



# 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 the requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

### MEETING INFORMATION

Date Submitted: January 17, 2020      Date of Meeting: February 27, 2020  
 Submitted by: Jennifer Reczek      Time Required: 15 minutes  
 Department: NH Dept. of Transportation      Background Info. Supplied: Yes  No   
 Speakers: Jennifer Reczek, Project Manager

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

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
<b>Public Hearing:</b>	<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

Update on NH101A project

### DESCRIPTION OF ITEM

The purpose of attending this meeting is to brief the Town Council on changes to the project as a result of public input. Work will be limited to improvements at the intersection of NH 101A and Continental Boulevard and intersection of Boston Post Road and Craftsman Lane.

### REFERENCE (IF KNOWN)

RSA:      Warrant Article:  
 Charter Article:      Town Meeting:  
 Other:      N/A:  
                  NHDOT  
                  Project  
                  Merrimack  
                  10136D

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

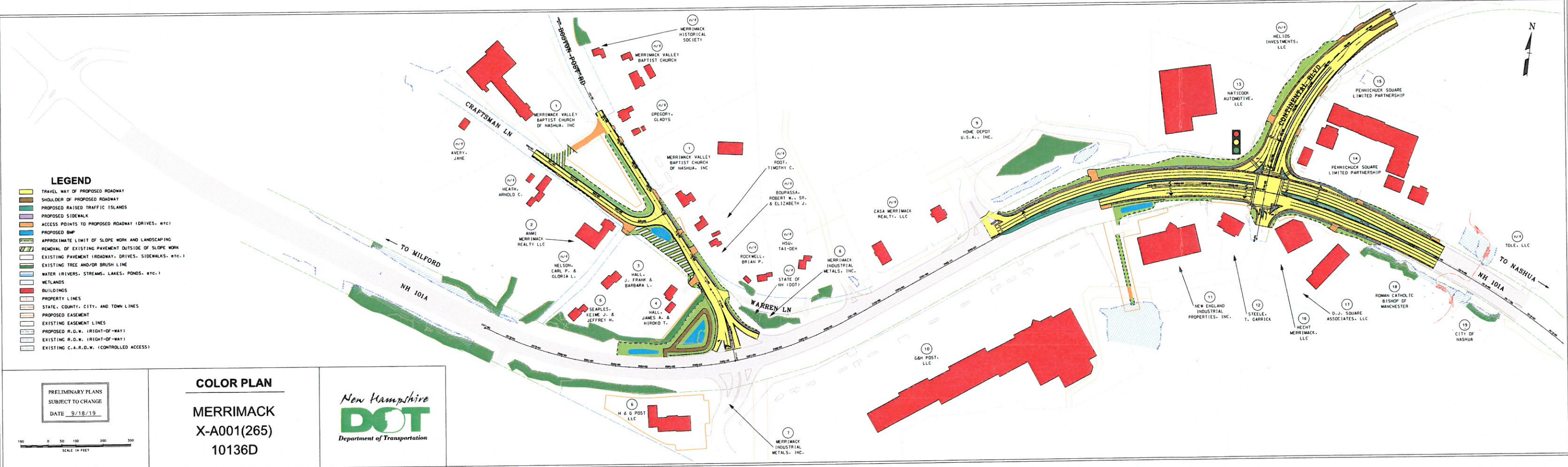
Projector:	<input type="checkbox"/>	Grant Requirements:	<input type="checkbox"/>
Easel:	<input type="checkbox"/>	Joint Meeting:	<input type="checkbox"/>
Special Seating:	<input type="checkbox"/>	Other:	<input type="checkbox"/>
Laptop:	<input type="checkbox"/>	None:	<input type="checkbox"/>

### CONTACT INFORMATION

Name:      **Jennifer Reczek**      Address:      **7 Hazen Dr., PO Box 483,  
 Concord, NH 03302-0483**  
 Phone Number:      **271-3401**      Email Address:      **Jennifer.Reczek@dot.nh.gov**

### APPROVAL





**LEGEND**

- TRAVEL WAY OF PROPOSED ROADWAY
- SHOULDER OF PROPOSED ROADWAY
- PROPOSED RAISED TRAFFIC ISLANDS
- PROPOSED SIDEWALK
- ACCESS POINTS TO PROPOSED ROADWAY (DRIVES, #10)
- PROPOSED BMP
- APPROXIMATE LIMIT OF SLOPE WORK AND LANDSCAPING
- REMOVAL OF EXISTING PAVEMENT OUTSIDE OF SLOPE WORK
- EXISTING PAVEMENT (ROADWAY, DRIVES, SIDEWALKS, ETC.)
- EXISTING TREE AND/OR BRUSH LINE
- WATER (RIVERS, STREAMS, LAKES, PONDS, ETC.)
- WETLANDS
- BUILDINGS
- PROPERTY LINES
- STATE, COUNTY, CITY, AND TOWN LINES
- PROPOSED EASEMENT
- EXISTING EASEMENT LINES
- PROPOSED R.O.W. (RIGHT-OF-WAY)
- EXISTING R.O.W. (RIGHT-OF-WAY)
- EXISTING C.A.R.O.W. (CONTROLLED ACCESS)

PRELIMINARY PLANS  
SUBJECT TO CHANGE  
DATE 9/18/19

**COLOR PLAN**  
**MERRIMACK**  
**X-A001(265)**  
**10136D**







# TOWN COUNCIL – AGENDA REQUEST FORM

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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: October 4, 2018      Date of Meeting: **October 11, 2018**  
 Submitted by: Town Council Chairman Finlay  
 Rothhaus  
 Department:      Time Required: 20 minutes  
 Speakers: Public Works Director Kyle Fox      Background Info. Yes:  No:   
 Supplied:

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

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
<i>Public Hearing:</i>	<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

101A Widening Project Sidewalk Discussion

## DESCRIPTION OF ITEM

The Town Council to discuss whether a sidewalk is warranted on the property near Home Depot.

