



## Town Council Meeting Minutes

Thursday January 25, 2018, at 7:00 PM, in the Matthew Thornton Room

Vice Chairman Rothhaus called the meeting of the Town Council to order at 7:00 p.m. Present at the meeting were Councilor Albert, Councilor Boyd, Councilor Flood, Councilor Thornton, Town Manager Eileen Cabanel, and Assistant Town Manager/Finance Director Paul Micali. Chairman Harrington and Councilor Koenig were excused.

### **Pledge of Allegiance**

Vice Chairman Rothhaus led in the Pledge of Allegiance.

### **Announcements**

A budget meeting will be conducted on Monday, January 29<sup>th</sup> at 6:00 p.m. Regular meetings will be conducted on Thursday, February 8<sup>th</sup> and 22<sup>nd</sup> at 7:00 p.m. Public Hearing on FY19 budget will be conducted on Thursday, February 15<sup>th</sup> at 7:00 p.m. All meetings will take place in the Matthew Thornton Room.

Councilor Albert spoke of the Crimeline and the Merrimack Police Department having lost a good friend, Steve Kane, who was a big supporter, and very active within Crimeline. He expressed his deepest condolences to Steve's family, Crimeline, and the Police Department.

### **Perfluorooctanoic Acid (PFOA) Information Update**

Councilor Boyd stated the Citizens for Clean Water Advisory Group met and continued a productive dialogue regarding PFOA issues in Town and specific strategies to further educate the community. The group will meet again in February.

The Department of Health & Human Services is going to release their Cancer Incident Report. Lisa Morris, Director, announced during the October presentation regarding the blood serum assessment survey, that Merrimack did not see an increase in cancer related issues as it pertained to PFOAs. They used the New Hampshire State Cancer Registry to review diagnosis in the Town of Merrimack from January 2005 through December 2014. The numbers will show that the expected cases will be at a Delta A and that the observed cases will be slightly higher than what was expected. According to Health & Human Services, they feel that is within the normal range for incidents of cancer occurring within the community over that 10-year period.

The Groundwater Advisory Commission met last week. In March, they are hopeful they will have a set of criteria for municipalities and water authorities to make application to the Commission to either seek a loan or grant application as it relates to water issues that are going on in their community. They are targeting not just water quality but are also focused on infrastructure. He has encouraged the Commission to look at exploration. He stated his belief if there are communities that may have a polluted well that may be tapping into alternate resources outside of their community, if they feel they have the geology to accommodate a new well that they be able to apply for grant funding to see if they can receive monies to do the necessary geological work to locate new water sources in the town.

1 Negotiations are ongoing between the State and Saint-Gobain. They anticipate a resolution and have  
2 an end date set for the end of February.

3  
4 Town Manager Cabanel remarked there has been discussion that once negotiations are completed there  
5 may be some door that is slammed shut for the residents or those who have been exposed to PFOA in  
6 terms of ability to sue. That door will not close.

7  
8 Councilor Boyd stated Representative Christensen and he continue to work with the Commission to  
9 seek out opportunities for Merrimack and others in terms of private well sources and opportunities  
10 available to remediate.

### 11 12 **Highway Garage Project Update**

13  
14 The Engineer and Construction Manager for the project continue to refine the plans to meet the goals  
15 of the project and stay within the established budget. The next meeting will be with a solar energy  
16 company to investigate the feasibility of that.

### 17 18 **Comments from the Press and Public**

19  
20 Wendy Thomas, 10 Wildcat Falls Road

21  
22 Stated her private well, which is located roughly 5 miles from Saint-Gobain, was tested on September  
23 25, 2017 by Granite State Analytical Services. The results indicated 20.4 total PFOA/PFOS. PFOA is  
24 a dangerous chemical that has been linked to health issues such as thyroid cancer, high cholesterol, and  
25 has been detected in drinking water all over Merrimack.

26  
27 The EPA has an advisory limit of 70 parts per trillion (ppt). This is not law, it is an advisory that  
28 originally started off at 400 in the spring of 2016, was then lowered to 100, then lowered to 70 based  
29 on public and scientific pressure. Vermont, New York, New Jersey, Minnesota, and Pennsylvania  
30 clearly think the level is too high, and are working on lowering the level to protect their residents.

31  
32 Ms. Thomas spoke of presenting her water results at a Town/State water meeting. Representatives  
33 from NHDES asked to re-test her well for both MTBE and PFOA/PFOS. They went out in November,  
34 but the water sample was mishandled. They re-tested on December 20<sup>th</sup>. No MBTEs were detected.  
35 Total PFOA/PFOS count was recorded at 45ppt. In addition, 8 other chemicals were detected; C4, C5,  
36 C6, C7, C8. Those 8 chemicals along with the PFOA/PFOS are the chemical fingerprint for the Saint-  
37 Gobain contamination. Ms. Thomas stated her well water is incompatible with life.

38  
39 She remarked when the Town of Merrimack has a private well that is 5 miles from ground zero testing  
40 at 45ppt, then there is a very big problem. The Town is contaminated. She stated the safe level for  
41 PFOA/PFOS in the water is zero.

42  
43 She remarked every single person in Merrimack who wants their water tested should be able to get it  
44 done and paid for by the State. Every single person in Merrimack who wants their blood tested should  
45 be able to get it done and paid for by the State. Every single person who wants to get their house water  
46 filtered should be able to get that done and paid for by the State, and the State needs to hold polluters  
47 accountable by suing Saint-Gobain for damages.

1 The State, like was done for towns in New York and Vermont, needs to declare Merrimack a  
2 superfund site. When that is done, the State can then use Superfund money to help clean up the entire  
3 Town's water supply.

