Recycling Attendant, and Rebecca Thompson, Executive Secretary.

Director Micali remarked the committee was established at a time when the tipping fee contract had two years remaining, and projections were that fees would increase from approximately \$63.00 to over \$100.00. The committee's goals were to review tipping fees and increase single stream recycling (every ton taken out of the transfer station through recycling represents savings). At the time, a small amount of revenue was being received through recycling efforts; however, at present there is an associated cost (\$5/ton). Director Micali provided the example of 500 tons moved to recycling results in a \$30,000 savings to the Town in addition to eliminating the need for transport. Negotiations began with the provider, Waste Management, and resulted in a ten-year contract with tipping fees remaining level in year one and increasing \$.95/ton in year two, and \$1/year for the next eight years. With the new contract, focus can be placed on single stream recycling (approximately 1,500 tons/year).

Director Micali noted the recycling facility is very busy on weekends, and the biggest complaint received is the amount of time spent waiting in line. In fact, according to feedback received, many do not participate in single stream because of the amount of time required. While considering ways in which the process could be made more efficient and safer for those walking around, the committee determined the biggest issue to be location. Considering relocation, the committee looked to identify an area that would not disrupt the overall traffic flow of the Transfer Station, minimize setup costs, and provide adequate parking. The area near the Transfer Station building in front of the propane tanks was determined to be the most suitable. The committee discussed the type of structure to be used, and believes the mobile class room currently located at the Highway Garage would be ideal.

Members of the committee visited other communities to see how their operations are run. Although Nashua once had a swap shop, it has been closed. Bedford's swap shop has been run successfully for the past 15 years by an independent third party. Although the swap shop could be left unattended, staff time would be needed for maintenance, etc. What other communities have experienced when leaving the area unattended is an increase in the accumulation of items the Town charges a disposal fee for.

The committee discussed various opportunities such as leasing the trailer to an individual with experience in management of a swap or consignment shop. Also discussed was the possibility of leasing to a non-profit, and although the idea was liked, there were concerns with whether the shop would be able to be open during the desired time, a commitment could be gained for a full year, it would be cost effective for such an entity to rent the facility from the Town, etc.

The operator of the Bedford swap shop was asked to come out and provide feedback on the Merrimack site. He was in agreement, out of all of the possible locations, the one selected is the most appropriate given its proximity to the Transfer Station, ample parking, and location in the

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counterclockwise flow of traffic as people move in and out of the facility. With regard to the structure, the only recommendation made was to remove the wheels so the trailer would sit directly on the ground.

The committee's recommendation is for the swap shop to be moved from its current location to a new location near the Transfer Station, that the mobile class room is utilized as the structure, and the space be leased to an independent third party to run as a business.

Also recommended is a triple net lease; whereby the Town provides the trailer and the roof, a monthly rental fee, electricity and heating costs as well as any improvements made to the inside of the trailer would be the responsibility of the lessee. The lessee would be responsible for insurance and to meet the Town's insurance requirements (Town listed as an insurer). As the individual would be running the swap shop as a business, he/she would determine whether or not to accept items dropped off/purchase items offered at a cost, and the cost associated with items for sale. The Swap Shop would be open during the majority of the Transfer Station hours.

Estimated one-time costs include providing electrical service to the trailer (\$3,500), removing the tires and minor repairs (\$500), and relocation of the trailer (\$1,000) for a total estimated cost of \$5,000. With the rental of the facility, payback on initial investment is expected to be 2 to 2 ½ years. When asked, Director Micali stated, if approved by the Council, the swap shop could be operational in the spring.

Councilor Flood was concerned the operator could be taking on a lot with very little return. Director Micali reiterated the individual operating the Bedford facility has been doing so successfully for the past 15 years. He noted the committee is in contract discussions with an experienced individual interested in leasing the swap shop. Councilor Boyd questioned the rationale for not siting the facility in the area between the scale station and salt. Director Micali spoke of a drainage easement in the area, noted the flow would be interrupted with large tractor trailers coming in and out, and the belief adequate parking would not be available. Councilor Boyd spoke of activities that occur in the area being proposed, Exchange Club, Boys Scouts, political activities, etc. Director Micali remarked, although in the general area, it would be set back against the cement railing. He added, with the running of electricity to the trailer, consideration is being given to installing closed circuit television, which could be monitored from the scale house and avoid the need to have an employee watching the area for inappropriate activity.