## 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: **Finlay Rothhaus**      Address: **6 Baboosic Lake Road**  
 Phone Number:      Email Address: **frothhaus@merrimacknh.gov**

## APPROVAL

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

Hold for Meeting Date: \_\_\_\_\_





**TOWN OF MERRIMACK  
INTER-DEPARTMENT COMMUNICATION**

**DATE:** May 24, 2016

**AT (OFFICE):** Department of Public Works

**FROM:** Kyle Fox  
Director of Public Works

**SUBJECT:** Merrimack 101A Widening Project - Sidewalks

**TO:** Eileen Cabanel  
Town Manager

The New Hampshire Department of Transportation hosted a Public Hearing on September 2018 regarding the proposed widening of Route 101A in Merrimack from Boston Post Road to Continental Boulevard along with related improvements to Craftsman Lane. The project is known as Merrimack 10136D and is part of the larger plan to create additional capacity along the Route 101A corridor from Milford to Nashua.

The primary focus of the project is to increase the capacity of 101a eastbound by adding a third travel lane, and to improve flow through the 101A/Continental Boulevard intersection by adding additional left and right turning lanes. The Route 101A Corridor Study also recommended including sidewalks on the north and south sides of 101A for the length of the project. The existing sidewalk that runs the length of the project on the north side is proposed to remain in place except for the area of widening for the Continental Boulevard improvements where the sidewalk would be reconstructed in the new location.

The Merrimack Public Works Department currently maintains the existing sidewalk each year by sweeping the winter sand from it, cutting vegetative growth around it, and plowing it as storm duration and frequency allow in the winter months.

There has been discussion of the need or want of the proposed sidewalk on the south side of 101A along the frontage of Connections. The Public Works Departments undertook a review of the need for the sidewalk with the following comments:

- Other than connections, there are no other businesses on the south side of 101A in Merrimack; the nearest businesses to the west are located in Amherst, west of the Craftsman Lane intersection. Hall Avenue is the lone residential road on the south side of 101A and has six residences on it.
- Connections has stated publicly that they feel sidewalks would encroach upon the slope to their facility (the road sits above the facility parking lot and buildings)
- As mentioned above, we currently maintain the existing sidewalk on the north side of 101A and do receive service calls when the growth gets too high, signaling to us that the walk is used.
- Should the sidewalk be constructed, we do have the capacity to include the additional maintenance within our current workload.



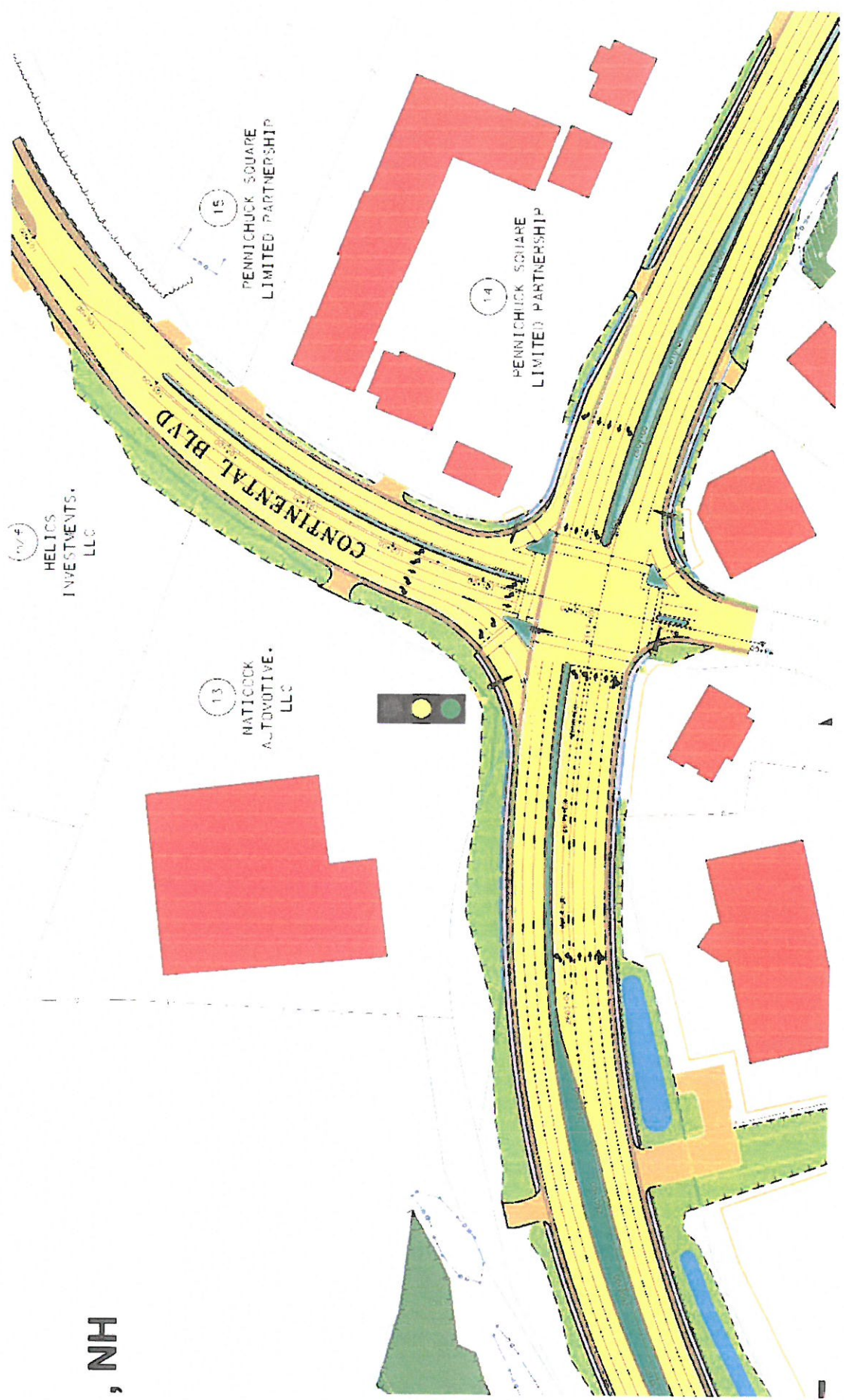
- Not including the sidewalk on the southern side may result in the removal of the pedestrian crossing of 101A at Craftsman Lane as there would be no sidewalk to connect to; pedestrians would have the opportunity to follow the northern sidewalk and cross at the Continental Boulevard intersection.