4 Saint-Gobain made a \$40 billion profit last year. They made that profit while illegally dumping  
5 carcinogenic and toxic chemicals into our Town's water.  
6

7 Ms. Thomas spoke of banks in New York not offering refinancing because houses have contaminated  
8 water. She spoke with a woman from there who indicated the value of her house has gone from  
9 \$150,000 to \$103,000 based solely on water contamination. She indicated most house values have  
10 dropped 20-30% since word of contamination has gotten out, and that there are many foreclosures.  
11

12 Ms. Thomas stated her intention to speak with counsel to see if the residents of Merrimack can file a  
13 class action lawsuit against Saint-Gobain for loss of property value due to contamination. Residents in  
14 New York and Vermont have already initiated such suits.  
15

16 Ms. Thomas submitted a [copy of the test results](#).

17 ***Councilor Boyd requested the test results be entered into the record.***  
18

19  
20 Kathryn Hodge, 44 Belmont Drive  
21

22 Provided a copy of a letter that was sent to the Flatley Company by NHDES, dated October 10, 2017  
23 regarding a follow-up to a phone call with Kevin Walker of the Flatley Company. It addresses the  
24 concerns of developing the land beside Saint-Gobain without causing further harm by releasing  
25 contaminants into the air or water from the soil on Tax Map 6E/Lot 31. DES has made Flatley aware  
26 that the PFOA/PFOS compounds were significantly higher than State standards allow, and asked them  
27 to gather additional information regarding further environmental issues before beginning a project that  
28 could cause further harm to our Town now and in our future.  
29

30 Ms. Hodge stated at the October meeting of the Planning Board, the Board agreed to write a letter  
31 echoing DES' concerns and encourage compliance. At the November 2017 meeting, after a discussion  
32 and personal beliefs were introduced and were strongly spoken, the Board voted to not send a letter.  
33 She questioned why.  
34

35 Ms. Hodge stated DES has indicated they have not received a follow-up letter from Flatley. Ms. Hodge  
36 requested the Council draft a follow-up letter to Flatley echoing the concerns and requests of DES,  
37 making a statement that this is a serious contamination issue, and that the Council is concerned about  
38 the health and welfare of the Town and its residents now and in the future. She also requested the  
39 letter be sent in such a way as to ensure that it is received, and a response requested in an appropriate  
40 timeframe.  
41

42 Ms. Hodge stated the issue will only become worse if the community does not stand up for itself. The  
43 desire is for a positive future for the Town and to uphold the Town's name in a positive light.  
44

45 Councilor Boyd commented the request is for a follow-up letter to the Flatley Company; However, the  
46 letter is directed to Saint-Gobain. Town Manager Cabanel stated the letter was sent to Mr. Flatley.  
47 For some time there were all kinds of things going on with PFOAs and the Flatley project was going  
48 on for some time. She received phone calls from NHDES at various times, and called them herself to

1 remark the Flatley property is right next door to Saint-Gobain, surrounding Saint-Gobain, and is ready  
2 to go through the Planning Board; what are you going to do about that. It is not within the Town's  
3 urban compact; the State makes decisions on various things in that area. After calls back and forth  
4 indicating they were unaware, they remember she told them, etc., suddenly this letter came out. It is  
5 strictly advisory. She contacted the Community Development Director and instructed him to ensure  
6 the Planning Board Chairman was aware of it, that he reads it into the record, and that it is very clear  
7 that we are aware that this letter has been sent to them. That was the last she heard of it.

8  
9 Kathryn Hodge

10  
11 Stated she had the Planning Board meeting minutes from October, and at that point, the Planning  
12 Board was aware of it, and were asked by NHDES to help them out/send them something. Reading  
13 from the minutes: *"The Planning Board consensus was to send such a letter. Michael Redding asked  
14 whether the Board should do the same for Webster Green. Tim Thompson replied that this is a project  
15 that would disturb the ground, whereas Webster Green is an existing development. Michael Redding  
16 asked how data would help. Chairman Best said Flatley could decide not to build. The Planning  
17 Board has no environmental regulations, but it can say it shares DES concerns and that the applicant  
18 should do research before building. Tim Thompson said the letter would indicate the Board's concern  
19 even though Flatley could build tomorrow. It is a symbolic gesture. Chairman Best did not want the  
20 Planning Board to be blamed if something showed up 20 years after it gave its approval. Tim  
21 Thompson will circulate a draft to discuss at the next meeting."*

22  
23 At that Planning Board meeting everyone had agreed, a solid vote 6-0, yes, we are going to write a  
24 letter, yes, we are going to back up DES, yes, we're going to get this in the works.

25  
26 Then you go to the November meeting minutes:

27  
28 *"Chairman Best recused himself from discussing and voting on the following item. At the Planning  
29 Board's request, Community Development Director, Tim Thompson, had drafted a letter from the  
30 Board to John Flatley Company expressing the Town's concurrence with requests made by NH  
31 Department of Environmental Services (DES) regarding their concern about substances that may  
32 impact the property approved for multi-family development and urging them to consider NHDES  
33 recommendations prior to developing the property."*

34  
35 Because they were going to be kicking up all the dirt and all the contamination was going to float back  
36 out again.

37  
38 *"Tom Koenig stated that PFOA contamination is a controversial subject. It is not known how much  
39 impact low levels cause. He is concerned about unnecessarily raising red flags. Lower property  
40 values will achieve the same end. NHDES already sent a letter, which the Town is not required to  
41 amplify. Alastair Millns was not convinced that this is a serious issue. It is the purview of NHDES  
42 and not the Planning Board. The effect on construction is an OSHA issue. Lynn Christensen agreed."*

43  
44 Ms. Hodge stated it has already been proven that any amount of PFOA has negative impacts on health  
45 and the environment. There is statistical, scientific data that backs that up. Ms. Thomas has already  
46 stated property values have already decreased because of this. This is having a negative impact on  
47 Merrimack's name. If you go down through the forums and start reading through the water issues  
48 you've got people that are moving into town, reading this, and believing they made a mistake. Ms.

1 Hodge noted it becomes an OSHA issue after the fact. She understands the Council has no say over  
2 the Planning Board, and pleaded with the Council to back them up when it comes to NHDES.

3  
4 Councilor Boyd reiterated the letter he was looking at was written to Edward Canning, Director of  
5 Environmental & Health Safety, Saint-Gobain Performance Plastics.