Vice Chairman Rothhaus stated he is pleased with the idea; however, would like to initiate the program on a trial basis (6 months/year). Councilor Dwyer thanked the committee for their work, stated his opinion the program will be successful, and suggested having an attendant on site will be key to that success. Councilor Koenig cautioned when speaking of the facility it should be referred to as the second hand shop. The swap shop is being replaced with a second hand shop, and there could be some pushback given items that were previously available at no charge will now be placed for sale at what will hopefully be a nominal fee. There is a balance in that others will be happy with the change of location, cleanliness of the site, etc.

Councilor Flood stated she would support the program providing there is a mechanism in place to alleviate the Town of its obligation should the program not be successful. She reiterated a concern with unwanted items being dropped off.

Approved: January 10, 2013

Posted: January 11, 2013

**MOTION made by Councilor Koenig and seconded by Councilor Rothhaus to authorize the Town Manager to expend an amount not to exceed Five Thousand Dollars (\$5,000) to move forward with the Transfer Station Second Hand Shop proposal. MOTION CARRIED 7-0-0**

### **3. Consideration of the Ratification of Final Contract Language with the NEPBA**

#### **Local 112 Union**

*Submitted by Town Manager Eileen Cabanel*

The Town Council to consider ratifying the final contract language of the collective bargaining agreement between the Town and the Merrimack Dispatchers and Support Staff Union, NEPBA Local 112.

Town Manager Cabanel spoke of rising costs of health insurance and noted the desire to address the issue during contract negotiations. She stated, for the public, the Town is unable to change plan offerings until current offerings are negotiated out of contracts. This year health insurance costs increased over 15%. The increase is directly related to claims history/usage (\$3.5 million/year). What was attempted during negotiations was to incentivize employees to move to a lesser plan with slighter higher office visit co- pays (\$5 to \$20) and to move away from the \$1 prescription plan, which provides the ability to pay \$1 for any prescription regardless of type

The intent behind changing plan offerings is not only to reduce premium costs, but to encourage subscribers to take a more active role in their healthcare and associated costs, e.g., understand costs associated with services, choose generic drugs, etc. The Town is also participating in the Compass SmartShopper program , a pilot program through the Local Government Center. Ten communities are currently participating, two of which are the Town of Merrimack and the Merrimack School District. Through this program, subscribers shop for needed services, e.g., MRIs, etc., costs of which can vary significantly from facility to facility. If a subscriber shops services and chooses to utilize the lesser cost provider, he/she is provided with a cash incentive.

With regard to the contract before the Council, Town Manager Cabanel stated the three-year agreement calls for a wage increase of \$500/year for each year of the contract. At the start of the third year the co-pay for a doctor's visit would increase to \$20 and the current \$10/\$20/\$30 prescription co-pays would increase to \$10/\$20/\$45.

Town Manager Cabanel stated many unions are contributing 2% of their income towards health insurance, e.g. could be contributing \$600 towards a \$30,000 plan. The intent behind all contract negotiations is to get all unions to a minimum contribution level of 10% of plan cost. This particular group already contributes 10%.

Contract costs are: wage increases \$7,019, step increases; 1<sup>st</sup> year \$6,500, 2<sup>nd</sup> year \$9,800, 3<sup>rd</sup> year \$0, and a health insurance savings of \$13,559 resulting in a total contract cost of \$23,935.

When asked, she explained every \$29,000 increase in the budget results in a \$.01 impact on the tax rate. Councilor Koenig remarked although the contract does provide some additional contribution towards healthcare costs, any change is postponed until the third year. He noted the cost of healthcare has been the biggest topic of discussion for the past several years and specifically the past 6 months, and he had hoped to receive more support from the union.