A plan showing the proposed improvements is attached to this memo. Should you have any questions please let me know.

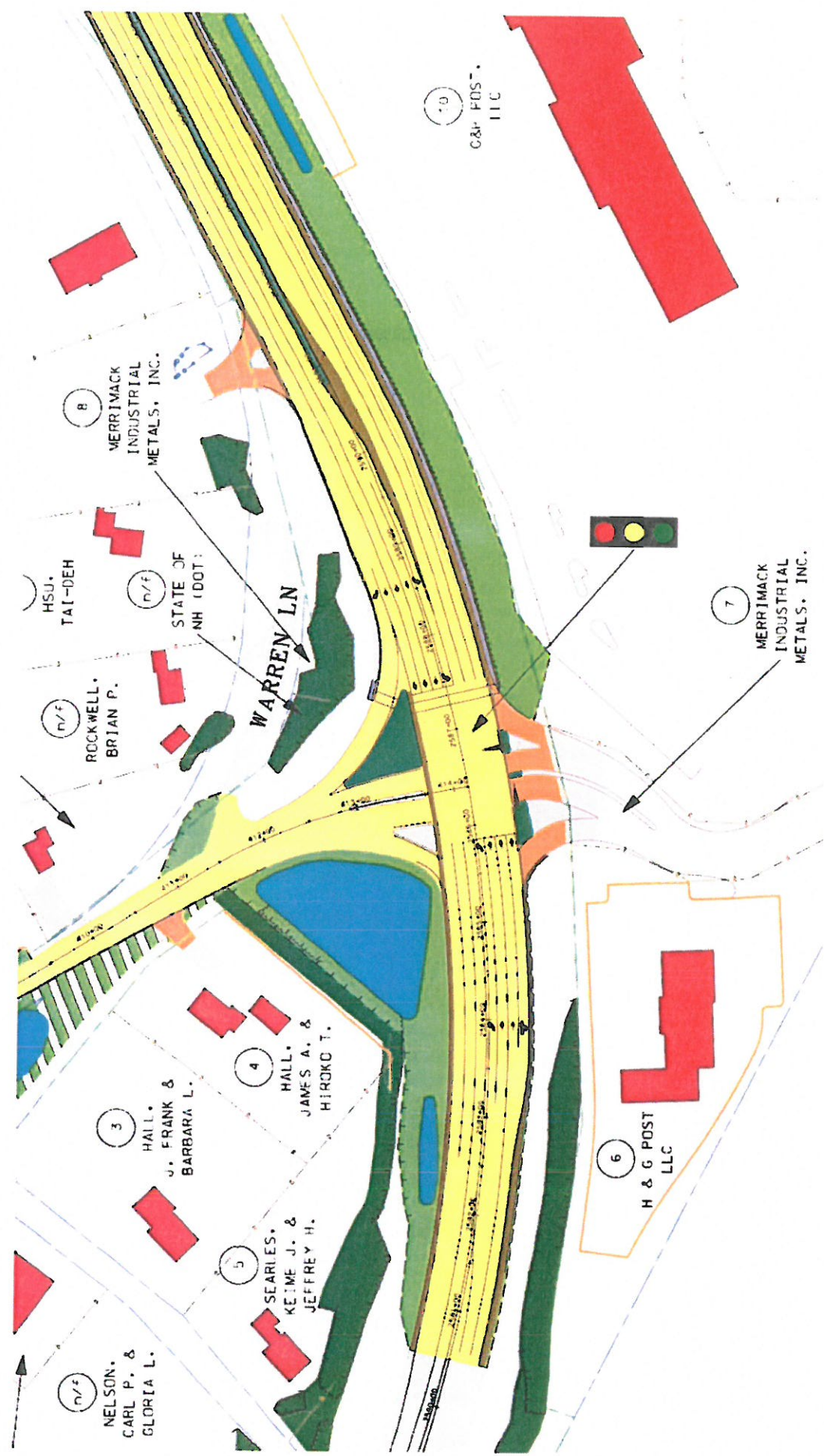
CC: Paul Micali, Finance Director/Assistant Town Manager  
Dawn Tuomala, Deputy Director/Town Engineer  
File



, NH





























# LEGEND

	TRAVEL WAY OF PROPOSED ROADWAY
	SHOULDER OF PROPOSED ROADWAY
	PROPOSED RAISED TRAFFIC ISLANDS
	PROPOSED SIDEWALK
	ACCESS POINTS TO PROPOSED ROADWAY (DRIVES, etc.)
	PROPOSED BMP
	APPROXIMATE LIMIT OF SLOPE WORK AND LANDSCAPING
	REMOVAL OF EXISTING PAVEMENT OUTSIDE OF SLOPE WORK
	EXISTING PAVEMENT (ROADWAY, DRIVES, SIDEWALKS, etc.)
	EXISTING TREE AND/OR BRUSH LINE
	WATER (RIVERS, STREAMS, LAKES, PONDS, etc.)
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	PROPOSED EASEMENT
	EXISTING EASEMENT LINES
	PROPOSED R.O.W. (RIGHT-OF-WAY)
	EXISTING R.O.W. (RIGHT-OF-WAY)
	EXISTING C.A.R.O.W. (CONTROLLED ACCESS)

Approved: October 25, 2018

Posted: October 29, 2018

#### 4. 101A Widening Project Sidewalk Discussion

Submitted by Town Council Chairman Finlay Rothhaus

The Town Council to discuss whether a sidewalk is warranted on the property near Home Depot.