6  
7 ***It was noted Councilor Boyd had been provided the incorrect letter.***

8  
9 Town Manager Cabanel stated she was aware of the letter, spoke very strongly to the Community  
10 Development Director who assured her he had spoken to the Chairman of the Planning Board, and that  
11 this was going to take place. She has not heard anything since that time. What was just stated came as  
12 a surprise to her. She stated she personally concurs with Ms. Hodge; although the water inside of the  
13 Saint-Gobain facility does not have high PFOA counts, because it is MVD water, their groundwater  
14 tested very high.

15  
16 Ms. Hodge spoke of the overflow dripping into the river and the water that is settling into the soil now.  
17 She stated her understanding they have only done a certain depth level. Town Manager Cabanel stated  
18 the depth levels they have already done have indicated a very strong level of PFOA in the groundwater  
19 on that site. Ms. Hodge stated Planning Board members present for the October meeting were Robert  
20 Best, Alastair Millns, Tom Koenig, Michael Redding, Paul McLaughlin, and Nelson Disco. When  
21 they suggested writing the letter, the vote was 6-0. At the November meeting, members present were  
22 Robert Best, who excused himself, Alastair Millns, Tom Koenig, Lynn Christensen, and Desirea Falt.  
23 The vote was 4-0 not to write the letter.

24  
25 Ms. Hodge commented there seems to be some difficulty in some understanding yes this is an issue.  
26 DES says it is an issue and DHHS says it is an issue. The study that was referred to earlier she does  
27 not agree with. She noted in 2016 she was diagnosed twice with Cancer.

28  
29 Ms. Hodge restated her request the Council send a letter to the Flatley Company supporting DES.

30  
31 Vice Chairman Rothhaus commented on having heard from both public speakers that property values  
32 have decreased 30%. As that is not the sense he has had, he requested the Town Manager check with  
33 Assessing. Town Manager Cabanel stated the last she questioned that she was informed that is not the  
34 case; properties are appreciating in value. Councilor Boyd commented he made the request directly a  
35 few months ago, and was informed the values are increasing.

36  
37 Councilor Boyd added the Town of Bedford, for those specific properties over at Greenfield Farms,  
38 made an accommodation and abated several of the properties based on the presence of PFOAs in the  
39 water area that was impacting that section of Greenfield Farms.

40  
41 Councilor Boyd commented the Council has written a letter to the State supporting new standards for  
42 DES to use to track air emissions, and he believes it an appropriate response to send follow-up letters  
43 to Saint-Gobain and Mr. Flatley explaining the Council supports what DES is doing, and that they do  
44 what is necessary to remediate their site before they put a shovel in the ground.

45  
46 He noted the Flatley project has a Conditional Use Permit. Any further work on the site must be  
47 brought back to the Planning Board for site review. He stated his understanding of the position taken  
48 by the Planning Board; however, believes the Council has a responsibility to the property owners in

1 our community to stand up and say to Mr. Flatley; we want you to come to Merrimack, but we want  
2 you to do the project right, and ensure that whoever settles in there will not be impacted in the same  
3 way some members of our community have been impacted.

4 **MOTION made by Councilor Boyd that the Town Council write a letter to Saint-Gobain and**  
5 **Mr. John Flatley addressing the October 10<sup>th</sup> letter from NHDES reiterating before they put a**  
6 **shovel in the ground that they test the ground and do what is necessary to remediate**

7  
8 **ON THE QUESTION**

9  
10 By doing so, when the project moves forward, people in the community will have an assurance that the  
11 level of impurities that are in the ground is close to 0.

12  
13 Town Manager Cabanel suggested what has been requested is for the Council to strongly support the  
14 letter from NHDES to Flatley, and sending it to Flatley not amplifying certain sections or telling them  
15 they need to get it down to a certain level. She provided the example of language that could read here  
16 is a letter from NHDES, they have suggested to you to do X, Y, Z, and we suggest the same.

17  
18 Councilor Boyd was appreciative of the language, and stated a willingness to amend his motion as  
19 suggested.

20  
21 *The initial motion was not seconded.*

22  
23 Councilor Albert remarked it is obviously a clear problem with NHDES. If the Council is going to  
24 underline it, he agrees. Councilor Flood remarked the letter is from NHDES. Flatley can feel  
25 confident in the validity of the concerns expressed. She stated her support of writing a letter.

26  
27 **MOTION made by Councilor Boyd and seconded by Councilor Thornton that the Town Council**  
28 **write a letter to Mr. John Flatley indicating support of the letter written by NHDES. MOTION**  
29 **CARRIED 5-0-0**

30  
31 Kathy Stack, 7 Knollwood Drive

32  
33 Stated she has been a resident of Merrimack for over 30 years, and is one of the residents impacted by  
34 the contaminated water in the disputed area. She thanked the Council for hearing the concern and  
35 moving things forward being honest and truthful. She stated this to be a serious concern for current  
36 and future residents of Merrimack. She stated she remains without resolve. She is hopeful  
37 negotiations will be positive. There is concern that in addition to no resolution/remedy to her  
38 contaminated well, now we are talking about a large tract of land that may be contaminated and built  
39 upon, which will bring further damage construction to the health in the community. She stated her  
40 appreciation the Council is taking this seriously and moving forward in a positive way.

41  
42 Laurene Allen, 16 French Court

43  
44 Commented she spoke with Lea Anne Atwell, Hydrogeologist, NHDES, the prior day. They had not  
45 had a response from Flatley. Ms. Allen informed her of the Planning Board minutes, and Ms. Atwell  
46 indicated she felt that may be part of the reason, but does not know that for certain. She talked about  
47 the storm drain runoff and the concerns with the land and location of the building, and what will  
48 happen in terms of more impact to the Merrimack River. Ms. Allen informed her the citizenry would

1 be asking the Town Council to echo DES' concerns and recommendations. She was hopeful that could  
2 happen. Ms. Allen informed Ms. Atwell she is a founder of Merrimack Citizens for Clean Water, and  
3 said, if believed appropriate, she would like to write a letter on the group's letterhead on behalf of  
4 residents. Ms. Atwell responded she felt it would be appropriate and helpful.