**MOTION made by Councilor Harrington and seconded by Councilor Rothhaus to ratify the tentative agreement with the NEPBA Local 112 Police Dispatchers and Support Staff Union**

Approved: January 10, 2013

Posted: January 11, 2013

**so that the tentative agreement may be placed on the Warrant for voter approval at Town Meeting.**

### ON THE QUESTION

Councilor Dwyer stated he would not be supporting the motion. He explained the country now has a national healthcare plan, unintended consequences of which have yet to be seen. As he believes the next year or year and a half will reveal a great deal, he would not want to tie the Town into a three-year contract at this time.

Councilor Boyd stated he would have liked to have seen more of a commitment (perhaps beginning in the second year of the contract); however, shares concerns expressed with regard to achieving some concession in the area of healthcare. Councilor Harrington agreed; however, stated without the user of services having more skin in the game, claims and associated costs will continue to rise. She noted without a new contract in place, the terms of the current contract would remain in effect.

Councilor Flood remarked the contract would establish a greater portion of the cost to the employee beginning in year 3 of this contract and moving forward from that point. Councilor Boyd commented since his time on the Council it has been difficult to absorb a \$1 prescription charge. He believes the contract represents an acknowledgement by this particular union they are willing to accept that and it sets the tone for future discussions as contracts are reviewed. He stated he would support the contract because of the healthcare concession and the acknowledgement of shared responsibility as it relates to prescriptions.

### **MOTION CARRIED 5-2-0**

*Councilors Koenig & Dwyer voted in opposition.*

### **Minutes**

Approve the minutes of the November 24, 2012 Special Town Council meeting.

### **MOTION made by Councilor Rothhaus and seconded by Councilor Boyd to approve the minutes of the November 24, 2012 Special Town Council Meeting as presented. MOTION CARRIED 6-0-1**

*Councilor Harrington Abstained*

### **Comments from the Press** - None

### **Comments from the Public** - None

### **Comments from the Council**

Councilor Boyd thanked the Merrimack Patch for the story about the Merrimack Police Department 2011 report. For communities with more than 10,000 people, Merrimack has the lowest crime rate in New Hampshire. He remarked as well as being a testament to Chief Doyle and the Merrimack Police Department it is the commitment the community has made to being vigilant policing their neighborhoods, other areas they frequent, and making sure they are reaching out to the Crime Line. He encouraged community members to continue to be vigilant in their efforts to bring to the attention of the proper authorities anything that appears to be out of the ordinary.

Approved: January 10, 2013

Posted: January 11, 2013

He expressed his gratitude to the Firefighters' Union, and remarked once the council made the policy decision of placing the dog park at Wasserman Park, the Firefighters' Union made a \$500 contribution to the dog park. He thanked them for their continued commitment to quality of life issues in Merrimack. Councilor Boyd commended the organizers of the prior Saturday's Toys for Tots Road Race.

Councilor Boyd remarked he and Councilors Rothhaus and Koenig had the opportunity to participate to serve on the Planning Board and to work with Evelyn Gillis. He extended his personal gratitude for her contributions to the Community Development Department and the Town of Merrimack, and wished her the very best in her retirement. He extended his prayers and thoughts to the residents of Newtown, CT, and wished his colleagues and residents of Merrimack s happy holiday.

Councilor Dwyer wished a very Merry Christmas and Happy Hanukkah to the residents of Merrimack. Councilor Flood noted the Lioness Club has worked with the Welfare Department in providing assistance to 92 families this holiday season, and expressed her gratitude.

Vice Chairman Rothhaus informed the Council and the public the owner of D.W. Diner purchased a television to raffle off. The raffle raised \$5,000, which the waitresses used to purchase clothes, blankets, sheets, etc. for children at the Nashua Children's Home.

Councilor Koenig noted he attended the Nashua Regional Planning Commission quarterly meeting the prior evening at which information received on surveys was presented. The website, [Nashuarpc.org](http://Nashuarpc.org), has a link to the Granite State Future program and survey information.

**MOTION made by Councilor Koenig and seconded by Councilor Harrington to adjourn the meeting. MOTION CARRIED 6-0-1**

*Councilor Boyd Abstained*

*The December 20, 2012 meeting of the Town Council was adjourned at 10:58 p.m.*

Submitted by Dawn MacMillan