Councilor Wheeler stated a Public Hearing was conducted on the 101A widening project and the relocation of the intersection of Craftsman Lane and Boston Post Road. Most agreed with the realignment of Craftsman Lane making it into a T shaped intersection. The State is in discussion with the church about the cut-thru road. They want to make sure they can get their buses in and out of the school in an orderly fashion. Most were in favor of the project that adds turning lanes; one eastbound into where the apple pie place was and if coming westbound onto Continental Boulevard, a dedicated turning lane there and improvements in turning into St. John Neumann or Friendly's.

The sidewalk issue came up and is one of the biggest issues. If the State builds it, they expect the town to maintain it. There is an existing sidewalk in front of the Harley Davidson dealer, crosses the Home Depot entrance, goes in front of the Dunkin Donuts and Pizza Hut. West of that the brush hasn't even been cut and the sidewalk is very narrow. The proposal is to put a sidewalk on the PC Connection side of the roadway as well. He questioned the will of the Council relative to having a sidewalk installed that the town would have to maintain. PC Connection has concerns relative to their parking lot and has sent a letter requesting the special committee delay its decision. It is important to note the grassy area that abuts 101A is mostly State owned. The proposal includes the installation of stormwater treatment swales, which he does not believe PC Connection is enamored with. It would affect that nice grassy green hill. Even the trees that are there are on State property. PC Connection puts a good amount of their snow there from plowing their parking lot, which they could not do if there were water treatment swales there.

Councilor Boyd expressed vehement opposition to the sidewalk on the south side, an objection he raised at the NRPC about a year and a half ago. Focus should be on connectivity between Craftsman Lane and Continental Boulevard connecting up with Naticook Road. If you want people to use that sidewalk, you have a unique opportunity to connect two neighborhoods by extending those improvements to Craftsman Lane; putting a sidewalk there, and then doing the same thing down by Talarico going eastbound on the northbound side of Continental Boulevard connecting up with Naticook Road. It connects two neighborhoods and the crosswalks that are proposed at the intersection of 101 and Continental by St. John Neumann. He would not want the community to assume responsibility for a sidewalk that nobody will use.

Councilor Thornton stated PC Connection has 1,000 employees. They are a good company for the community. He spoke of the speed of the traffic and his belief the sidewalk would not be used. He does not want to connect that sidewalk for people walking into Nashua.

Councilor Albert stated agreement with the remarks of his colleagues. Chairman Rothhaus stated agreement with the comments regarding the southern side of the road.

Councilor Koenig stated he would argue for the sidewalk, but that is because he knows a lot of people at PC Connection do walk. They are constantly looping around the St. John Neumann church. He suspects they might use that sidewalk and loop around their parking lot. If we don't get sidewalks when the opportunity exists we will never get sidewalks there. He believes the town has the capacity



Approved: October 25, 2018

Posted: October 29, 2018

and capability to address the maintenance requirements. He agrees with Councilor Boyd that the sidewalk should be extended completely on the other side of the road to make those connections.

Councilor Wheeler remarked it could still stay in the plan that there be a signalized crossing from the PC Connection entrance over towards Craftsman Lane and a short section of sidewalk from the western Home Depot entrance. You get just around the corner to Craftsman Lane and there already is another short section of sidewalk there that could be connected to. The other possibility is in the design, if you want to leave the space for the sidewalk for the future, that could be done as well.

Representative Barry stated agreement commenting part is because of what PC Connection said during the last hearing; it is not just that they have kept it as a nice place (their existing sidewalk), but also the berm of it goes back into the parking lot. They are worried about there being granite in the area and stated a concern should granite be found and there be the need to dig it up as part of the sidewalk construction, there is the possibility they could lose their connection to the outside world, e.g., internet, electric. Were that to happen for a single day, it would result in a significant loss in revenue.

*There being no objection, the Council went out of the regular order of business to take up Item #s 1, 2, and 3 under New Business.*

**1. Donation to Merrimack Police Department**

Submitted by Captain Brian Levesque

Town Council to consider the acceptance and expenditure of a donation in the amount of \$142 from the campers at Naticook Day Camp to the Merrimack Police Canine "Dallas", pursuant to RSA 31:95-b and Charter Article 8-15.

Captain Brian Levesque, Merrimack Police Department, stated the donation to be from the Naticook Day Camp. A demo was done during the July camp. The parents wished to do something for the program and donated to the department.

**MOTION made by Councilor Albert and seconded by Councilor Boyd to approve the acceptance and expenditure of a donation in the amount of One Hundred Forty Two Dollars (\$142) from the campers at Naticook Day Camp to the Merrimack Police Canine "Dallas", pursuant to RSA 31:95-b and Charter Article 8-15. MOTION CARRIED 7-0-0**

**2. Donation to Merrimack Police Department**

Submitted by Captain Brian Levesque

The Town Council to consider the acceptance and expenditure of a donation in the amount of \$520 from Theodore Curtis and friends to the Merrimack Police Department's Special Investigation Unit, pursuant to RSA 31:95-b and Charter Article 8-15.

Captain Levesque commented Mr. Curtis was a Detective/Police Office form 1983-2004. He has been residing in town since and has always been a huge supported of the Police Department. His focus has always been helping the department and community safety.

Ted Curtis, 21 Savannah Way





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**days prior to the requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

## MEETING INFORMATION

Date Submitted: June 14, 2018      Date of Meeting: June 28, 2018  
Submitted by: Jennifer Reczek      Time Required: 20 minutes  
Department: NH Dept. of Transportation      Background Info. Supplied: Yes  No   
Speakers: Jennifer Reczek, Project Manager

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

Appointment:       Recognition/Resignation/Retirement:   
*Public Hearing:*       Old Business:   
New Business:       Consent Agenda:   
Nonpublic:       Other:

## TITLE OF ITEM

Update on NH101A widening project

## DESCRIPTION OF ITEM

Design for this project has resumed and the Department is working toward a Public Hearing in fall 2018. The purpose of attending this meeting is to present the Town Council with a review of the project, which was initiated in 2010 and presented at a Public Informational meeting on July 27, 2015. This project also includes intersection improvements at Boston Post Road and Craftsman Lane. A draft agreement that will grant the Department the authority to manage this work on Town roads has been provided for review and comment by the Town.