5  
6 Ms. Allen stated concern with a process where there is an interjection of personal opinion. The  
7 members of the various boards and commissions are there to represent the citizenry, and the citizenry  
8 wants to trust they are professionally representing what the greater good is. She has worked to keep  
9 her personal opinion down, and to gather information and facts. She is concerned when hearing  
10 members of the various boards and commissions making statements such as "I don't believe" or "this  
11 isn't what I feel". The interjection of personal opinion is not based on fact. She questioned whether  
12 the Town has a code of conduct. It is not the majority of members, but it seems to sway, and to  
13 continue, which bothers her tremendously. She questioned what could be done about that.

14  
15 Town Manager Cabanel remarked what concerns her the most is that while NHDES went ahead and  
16 wrote this letter of advice, at the same time, they approved their permits. They had the right not to, but  
17 chose to approve the permits, and then write the letter.

#### 18 19 Kathryn Hodge

20  
21 Remarked she understands DES did approve permits. Certain things were not brought to light until  
22 after the fact relative to the different types of contaminants, amount, where they are, etc. More  
23 scientific and factual information is being learned. She stated that is why the group has asked not to  
24 leave things closed, to leave things open-ended. If they start digging and there is a huge issue above  
25 and beyond what we all expected, it needs to be handled at that point in time. Everything needs to be  
26 left open ended so that we can stop them or put regulations, and fines, if necessary, in place so that the  
27 residents are the ones who are benefitting, and not put in a position where Flatley leaves Town leaving  
28 the residents to deal with it.

#### 29 30 Recognitions, Resignations and Retirements - None

#### 31 32 Appointments

##### 33 34 **1. KENO 603 Presentation**

35 Submitted by the NH Lottery Executive Director Charlie McIntyre

36 Town Council will be presented information about a new lottery game, KENO 603, which can be  
37 played exclusively in taverns and restaurants that have an active liquor pouring license.

38  
39 Lynda Plante, Deputy Director, NH Lottery, stated KENO was put into law last July. As of December  
40 15<sup>th</sup>, KENO is now available. NH Lottery has 7 cities that are able to sell KENO and 45  
41 establishments. They are working with the towns to see if that is something that might be available in  
42 each of the communities. They have 23 establishments in the Merrimack area that potentially could  
43 sell KENO if it is something that is approved in the Town. She stated the desire to provide information  
44 and allow the opportunity to consider whether it is believed to be something the members of the  
45 community should weigh in on.

46  
47 In 1964, the same process took place when the State was first selling NH lottery tickets; they went out  
48 to all the towns and cities for a vote. There were 198 towns and cities that wanted it, and 11 that did

1 not. Over 50 years later there has been \$1.9 billion that has gone to education. The lottery continues  
2 to work towards education. There has been concerns with gambling. This KENO legislation does  
3 provide 1% to go to Health & Human Services to assist with addiction. It is really looking at bringing  
4 money to the community for full-day kindergarten as well as establishments that offer KENO. The  
5 Lottery has already gone back to the towns and cities to see how the process is going. It is already  
6 above plan, and they have reported that their sales for drinks, food, etc. at their establishments are up  
7 close to 20%.

8  
9 In addition, they are generating funds to fund full-day kindergarten. For FY19 any towns/cities having  
10 full-day kindergarten will receive \$1,100 per pupil. It is important to know the legislation is  
11 supporting kindergarten regardless of how communities weigh in on having KENO in their area. It  
12 really is for the business owners to recapture some of the revenue that is going over the border to  
13 Massachusetts.

14  
15 When asked if they have specifically heard from Merrimack businesses, she stated there have been 7-8  
16 Merrimack businesses that have contacted the Lottery and expressed interest in selling KENO. They  
17 try to outreach to ensure businesses are aware it is available.

18  
19 When asked to provide clarifying information on KENO, Deputy Director Plante responded it is like  
20 any of the other lottery games, e.g., Powerball, Lucky for Life, etc. It is an electronic numbers game.  
21 Users visit an establishment, there is a screen similar to a television, and users place a bet from \$1 to  
22 \$25 picking numbers. You can pick to match 1 number, 12 numbers, etc. It is almost like playing  
23 bingo; you want to match as many numbers as you can, and the higher your bet, the more numbers you  
24 match, the more you can win. Every 5 minutes a different set of numbers comes up, and you look to  
25 see if you won. That is something you do right at the establishment. The establishment gets an 8%  
26 commission.

27  
28 Councilor Flood questioned how the revenue is distributed for kindergarten, and was informed the  
29 funds are set aside depending on enrollment (\$1,100/pupil). There is the potential for that to go up to  
30 \$1,800/pupil if KENO generates enough business. Whether or not Merrimack participates in KENO, if  
31 it has full-day kindergarten, it will have that revenue amount.

32  
33 When asked, Deputy Director Plante stated there is guaranteed funding for the first year. Beyond that,  
34 there is the need to get as many communities as possible to participate so that additional funding can  
35 be added.

36  
37 Councilor Albert questioned, and was informed users must be 18+ to play. He questioned what, if any,  
38 negative aspects may have been learned from other states such as Massachusetts. Deputy Director  
39 Plante stated they have not been made aware of any increase in crime rate attributed to KENO. What  
40 has been heard from other communities is the potential for addiction, which is why funds are being put  
41 towards Health & Human Services. The result has been very positive for other areas. It is an  
42 opportunity for entertainment they are hoping to keep in New Hampshire.

43  
44 Councilor Boyd questioned how many of the 234 communities in the State the Lottery outreached to,  
45 how many have put the question before the voters, and how many have voted for and against it.  
46 Deputy Director Plante responded all the cities have voted, and 7 have approved it (totaling 45  
47 establishments). The Lottery is currently in the process of reaching out to every town. She stated she  
48 did not have all the numbers available, but could obtain and provide them.

