



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, including back up information, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: July 9, 2019

Date of Meeting: July 18, 2018

Submitted by: Town Manager Eileen Cabanel

Department: General Government

Time Required: 20 minutes

Speakers:

Background Info. Supplied: Yes: No:

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
Public Hearing:	<input type="checkbox"/>	Old Business:	<input checked="" type="checkbox"/>
New Business:	<input type="checkbox"/>	Consent Agenda:	<input type="checkbox"/>
Nonpublic:	<input type="checkbox"/>	Other:	<input type="checkbox"/>

TITLE OF ITEM

John O'Leary Adult Community Center Agreement [Tabled during the June 13 & June 27, 2019, Town Council meetings]

DESCRIPTION OF ITEM

The Town Council to consider renewing the lease agreement with the John O'Leary Adult Community Center.

REFERENCE (IF KNOWN)

RSA: _____ Warrant Article: _____
 Charter Article: _____ Town Meeting: _____
 Other: _____ N/A

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:	<input type="checkbox"/>	Grant Requirements:	<input type="checkbox"/>
Easel:	<input type="checkbox"/>	Joint Meeting:	<input type="checkbox"/>
Special Seating:	<input type="checkbox"/>	Other:	<input type="checkbox"/>
Laptop:	<input type="checkbox"/>	None:	<input type="checkbox"/>

CONTACT INFORMATION

Name: Eileen Cabanel Address: 6 Baboosic Lake Road
 Phone Number: 424-2331 Email Address: ecabanel@merrimacknh.gov

APPROVAL

Town Manager: Yes No: Chair/Vice Chair: Yes No:

AGREEMENT

This agreement entered into this ____ day of _____, 20__, between the Town of Merrimack, a municipal corporation of the State of New Hampshire with a mailing address of 6 Baboosic Lake Road, Merrimack, New Hampshire 03054 ("Town") and the John O' Leary Adult Community Center, Inc., a non-profit corporation organized in accordance with the laws of the State of New Hampshire with a mailing address of P.O. Box 10, Merrimack, New Hampshire 03054 ("Center").

Whereas, the Town owns a building which is located on Church Street in Merrimack and which has been known as the "John O' Leary Adult Community Center" ("Premises"); and whereas, the Town is desirous of providing a facility for activities of Merrimack adults and senior citizens; and whereas, the Center proposes to lease the Premises and to manage the use of the Premises for activities of Merrimack adults and senior citizens;

Now, therefore, it is mutually agreed as follows:

1. That, for the Term of this agreement, the Town shall demise and lease to the Center the Premises, and the Center shall hire and let from the Town the Premises.
2. That, in consideration of the aforesaid leasing, the Center shall pay to the Town the amount of one dollar (\$1.00) as rent.
3. That the Center shall not permit any activities on the Premises which will result in an unreasonable disturbance of the peaceable use and enjoyment of adjacent properties.
4. That the Center shall not allow the Premises to be used for any purpose which is in violation of any federal, state, or local laws, ordinances, rules, or regulations, including but not limited to zoning, subdivision, and land use laws and regulations.
5. That, without the express written consent of the Town, the Center shall not obligate the Town for any debt or expense nor hold itself out to the public as having the ability to do so.
6. That, without the express written consent of the Town, the Center shall make no material alteration or improvement to the Premises or install any sign on the exterior of the Premises. For purposes of this agreement, a material alteration or improvement to the Premises shall be defined as one that would generally require a building permit.
7. That the Center, at its own expense, shall be responsible for: the general cleaning of the Premises; providing all operating and janitorial supplies related to the use of the Premises; ~~removing snow and ice from steps, ramps, paths, and entryways;~~ and providing all necessary utilities, including water, sewer, heat, electricity, and telephone.
8. That the Town, at its own expense, shall be responsible for: the maintenance of the interior and exterior of the Premises and appurtenances thereto, including but not limited to the repair and/or replacement of the roof, vinyl siding, walls, floors,

foundation, windows, doors, steps, ramps, plumbing and electrical systems, carpeting, heating and air conditioning systems, and lighting fixtures; the repainting and papering of interior walls when determined by mutual agreement to be needed; **landscaping**; the removal of snow and ice from parking areas and **from steps, ramps, paths, and entryways** of the Premises; and the weekly collection of rubbish and trash.