## REFERENCE (IF KNOWN)

RSA:      Warrant Article:  
Charter Article:      Town Meeting:  
Other:      N/A:  
                    NHDOT  
                    Project  
                    Merrimack  
                    10136D

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

Projector:       Grant Requirements:   
Easel:       Joint Meeting:   
Special Seating:       Other:   
Laptop:       None:

## CONTACT INFORMATION

Name: Jennifer Reczek      Address: 7 Hazen Dr., PO Box 483,  
Concord, NH 03302-0483



## Becky Thompson

---

**From:** Reczek, Jennifer <Jennifer.Reczek@dot.nh.gov>  
**Sent:** Thursday, June 14, 2018 4:29 PM  
**To:** Becky Thompson  
**Subject:** Request to be placed on Town Council agenda  
**Attachments:** town\_council\_agenda\_request\_06282018.doc; 10136D Municipal Agreement draft 06142018.doc; mwza.docx

Hi Becky,

I have completed the agenda request form, with the exception of category of business, please put me in the place that makes the most sense. As discussed this morning, I will be providing a brief history of the project, explaining the work that we are proposing and giving a look at our future schedule.

The two things that I am looking for input from the council on are whether or not they would like another Public Informational meeting held ahead of the Public Hearing and any input on the draft municipal project agreement that I have attached. This does not have to be the final version, I will be happy to answer any questions and take comments about potential revisions. The Municipal Work Zone Agreement is a standard agreement that the Department requests when we have an upcoming project in a Town of City. It that acknowledges our ability to control traffic in construction work zones, and is referenced in the larger project agreement.

Please let me know if you need any additional information from me.

Thank you,  
Jennifer

Jennifer E. Reczek, P.E.  
Project Manager  
NH Department of Transportation  
7 Hazen Drive, P.O. Box 483  
Concord, NH 03301-0483  
603-271-3401  
[Jennifer.Reczek@dot.nh.gov](mailto:Jennifer.Reczek@dot.nh.gov)

**PROJECT AGREEMENT  
FOR  
MERRIMACK  
X-A001(256), 10136D  
WIDENING OF NH 101A AND IMPROVEMENTS AT CRAFTSMAN LANE**

THIS AGREEMENT, executed in *duplicate*, is made this \_\_\_\_\_ day of \_\_\_\_\_, 2018 by and between the State of New Hampshire, Department of Transportation, hereinafter called the "DEPARTMENT", and the Town of Merrimack, hereinafter called the "TOWN".

WITNESSETH that,

WHEREAS, the DEPARTMENT intends to construct a project in Merrimack along NH 101A, currently identified as a federally-funded roadway project, Merrimack 10136D, which includes widening and overlay of NH Route 101A from Boston Post Road through the Continental Boulevard intersection, improvements to the intersection of Craftsman Lane and Boston Post Road, and construction of sidewalks, which are a primary benefit to the community and adjoining neighborhoods (hereinafter called the "PROJECT"); and

WHEREAS, Boston Post Road and Craftsman Lane are Town streets; and

WHEREAS, DEPARTMENT maintenance forces, by policy and practice, do not maintain sidewalks;

WHEREAS, this project has been included in the 2019-2028 Ten-Year Plan; and

WHEREAS, the costs associated with NH Route 101 improvements are currently estimated at \$6.3 million in fiscal year 2020; and

WHEREAS, all costs for the Project as described above, other than those related to relocation of utilities as outlined in the DEPARTMENT'S Utility Accommodation Manual, are the responsibility of the DEPARTMENT.

NOW, THEREFORE, in consideration of the above premises, it is mutually agreed as follows:

**DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT**

1. The DEPARTMENT shall construct project Merrimack 10136D, widening of NH 101A and improvements to the intersection of Craftsman Lane and Boston Post Road. All work associated with construction of these facilities will be in accordance with DEPARTMENT specifications.
2. The DEPARTMENT will assume control and management of the Engineering, Right-of-way appraisals and acquisitions, environmental efforts including any necessary permitting, and Construction of this project.
3. The DEPARTMENT may be required to conduct a Public Hearing in accordance with



TOWN. The DEPARTMENT will consider all input, but has the ultimate approval authority.

6. The TOWN will, at its own cost, be responsible to provide for the year round maintenance, including snow removal, of the existing roadway and other transportation facilities within the Town right-of-way, in accordance with the TOWN's policies and practices, until construction begins and during winter shut-down periods.
7. The TOWN agrees that all utility locations, as verified at the beginning of the project, shall not be altered unless changes are made according to any applicable licensing procedure of the TOWN. Any changes to TOWN or private utilities within the work area must be coordinated with the DEPARTMENT.
8. The TOWN shall, at its own cost, provide or cause to provide for the future maintenance of the reconstructed roadway, sidewalks and other transportation facilities indicated above within the Town Right-of-way and all other sidewalks constructed as part of this project, which includes winter snow and ice removal in accordance with the requirements of 23 CFR 1.27 and 28 CFR 35.133, once the work under this AGREEMENT is completed.
9. The TOWN will, at its own cost and expense, operate and maintain all existing lighting and any new lighting that may be installed as part of the project within the Town right-of-way.
10. The TOWN will be responsible for the all costs and expense required to install, operate and maintain work items, such as ornamental landscaping, within or adjacent to the Town Right-of-way, beyond what is required to perform the work shown on the Public Information Plan dated July 24, 2015.
11. Engineering considerations are vital to proper maintenance and operation of these improvements, and future operational adjustments may be necessary due to changed traffic conditions, technical advances or emergency situations. The TOWN agrees that no changes will be made without prior approval of the DEPARTMENT and Federal Highway Administration.