1 Assistant Town Manager/Finance Director Micali questioned if establishments are licensed through the  
2 State, and was informed the license is through NH Lottery. There is a \$500/year fee through the State.  
3 There is a background check involved, etc. When asked if the Town's Police Chief would have to sign  
4 off on the establishments, Deputy Director Plante stated the establishments must have a liquor license  
5 to sell KENO.

6  
7 Councilor Albert spoke of the Town's amusement device Ordinance, which requires businesses to pay  
8 a fee to have a certain number of devices, and questioned if the KENO machines would be exempt  
9 from that. Assistant Town Manager/Finance Director Micali remarked, since it is licensed through the  
10 State, the Town would not be able to collect the license fee as well.

11  
12 Councilor Boyd remarked there were two studies done regarding KENO players; one out of Mount  
13 Auburn and another by Gemini Research out of New York that concluded for people that play KENO  
14 it fosters addiction. There is a meth problem in Merrimack and a heroin problem in the United States,  
15 and he does not feel comfortable providing a game of chance that quite honestly is a regressive tax,  
16 and a poor form of collecting revenues. It is not the right thing to be funding education with, and it is  
17 feeding into someone's addiction. It is not limited to restaurants as there is talk of putting them into  
18 convenience stores. One of the problems Massachusetts has faced is lines forming at convenience  
19 stores with people looking to play their KENO slips. He stated his belief KENO attracts the wrong  
20 kind of economic development. He is of the belief having KENO in the community would impact the  
21 quality of life of its residents.

22  
23 Councilor Boyd spoke of SB191, which is enabling legislation. Communities interested in this should  
24 be outreaching to the Lottery, and asking them to present.

25  
26 Vice Chairman Rothhaus remarked, for him, if it were to be put forward he would expect it to go to  
27 Town vote, and the Town would decide. He suggested 5-10% of Americans have addictive  
28 personalities, and no matter what you do they will have to deal with that. If the State is sanctioning it,  
29 they should dedicate funds towards education and rehabilitation.

30  
31 Councilor Albert commented the discussion will continue. If there are businesses in Town that wish to  
32 have KENO, he would like to see the matter back on an agenda so that the businesses and residents of  
33 Town can be heard from. He suggested the Town Manager be tasked with assigning someone to do  
34 the research to identify some of the pros and cons of KENO.

35  
36 Councilor Boyd stated agreement, he would put it before the voters.

37  
38 Councilor Flood commented her quarrel has always been that the State is running this. It is an entity  
39 that people look up to sending a message that it is okay to gamble. She would support placing the  
40 question on the ballot.

41  
42 It was noted full-day kindergarten will be on the Warrant this spring.

43  
44 **2. Annual Review with the Technology Committee**

45 Submitted by Technology Committee Chairman Paul Mondoux  
46 Per Town of Merrimack Charter Section 6-6, at least annually, there should be an annual review  
47 with the Technology Committee. This agenda item is to highlight the committee's significant

1 actions, current projects, anticipated actions, and to raise any concerns the Council should know or  
2 could act on.

3  
4 Paul Mondoux, Chairman, Technology Committee (Committee), spoke of being uncertain of the last  
5 time an update was provided. He reviewed prior meeting minutes to compile a list of items the  
6 Committee was asked to address, and was prepared to provide updates.

7  
8 The Committee has no budget authority, and is advisory in nature. The Committee's charge was cited.

9  
10 The Council had charged the Committee with focusing on networking, licenses, compliance, website  
11 utilizations, hardware, and all the power utilizations within the Town. As part of that, the Committee  
12 shall be looked at by the Department Heads as a resource to investigate and provide recommendations  
13 on future software and hardware purchases, and should promote Town businesses.

14  
15 Mr. Mondoux stated the Technology Coordinator was able to be provided an assistant who has been  
16 hired part-time (20-25 hours/week) and assists with daily operations.

17  
18 Regarding facility security, card readers have been added to the doors to limit access to certain areas,  
19 e.g., Town's main server area.

20  
21 The Town is running Microsoft Exchange, which is proprietary. The server software is continuously  
22 updated, and all security patches have been performed; this is the case for the Microsoft Exchange  
23 server (email) as well as all other servers. Microsoft comes out with patches the 2<sup>nd</sup> Tuesday of every  
24 month.

25  
26 Threat protection software is run; however, is inefficient. Software is in place that monitors all access.  
27 Unfortunately, that is not a fully automated system, and relies heavily on manual input.

28  
29 Mr. Mondoux spoke of an open position on the committee, which can be problematic.

30  
31 The Committee has discussed open source software versus off-the-shelf, which is proprietary, and  
32 must be purchased, for several years now. Although the State has been doing a lot with open source  
33 software, in many situations it does not meet the requirements of all the departments within the Town.  
34 There has been previous discussion of a pilot program; however, that has been determined not needed.  
35 The Technology Coordinator has worked on all public-facing computers (open Office). Mr. Mondoux  
36 stated his belief cruisers have open Office on them as well. That is basically all that can be done  
37 without getting into trouble.

38  
39 Open source software and open Office do not support the Microsoft Exchange email. You can send  
40 and receive mail on them, but you can't do any collaboration, e.g., sharing of calendars, emails, which  
41 are functions all departments utilize heavily. Microsoft Outlook allows for that sharing to occur.

42  
43 Microsoft Office is an expensive ticket item; however, upgrades are not needed annually; Microsoft  
44 supports prior versions for years, and makes them all upward compatible. The Town has purchased  
45 licenses, for all our systems, up through Office 2016, which is the current version. That should cover  
46 the Town for the next few years. Many systems appear to be running with Office 2010, which means  
47 there is room for upgrade.