9. The Center, at its own expense, shall purchase comprehensive/commercial general liability insurance coverage, or its relative equivalent, in the amount of \$1,000,000 covering the Center, its operations, officers and volunteers, equipment, and the Town against any claims for money or property damages resulting from operation and/or use of the Premises, related programs, and any other permitted uses of properties owned by the Town and others while under the control, use or occupation by the Center or its patrons, invitees or guests; with property coverage in a sufficient amount to protect against the loss of, or damage to, the Premises and any equipment or supplies owned by the Center regardless of location. All such insurance coverage shall list the Town of Merrimack as an additional insured.
10. That, in consideration of the services to be provided by the Center, the Town shall annually pay to the Center the related amount specifically provided in the Town's operating budget for this purpose. Said annual amount shall be payable in four equal installments on the first Friday of each calendar quarter.
11. That, immediately upon the official request of the Town's Emergency Management Director, use of the Premises shall be temporarily relinquished to the Town for whatever use and term is deemed appropriate by the Emergency Management Director. Any Adult Community Center programs previously scheduled shall be cancelled if, in the sole discretion of the Emergency Management Director, it interferes with the use of the Center for emergency purposes. There shall be no charge to the Town for said use, but the Town shall reimburse the Center for any direct expenses that the Center incurs relative to said use.
12. That the Town, at its sole expense, may construct shower facilities in the Center for the primary use during an emergency.
13. That the Town shall be permitted other occasional use of the Premises, so long as said use does not conflict with activities which have previously been scheduled. There shall be no charge to the Town for said use, but the Town shall reimburse the Center for any direct expenses that the Center incurs relative to said use.
14. That the Center shall provide by each October 15 the following financial statements prepared on an accrual basis: a balance sheet as of the preceding June 30; a statement of revenues, expenditures, and changes in equity for the year ended on the preceding June 30; a statement of estimated revenues and expenditures for the current fiscal year (July 1 through June 30); and a proposed operating budget for the succeeding fiscal year that includes a schedule of the estimated revenues to be received from donations, rentals, contractual payments by the Town, and other sources.
15. That the Town will not assess any real estate taxes upon the Premises.

16. That the Center shall permit the Town to enter the Premises at any reasonable time to inspect the same or to make those repairs, additions, and alterations thereto as may be necessary for the safety or preservation thereof or as may be required for compliance with the terms of this agreement.
17. That the Premises are currently in good condition and that, upon the expiration or termination of this agreement, the Center shall remove all signs installed on the exterior of the Premises and repair any damage or defacement to the Premises so as to restore the Premises to the current condition less any reasonable wear and tear.
18. That, within ten calendar days of a request by the Town, the Center shall make available for audit any records that may relate to the agreement.
19. That this agreement shall be effective for the three-year period beginning on July 1, 2019 and ending on June 30, 2022 ("Term").
20. That this agreement shall be deemed to be made, and shall be interpreted and construed, in accordance with the laws of the State of New Hampshire. This agreement shall be binding upon each of the parties, their successors, and permitted assigns. Any disputes that may arise relative to the terms and provisions of this agreement shall be submitted to the American Arbitration Association for resolution, and related hearings shall be bound by the rules of the American Arbitration Association.
21. That, notwithstanding any of the provisions hereof, the parties hereinafter may mutually agree to written modification of this agreement.
22. That this agreement may not be assigned without the express written consent of the Town.
23. That, in the event that the Center shall violate, or shall fail to perform in accordance with, the terms and provisions of this agreement, the Town may declare this agreement to be immediately terminated. The provisions of this paragraph shall supersede those of paragraph 18.

TOWN OF MERRIMACK

 Eileen Cabanel
 Town Manager

John O' Leary Adult Community Center

 President

 Witness

 Witness

Approved: June 27, 2019
Posted: June 28, 2019

MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to approve the acceptance and expenditure of a donation of Four Hundred Fifty Dollars (\$450.00) from Bear Christensen Trust to the Parks and Recreation Department to be used towards the Summer Camp Scholarship Fund, pursuant to RSA 31:95-b and Charter Article 8-15

ON THE QUESTION

Town Manager Cabanel noted the Bear Christensen Trust donates funds each year to allow children, who might otherwise not be able to, to participate in summer camp.

The Council expressed its gratitude for the continued support.

MOTION CARRIED 6-0-0

4. John O’Leary Adult Community Center Agreement

Submitted by Town Manager Eileen Cabanel

The Town Council to consider renewing the lease agreement with the John O’Leary Adult Community Center.

Town Manager Cabanel noted the existing three-year agreement expires on June 30th. The agreement outlines the relationship between the Town of Merrimack and the John O’Leary Adult Community Center, Inc. (Center). The agreement provides the facility at a cost of \$1.00, and permits the Center to rent the facility for various uses, e.g. Meals on Wheels. The agreement outlines the responsibilities of each entity in regard to maintenance, insurance, etc.

She spoke of an email received from the Center requested the Agreement include, within the responsibilities of the Town, the shoveling of walkways and stairs, landscaping, and attending to overgrown bushes.

Chairman Koenig noted the agenda packets included a copy of the current agreement. Town Manager Cabanel stated a new agreement would be prepared and provided to the Council for approval.

Chairman Koenig questioned if the requirement for the Center to provide financial statements is being adhered to. Assistant Town Manager/Finance Director Micali stated the Town provides the Center approx. \$22,576 a year. To conduct an audit would cost nearly that much. What the Center has been doing is utilizing an audit committee. The Town is provided access to their bank statements and financial records. The information is provided to the Town and the Financial Department conducts a review.

Councilor Albert stated agreement with the additional requested items, and noted the benefit the Center is to the Town. Councilor Healey suggested the Merrimack Garden Club may be able to assist in the beautification aspects.

MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to table the item until the June 27, 2019 meeting. MOTION CARRIED 6-0-0