**IT IS FURTHER UNDERSTOOD AND AGREED BETWEEN THE DEPARTMENT AND THE TOWN:**

12. The TOWN delegates to the Commissioner of the New Hampshire Department of Transportation the authority to control traffic within the construction zones of this project. The Department will coordinate with the TOWN to solicit input on the Traffic Control Plans. This will be memorialized as a separate Municipal Work Zone Agreement.
13. The engineering design for the project will be in accordance with applicable Federal and State standards. It is understood that modifications may be required to the current design based on changes in current traffic patterns, environmental regulations and other requirements.
14. Should the DEPARTMENT be unable to negotiate a settlement for property necessary to construct the improvements at the Craftsman Lane and Boston Post Road intersection, the

16. This agreement is contingent upon the appropriation of sufficient funds from the State of New Hampshire Legislature and the Federal Highway Administration. If sufficient funds are not appropriated, the DEPARTMENT may terminate this AGREEMENT upon thirty (30) days' written notice to the TOWN. Such termination shall relieve the DEPARTMENT and the TOWN from obligations under this AGREEMENT after the termination date.
17. As the project is finalized, should the scope of the project result in costs exceeding the amount budgeted, the DEPARTMENT and TOWN agree to review the project costs for consideration of additional funding needs and determine the appropriate funding sources.
18. The TOWN shall defend, indemnify and hold harmless the DEPARTMENT and its officials, agents and employees from and against any and all claims, liabilities or suits arising from (or which may be claimed to arise from) any act or omission of the TOWN or its subcontractors in carrying out the provisions of this agreement. Notwithstanding the foregoing, nothing herein contained, shall be deemed to constitute a waiver of the sovereign immunity of the STATE or the DEPARTMENT, which immunity is hereby reserved. This covenant shall survive the termination of this agreement.
19. This agreement is effective as of \_\_\_\_\_, 2018, although executed at a later date. This agreement constitutes the entire agreement between the parties regarding the subject matter herein, and supersedes and replaces all previous agreements, whether written or oral, pertaining to the subject matter hereof. Any changes to this agreement must be made by written amendment executed by authorized representatives of the parties.

IN WITNESS WHEREOF, the parties here have affixed their signatures, the Town of Merrimack, New Hampshire, on this \_\_\_\_ day of \_\_\_\_\_, 2018, and the New Hampshire Department of Transportation on this \_\_\_\_ day of \_\_\_\_\_, 2018.

NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION      TOWN OF MERRIMACK

BY: \_\_\_\_\_  
Victoria F. Sheehan  
Commissioner

BY: \_\_\_\_\_  
Chairman, Town Council  
Town of Merrimack

Date: \_\_\_\_\_  
Authorized to enter into Agreement  
as approved by Governor and Council



MUNICIPAL WORK ZONE AGREEMENT  
FOR  
MERRIMACK  
STATE PROJECT: 10136D  
FEDERAL PROJECT: X-A001(256)

THIS AGREEMENT, executed in *duplicate*, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2018, between the New Hampshire Department of Transportation, hereinafter called the "DEPARTMENT" and the City/Town of MERRIMACK, hereinafter called the "TOWN."

WITNESSETH that,

WHEREAS, the DEPARTMENT will construct a project in Merrimack along NH 101A, which includes widening and overlay of NH Route 101A from Boston Post Road through the Continental Boulevard intersection and improvements to the intersection of Craftsman Lane and Boston Post Road;

WHEREAS, The State Legislature has delegated the Commissioner of the DEPARTMENT with full authority to control traffic in highway/bridge construction work zones on Class I, II, and III highways; RSA 228:21, 236:1, and 228:37;

WHEREAS, The Department intends to use a combination of flaggers and/or uniformed officers, as appropriate, to control traffic and ensure public and worker safety; and

NOW, THEREFORE, in consideration of the above premises, it is mutually agreed as follows:

- A. The DEPARTMENT shall construct project Merrimack 10136D, widening of NH 101A and improvements to the intersection of Craftsman Lane and Boston Post Road in the TOWN.
- B. The DEPARTMENT will be responsible for the management and operation of the highway throughout the duration of the construction of the project. This includes the authority to determine the most appropriate way to control traffic within the construction work zone limits of the project.
- C. The Department, as of April 1, 2013, will only compensate for the use of police officers that have successfully completed an NHDOT approved course on the Safe and Effective Use of Law Enforcement in Work Zones

IN WITNESS WHEREOF, the parties here have affixed their signatures, the City/Town of MERRIMACK, New Hampshire, on this \_\_\_\_ day of \_\_\_\_\_, 2018; The Department of Transportation on this \_\_\_\_ day of \_\_\_\_\_, 2018.

NEW HAMPSHIRE DEPARTMENT OF  
TRANSPORTATION

CITY / TOWN OF MERRIMACK

By: \_\_\_\_\_  
Director of Project Development

By: \_\_\_\_\_  
Chairman, Town Council

cc: Police Chief

January 19, 2018

Approved: July 19, 2018

Posted: July 23, 2018

Merrimack's Media Division recorded the two-day Environmental Protection Agency (EPA) Regional Meeting. The ten-hour event is a four-part series, can be viewed on Merrimack TV throughout the weekend, and is available online at MerrimackTV.com or on the You Tube channel.

**Consent Agenda** – None

**Old Business**

**1. Disposal of Tax Deeded Properties [Tabled at the June 14, 2018, Town Council Meeting]**

Submitted by Town Manager Eileen Cabanel

The Town Council to consider the disposal of tax deeded properties, pursuant to RSAs 80:88, 80:89, 80:90 and Chapter 66 of the Town Code.

**MOTION** made by Councilor Koenig and seconded by Councilor Harrington to remove the item from the table. **MOTION CARRIED** 6-0-0

Assistant Town Manager/Finance Director Paul Micali stated the parcel was taken through the tax deeding process. Every avenue of outreach is pursued with the property owners prior to such action. The Town now owns the property. The request was for approval to place the property on the market for sale.

Chairman Rothhaus stated the previous owner of the property approached the Town Manager indicating he has a buyer and would like to be permitted to sell the property. Because the Town had already taken the property there was a need for an agreement, which has been put in place. The property will be sold. Upon completion of the sale, the Town's costs will be covered by the seller. The Town will be made whole and the former property owner will be able to maximize the sale of his property rather than the property going to auction.