1 The budget was presented with approx. \$80,000 for software, a large portion of which is Microsoft.  
2 Mr. Mondoux is uncertain how that figure was generated. The Town can go several years before  
3 upgrading, and can do so periodically and over time.  
4

5 Creation of an inventory list is ongoing. The information needs to be put into a report format.  
6 Because of that inventory list, several file servers are coming in to replace older ones.  
7

8 The operational and historical knowledge of the facilities, servers, software, etc., is with a single  
9 employee. Systems that come through vendors, e.g., credit card system are maintained/protected by  
10 the vendor.  
11

12 Councilor Albert questioned what is required to put documentation and a recovery procedure in place.  
13 Mr. Mondoux stated that has been discussed. Understanding fiscal constraints, the Committee has  
14 discussed free software that would allow for an inventory of the hardware items. Software items are  
15 well known.  
16

17 Currently, there is no means for the Technology Coordinator to become aware that a server is down  
18 unless he happens to log in or sees something out of the ordinary from a router, etc. There is no alert.  
19 That is something that needs to be looked at. The Committee will look at open source software that  
20 performs well. Mr. Mondoux stressed again the fact that there is too much manual interaction  
21 required.  
22

23 In terms of backup and data recovery, that is in place. The Town has backups, which are in a locked,  
24 fireproof safe in a separate location. The backup system is not fully automated, and it should be. You  
25 can bring backups to another location, but that can also be done over the wire. He provided the  
26 example of the Fire Department server, which is backed up all the time. The Committee does not  
27 believe the backups being handled in this manner is sufficient.  
28

29 Mr. Mondoux noted any recommendations the Committee may make would be accompanied by cost  
30 estimates and alternatives.  
31

32 In terms of system continuity and security assessments, from what he has learned many years ago there  
33 was a very brief security assessment for intrusion detection by a college student who did it as a school  
34 project. It was a top-level assessment that did not go into all the systems, try to break in through  
35 firewalls, servers, etc. This is a big concern these days.  
36

37 A formal security assessment is advisable at this time. The Committee would like to begin seeking  
38 alternatives and different ways to accomplish this. It has been suggested technical school students  
39 would be an avenue.  
40

41 Mr. Mondoux commented beyond the main servers, there are servers located in other facilities, and a  
42 concern has been expressed that those other servers don't seem to be touched. The Technology  
43 Coordinator has assured him he logs into those frequently and works remotely. But that is not  
44 sufficient. There needs to be a process in place of being in the same location as the servers to view  
45 them in person (even if done monthly). That may come into play if other software is put in place that  
46 allows time to do monthly inspections.

1 The reason for the servers being housed in separate facilities relates back to the Town Hall being a  
2 Microsoft house. We run Microsoft systems here, which means when employees log in they must be  
3 authenticated. You get your username and password, which comes off a domain controller. Those  
4 domain controllers sit here, but the redundant domain controller such as in the case of the Fire  
5 Department, is located at the Fire Department. That is a valid use of that server. If a link were to go  
6 down between the Town Hall and the Fire Department, without that server there nobody would be able  
7 to log in and do any work. The question of service in the other buildings is a valid point, and a valid  
8 solution for redundancy within the network. Another issue is the links between some of the facilities  
9 not being up to par. There is fiber between some but not all the buildings.

10  
11 Mr. Mondoux reiterated the desire of the Committee to seek out solutions for the system continuity and  
12 security assessment. The Committee wishes to research and recommend another backup strategy. The  
13 Committee also wishes to conduct a review of the infrastructure.

14  
15 Vice Chairman Rothhaus commented on previous discussion of security, e.g., Cloud storage, etc. He  
16 stated a desire to address the issue of a single individual possessing the operational knowledge. He  
17 would also like to see the security issue addressed. If the Committee has a proposal to put forth, he  
18 would like to see that take place. He noted the Technology Coordinator could request an item be  
19 placed on an agenda.

20  
21 Mr. Mondoux commented there was mention in a few of the meeting minutes, that the opportunity for  
22 additional training should be made available.

23  
24 Councilor Flood questioned how fiber optics is brought into Town. Assistant Town Manager/Finance  
25 Director Micali stated the Town owns the fiber link between the Town Hall and the Waste Water  
26 Treatment Facility. Consideration has been given to contracting with Comcast for fiber to other  
27 buildings. The process is ongoing. When asked, he stated it would interconnect.

28  
29 Councilor Flood stated there to be interest in Town to have an ability to archive and to achieve clearer  
30 communication. She has been told fiber optics is the way to do that. Mr. Mondoux stated that to be  
31 the best result currently. Connectivity is an issue if backups, etc. are done over the links. There is  
32 some fiber in Town, and that is okay, but there are other parts of the environment where it is really  
33 lacking.

34  
35 Councilor Albert questioned if the Committee needs formal permission from the Council to move  
36 forward with the stated direction. Vice Chairman Rothhaus stated his belief that is currently in the  
37 Charge. Mr. Mondoux commented the Committee was uncertain. Town Manager Cabanel stated she  
38 would be happy to sit down with him and the Technology Coordinator. If all parties agree, the matters  
39 could be put on a future agenda for the Council.

40  
41 **Public Hearing**

- 42  
43 **1. Public Hearing - Consideration of Changes to Chapters of the Merrimack Town Code**  
44 Submitted by Town Council Chair Nancy Harrington and Vice Chair Finlay Rothhaus  
45 The Town Council will hold a public hearing to consider the acceptance of recommended changes  
46 to Chapters A198 of the Merrimack Town Code, pursuant to Charter Article V.  
47  
48

1 Chapter A198 - Administrative Code  
2 *Vice Chairman Rothhaus declared the Public Hearing open at 8:56 p.m.*

3  
4 Assistant Town Manager/Finance Director Micali noted the changes requested by the Council have  
5 been made.

6  
7 Vice Chairman Rothhaus questioned reference on page 12 of an Economic Development Division. It  
8 was explained those are duties assigned to the Community Development Director. He is the Economic  
9 Development Division.

10  
11 No public comment was offered.