Vice Chairman Koenig noted the previous owner always has the first right of refusal to redeem the house (minimum of 30 days). They have to pay certain fees and expenses in order to do that. The previous owner is in that situation. He has a right to redeem the property and will incur fixed costs that are all legally defined in law. The Town is simply agreeing to do it and to work with him to facilitate his being able to pay his bills. Were the Town to put the property up for auction it is believed likely the sale price would be lower. If the property were put up for auction the Town would recover its costs and the previous owner would receive the remainder.

**MOTION** made by Councilor Thornton and seconded by Councilor Harrington to approve the terms of the Repurchase Agreement between the Town of Merrimack and the prior owner concerning property that was tax deeded by the Town and located at 33 Pearson Road and to authorize the Town Manager or her designee to execute the agreement on behalf of the Town.

**MOTION CARRIED** 6-0-0

**New Business**

**1. NH 101A Widening Project**

Submitted by NH Department of Transportation Project Manager Jennifer Reczek



**Approved: July 19, 2018**

**Posted: July 23, 2018**

The Town Council to be presented with a review of the NH 101A Widening Project, which was initiated in 2010 and presented at a public informational meeting on July 27, 2015. This project also includes an agreement for intersection improvements at Boston Post Road and Craftsman Lane.

Jennifer Reczek, Project Manager, NH Department of Transportation (NHDOT), stated the project started in 2010 under the previous project manager. In 2015, a public informational meeting was conducted. The project has not changed much since that time.

The initial corridor work for 101A was proposed as a By-pass back in 1985. The bypass option was abandoned, and an updated corridor study was done in 2002 to look at improvements to the existing roadway rather than a bypass. That corridor study resulted in numerous recommendations between Milford and Nashua largely to improve the operational capacity of the highway. This project in Merrimack was added into the Ten-Year Plan (2015-2024). It was originally slated for FY24 for construction.

The corridor needs identified were capacity deficiencies, poor pedestrian accommodations, and Craftsman Lane used as bypass through residential areas (safety concern).

A consultant has carried the project through an alternatives analysis. The preferred alternative was presented in 2015. At that point the project came to a pause. Action Item #22, from the corridor study, is the widening of 101A from Boston Post Road to Continental Boulevard. The proposed work would add a third eastbound through-lane (currently 3 westbound through-lanes), a 2<sup>nd</sup> right-turn lane from Continental Boulevard to 101A westbound, right-turn lane from 101A westbound to Continental Boulevard, and stormwater treatment for MS4 compliance (comes into effect in 2020 and requires treatment of all water that falls on new or improved impervious surfaces).

Action Item #7 is sidewalk connectivity between the Turnpike and Boston Post Road. Proposed work would add eastbound sidewalk between Continental Boulevard and Boston Post Road, crosswalk across 101A at Continental Boulevard, and bike accommodations incorporated at Continental Boulevard intersection.

Councilor Albert questioned the crosswalk; specifically, if it would be controlled by an electronic signal button and was informed it would be. He questioned if it is believed that would impact the flow/timing of traffic. Ms. Reczek responded it does have the potential. There are different ways to phase it, e.g., on-demand, incorporate into existing phasing. Signal timing has not yet been determined. There has been discussion of tying into the Nashua system and trying to time signals to work together. Because of the nature of the roadway (three lane), there is the need for a dedicated pedestrian signal. Councilor Albert spoke of the heavy traffic at that intersection, and noted concerns with delays, particularly during rush hour.

Action Item #14 is Craftsman Lane traffic calming. Proposed work would reconfigure Boston Post Road/Craftsman Lane intersection, create 90-degree intersection and discontinue public Right-of-Way through church parking lot. Chairman Rothhaus requested clarification the church has been part of that discussion. Ms. Reczek stated they were part of the discussions in the past. They spoke with them prior to this meeting and reviewed the existing plan with them.

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In terms of current status, the new consultant contract was approved (12/17) and re-evaluation of environmental impacts has completed. A Public Hearing is scheduled for 9/18 to provide the NHDOT the ability to acquire right-of-way as needed for the project. Once that occurs, they will begin working with the church, in particular, on the details of how that works and discuss design elements. There are modifications that can be made to the configuration based on their preference to the drive access, which piece of existing Town right-of-way gets discontinued. They were looking at one of the stormwater treatment areas and considering moving that to the opposite side of the intersection to where they would be removing the end of Craftsman Lane. They are scheduled to advertise in the fall of 2020 with construction in 2021-2022.

Ms. Reczek commented traffic control in the area will be a challenge. They have not delved into the details of that but are expecting a longer than absolutely necessary construction to ensure the operational capacity that is needed throughout the process. Estimated construction cost is \$4.1 million.

Assistant Town Manager/Finance Director Micali stated Dawn Tuomala, Deputy Director/Town Engineer, PWD, met with the church. He requested Ms. Reczek contact them and provide the presentation to their Board of Directors before the Public Hearing. Ms. Reczek stated "we can certainly do a presentation for the church" and questioned whether the Council would like to see another public informational meeting conducted for Merrimack residents prior to the Public Hearing.

***The consensus of the Council was for an additional public informational meeting to be conducted prior to the Public Hearing scheduled for September.***

Vice Chairman Koenig stated his surprise and remarked he had never heard of any of the additional plans being discussed. He expressed his hope NHDOT was talking to the Town's PWD as well as the church. Ms. Reczek stated they were. Vice Chairman Koenig commented being discussed is bartering Town right-of-way back and forth. It surprises him that he is just hearing of that. He stated his recollection of some discussion and that he has seen the large number of flags in the area, but the scope that is being discussed is different than what he believed to be occurring.

Ms. Reczek stated the preliminary work that was done was done under another project manager. She does not know if they had other Town Council meetings. She is aware of the public meeting in July of 2015 that presented the same concept. There were discussions at that time. As the project is beginning to be brought back to life and to continue the final design stages they are bringing forward an update. She stated she met with the PWD in May to discuss whether they had any concerns, e.g., if there was any information she did not have from previous discussions.

Councilor Koenig suggested the Merrimack Planning Board be kept up to speed on the plans. He suggested that would be another presentation to make. Chairman Rothhaus commented he is aware Kyle Fox, Director, PWD, is involved.

Councilor Thornton commented on the estimated timeframe for construction being 2021-2022 noting also occurring in that timeframe is the widening of Route 3. He stated concern with the amount of construction that will be occurring on the highway and the traffic pattern changes that could result. Ms. Reczek stated that to be something that is looked at as they get closer to advertising. With the most recent ten-year plan process there have been a lot of projects moving around. Once that gets



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signed into law it is something that will have to be looked at and evaluated. They will have to look at this project to ensure there are reasonable detours or alternatives for traffic.

Councilor Healey spoke of wording in the agreement such as “improvements to the intersections” and asked for clarification of the improvements. Ms. Reczek spoke of the property swap and reconfiguration of the intersection. She noted she has been unable to locate any agreement with the Town for them to do the work on the Town road. That is the other reason for being before the Council; to initiate that discussion.

Councilor Albert questioned if, in the review of the Craftsman Lane/Boston Post Road area, they looked at Boston Post Road and Seaverns Bridge Road. Ms. Reczek stated, as part of this project, they did not. The Action Items referenced came out of the corridor study. She does not believe that to be an intersection that was addressed as part of the corridor study. The study was looking at the operation along 101A and coming up with recommendations for capacity improvements, safety improvements, bicycle/pedestrian accommodations along that corridor. The intersection was identified because of its relevance to bypassing the lights on 101A.

Chairman Rothhaus noted language in the agreement relative to the Town assuming responsibility for sidewalk maintenance. He noted 101A is a State right-of-way that is maintained by the State. Ms. Reczek responded 101A is maintained by the State. The State, as course of policy, does not maintain sidewalks.

Chairman Rothhaus stated, if we have a segment of sidewalk the State is putting in that the Town now has to maintain because it cannot decline to maintain it, he would rather the State not put the sidewalk in. For the Town to send its equipment to that section of Town is burdensome and if the sidewalk that is on 101A is not maintained the connection there just doesn't seem worth it given the expense. Ms. Reczek stated the sidewalks along 101A are currently maintained by the Town.

Assistant Town Manager/Finance Director Micali stated there are three levels of maintenance on sidewalks; schools and school zone (priority #1), communities or roadways near shopping centers (priority #2), and neighborhoods (priority #3). As long as we have a maintenance plan for sidewalks and we follow that plan, if we do take these sidewalks over, they would be put into those categories. He stated the Council should be aware, if in 20 years the sidewalk crumbles, etc. the Town is responsible to fix it. If they are repaving 101A they would not cover the cost of fixing the sidewalks. When asked if that is correct, Ms. Reczek stated it is. There is a private sidewalk in that area that is owned and maintained by the church. That will not be maintained by the Town.

Councilor Harrington referenced Item #17 in the Project Agreement: “As the project is finalized, should the scope of the project result in costs exceeding the amount budgeted, the DEPARTMENT and TOWN agree to review the project costs for consideration of additional funding needs and determine the appropriate funding sources.” She questioned the meaning of the language. Ms. Reczek commented some of their projects in some locations tend to scope creep where they start with one thing and end up building 3 times as much. If the project were to increase significantly in costs the department would have to take a hard look at that, and because the Town has this segment they would want to have that discussion with the Town as well. Ms. Reczek stated she does not foresee that being an issue with this particular project.

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Councilor Harrington stated she agrees and understands, but the Town was being asked to sign a contract. She wished to understand if the Council was agreeing with the language to go into negotiations around funding. Ms. Reczek stated “the intent is not to necessarily ask the Town to fund it, but should we find that the cost is higher than we can afford would be looking at what things might we be able to remove from the project whether that is particular items or a segment of roadway.” Councilor Harrington requested that be specified more clearly; something that indicates it is not monetarily related, it is project modification related. The current language seems to imply there might be a monetary aspect. Vice Chairman Koenig noted it does not state the Town would be responsible for it.

Ms. Reczek remarked “depending on the community, there are some places where the Town desires certain things that are outside the scope or intent of the project.” #17 lends itself or relates in some ways to #10, based on past experience, where if the Town were to request something that is beyond the scope that they would ask the Town to participate in those items.

It was suggested the language could be amended to read: “As the project is finalized, should the scope of the project result in costs exceeding the amount budgeted, the DEPARTMENT and TOWN agree to review the project.”

It was suggested the agreement be further amended in #10 by adding “and revisions shown on June 28, 2018.”

Vice Chairman Koenig commented on the language included in #18; sort of says the State is harmless and yet the Town has to hold the State harmless. It was indicated the language is boilerplate.

Assistant Town Manager/Finance Director Micali suggested #18 is against anything that the Town does. Typically contractors have to give the Town indemnity holding the Town harmless if they get sued. He stated the need for legal counsel to review the agreement.

## **2. Committee Appointments**

Submitted by Town Council Chairman Finlay Rothhaus and Vice Chair Tom Koenig  
The Town Council to consider appointing the following individuals to Town committees, pursuant to Charter Article 4-8:

Bob McCabe - Agricultural Commission (Full member)  
Bess-Arden Parks - Agricultural Commission (Full member)  
Arthur “Pete” Gagnon - Agricultural Commission (Alternate member)  
Matt Caron - Conservation Commission (Full member)  
Tim Tenhave - Conservation Commission (Alternate member)  
Chip Pollard - Heritage Commission (Full member)  
Michelle Creswell - Parks and Recreation Committee (Full member)  
Julie Poole - Parks and Recreation Committee (Full member)  
Dan Ricker - Planning Board (Full member)  
Neil Anketell - Planning Board (Full member)  
Jackie Flood - Town Center Committee (Full member)  
Fran L’Heureux - Zoning Board of Adjustment (Full member)  
Kathleen Stroud - Zoning Board of Adjustment (Alternate member)