12  
13 *Vice Chairman Rothhaus declared the Public Hearing closed at 8:58 p.m.*

14  
15 **MOTION made by Councilor Boyd and seconded by Councilor Albert to move Chapter A198 to**  
16 **the Consent Agenda. MOTION CARRIED 5-0-0**

17  
18 **Legislative Updates from State Representatives - None**

19  
20 **Town Manager's Report - None**

21  
22 **Consent Agenda**

23  
24 **1. Consideration of Changes to Chapters of the Merrimack Town Code [Final Reading]**

25 Submitted by Town Council Chair Nancy Harrington and Vice Chair Finlay Rothhaus  
26 The Town Council to consider the acceptance of recommended changes to Chapters 34 (Library),  
27 66 (Miscellaneous Duties of the Town Council), 145 (Peddling and Soliciting) and 180 (Temporary  
28 Sales Locations and Vendors) of the Merrimack Town Code, pursuant to Charter Article V.

29  
30 **MOTION made by Councilor Boyd and seconded by Councilor Albert to move Chapter 34 to**  
31 **engrossment. MOTION CARRIED 5-0-0**

32  
33 **MOTION made by Councilor Boyd and seconded by Councilor Albert to move Chapter 66 to**  
34 **engrossment. MOTION CARRIED 5-0-0**

35  
36 **MOTION made by Councilor Boyd and seconded by Councilor Albert to move Chapter 145 to**  
37 **engrossment. MOTION CARRIED 5-0-0**

38  
39 **MOTION made by Councilor Boyd and seconded by Councilor Albert to move Chapter 180 to**  
40 **engrossment. MOTION CARRIED 5-0-0**

41  
42 **Old Business**

43  
44 **1. Consideration of Changes to Chapters of the Merrimack Town Code**

45 Submitted by Town Council Chair Nancy Harrington and Vice Chair Finlay Rothhaus  
46 The Town Council to consider the acceptance of recommended changes to Chapter 92,  
47 Amusement Devices, of the Merrimack Town Code, pursuant to Charter Article V.

1 Assistant Town Manager/Finance Director Micali spoke of a request made for a definition of game of  
2 chance, which is “a game whose outcome is strongly influenced by the randomization device and upon  
3 which contestants may choose to risk money or anything of monetary value upon a future contingent  
4 event not under one’s control or influence upon an agreement or an understanding that something of  
5 value will be received in the event of a certain outcome. Common devices used include dice, spinning  
6 tops, playing cards, roulette wheels or numbered balls drawn from a container.” The definition has  
7 been vetted by Town counsel.

8  
9 **MOTION made by Councilor Boyd and seconded by Councilor Thornton to move Chapter 92 to**  
10 **engrossment**

11  
12 **ON THE QUESTION**

13  
14 Councilor Albert asked for clarification, if necessary, some of the wording in the Chapter would be  
15 changed if things change with KENO. Assistant Town Manager/Finance Director Micali stated that  
16 would be the case.

17 **MOTION CARRIED 5-0-0**

18  
19 **2. Primex Contribution Assurance Program (CAP) for FY 2020 - FY 2022**  
20 **[Tabled at the January 11, 2018, Town Council meeting]**

21 Submitted by Finance Director Paul T. Micali

22 Town Council to consider the option of participating in the Contribution Assurance Program  
23 (CAP) for the next three coverage period years (FY 2020 – FY 2022) for Primex’s Property &  
24 Liability Program.

25  
26 Town Manager Cabanel spoke of a presentation provided the Council regarding the two types of  
27 insurance the Town gets from Primex; Workers’ Compensation and Property & Liability. Specifically,  
28 around participation in the Contribution Assurance Program (CAP), which limits the amount of  
29 increase(s) that can occur. Since that time, it has been learned although the Property & Liability caps  
30 are still being offered, the Workers’ Compensation caps are not due to the very high claims the Town  
31 has experienced over the past three years.

32  
33 **MOTION made by Councilor Boyd and seconded by Councilor Albert to take from the table**  
34 **Item, #2 under Old Business. MOTION CARRIED 5-0-0**

35  
36 **MOTION made by Councilor Boyd and seconded by Councilor Thornton that the Merrimack**  
37 **Town Council resolve:**

38  
39 *“To hereby accept the offer of the New Hampshire Public Risk Management Exchange (Primex) to*  
40 *enter into its Property & Liability Contribution Assurance Program (CAP) as of the date of the*  
41 *adoption of this resolution, and to be contractually bound to all of the terms and conditions of Primex*  
42 *risk management pool membership during the term of the Property & Liability Contribution Assurance*  
43 *Program (CAP). The coverage provided by Primex in each year of membership shall be as then set*  
44 *forth in the Coverage Documents of Primex.”*

45  
46 **and that furthermore the Chairman attest that the foregoing is a true copy of the Resolution of**  
47 **the Governing Board of the Town of Merrimack adopted on this date. MOTION CARRIED**  
48 **5-0-0**

1 **New Business**

2  
3 **1. Committee Appointments**

4 Submitted by Town Council Chairman Nancy Harrington and Vice Chair Finlay Rothhaus  
5 The Town Council to consider appointing the following individuals to Town Committees, pursuant  
6 to Charter Article 4-8:

- 7  
8 Chip Pollard – Heritage Commission (Full member)  
9 Rod Buckley – Zoning Board of Adjustment (Alternate member)

10  
11 **MOTION made by Councilor Boyd and seconded by Councilor Albert to approve the**  
12 **appointments of Chip Pollard as a Full Member of the Heritage Commission and Rod Buckley as**  
13 **an Alternate Member of the Zoning Board of Adjustment pursuant to Charter Article 4-8.**

14 **MOTION CARRIED 5-0-0**

15  
16 **2. Planning and Zoning Board Public Notices**

17 Submitted by Michael Malzone  
18 Town Council to discuss the Planning and Zoning Board’s public and residential notices.

19  
20 Mr. Michael Malzone, 8 East Chamberlain Road, stated there to be a lot of development that will occur  
21 in Town over the next couple of years. He spoke of the quality of his life in Town, and how it has  
22 changed dramatically over the past few years (for the worse). He attributes that to the type of building  
23 and variances that have been granted by the Zoning and Planning boards. He spoke of the legal  
24 requirement for notices of Public Hearings to be posted in local newsprint, and questioned why  
25 Merrimack’s notices are not published in the Merrimack Journal, which is delivered, at no cost, to all  
26 residents. He questioned, and was informed the Town posts notices in the Union Leader.

27  
28 Town Manager Cabanel stated she would be happy to place the notices in the Merrimack Journal now  
29 being aware that is desired.

30  
31 Mr. Malzone commented if a resident is seeking approval to put a deck on their home or garage in their  
32 yard it is the direct abutters that are notified by the Town, which is appropriate as that represents the  
33 area being impacted. However, he believes the Council should look to change existing procedures  
34 regarding notification of commercial construction. He used the example of Synergy when commenting  
35 the only people notified of the construction of that building were the exact abutters. Many more were  
36 affected by that construction.

37  
38 He believes the greater the level of participation, the greater level of scrutiny a potential project would  
39 be subjected to. He suggested some of the questions that should have been asked such as is it really  
40 necessary to have a storage facility open 24 hours, were not posed. Residents have to deal with the  
41 lighting pollution of that building, his property value has dropped because of a 300’ blue synergy sign  
42 that is lit all day and all night. The noise pollution of moving trucks in the middle of the night is  
43 another issue. He spoke of the lack of a noise/sound ordinance in Town.

44  
45 He remarked when Synergy backfilled the area in, and had to compact the land, they did not walk  
46 down there with hand compactors, they bought the largest piece of equipment you have ever seen to do  
47 that. Everyone within a ¼ of a mile had their foundation shift, crack, etc.

1 Mr. Malzone spoke of the increased number of variances granted in Town, and reiterated the concern  
2 the requests are not publicized as they should be, and residents are learning after the fact. He requested  
3 all legal notices for Public Hearings be placed in the Merrimack Journal, and that the Town Code be  
4 amended regarding notifications for large construction sites to be more than simply direct abutters.  
5

6 Councilor Albert stated agreement with publicizing in the Merrimack Journal. He commented he does  
7 not find it difficult to obtain information as it is located on the Town's website, e.g., Planning Board  
8 agendas. He stated his belief a lot of people learn of large projects through the internet.  
9

10 Mr. Malzone stated agreement; however, reiterated the Town is required by law to publicize in  
11 newsprint.  
12

13 Councilor Boyd commented several years ago he had a neighbor that wanted to place a cell tower on a  
14 residential property, and abutters were notified. As a direct abutter he was notified, but there were  
15 residents directly across the street who would have been more impacted by the cell tower than he, and  
16 they did not receive a notice. He questioned if the Town can expand how it notices people.  
17

18 Councilor Albert commented on having received a notification about a neighbor half a mile down the  
19 road putting up a garage. He is receiving a notice like that, but not ones for larger projects.  
20

21 Town Manager Cabanel stated she would request Tim Thompson, Director, Community Development,  
22 provide a memo on the specifics of how notifications are done. She stated the reason the Town  
23 stopped advertising public notices in the Merrimack Journal is because they are double the cost of  
24 publicizing in the Union Leader.  
25

26 *There being no objection, the Council took a five-minute recess at 9:27 p.m.*

27 *The Council reconvened at 9:32 p.m.*  
28

### 29 **3. Donation Acceptance for the Merrimack Police Department**

30 Submitted by Captain Michael Dudash

31 The Town Council to consider the acceptance and expenditure of a donation in the amount of  
32 \$4,110.00 from Merrimack Crimeline to the Merrimack Police Department to be used towards the  
33 K-9 program, pursuant to RSA 31:95-b and Charter Article 8-15.  
34

35 Michael Dudash, Captain, Merrimack Police Department, stated in December Chief Roy was presented  
36 a check by Crimeline in the amount of \$4,110.00. Crimeline is a big supporter of the Police  
37 Department. The donation is intended to be put towards the K-9 program to cover expenses such as  
38 maintenance, vet bills, boarding, etc.  
39

40 Councilor Albert expressed gratitude to the people at Crimeline who do a great job in supporting the  
41 department. Captain Dudash stated they are up to \$24,000 raised for the K-9 program. He indicated a  
42 letter of gratitude would be sent.  
43

44 **MOTION made by Councilor Boyd and seconded by Councilor Albert to approve the acceptance  
45 and expenditure of a donation in the amount of Four Thousand One Hundred Ten Dollars  
46 (\$4,110.00) from Merrimack Crimeline to the Merrimack Police Department to be used towards  
47 the K-9 program, pursuant to RSA 31:95-b and Charter Article 8-15 and furthermore that the**

1 **Town Manager or Finance Director be authorized to sign whatever documents necessary to**  
2 **accept and expend said donation. MOTION CARRIED 5-0-0**

3  
4 **4. Assistance to Firefighters Grant Application for Merrimack Fire Rescue**

5 Submitted by Fire Chief Mike Currier

6 Town Council to consider Merrimack Fire Rescue's request to apply for a Federal Assistance to  
7 Firefighters Grant (AFG) for the purchase of at least 48 portable radios and associated equipment.

8  
9 Mike Currier, Fire Chief, Merrimack Fire Department, stated the request before the Council was for  
10 approval to apply for the grant, which requires 10% matching funds. The application period is open,  
11 and will close at the beginning of February. It is done on a rolling basis on a descending score. The  
12 first roll-out would be expected in the June timeframe, and would continue every two weeks on a  
13 rolling basis as the scores go down until the money is depleted. It could be anywhere between June  
14 and September that the department would know if grant funds would be received, and what the amount  
15 of the grant would be.

16  
17 Councilor Albert questioned what, if any, strings would be attached, and was told this particular grant  
18 program does not have the strings others have. There is a 10% match required.

19  
20 Councilor Albert questioned the timeline that would be needed for the 10% matching allocation. Town  
21 Manager Cabanel stated the entire expense is coming out of the Capital Reserve Fund (CRF) in next  
22 year's budget. She commented on prior purchases for which grants were sought over the course of two  
23 years, and how the actual purchase was not made until all available grant funds were received.

24  
25 Councilor Thornton questioned if funds that would have been utilized from the CRF that would not be  
26 needed if the grant application were successful, could be utilized elsewhere. Town Manager Cabanel  
27 explained, if the grant is successful, they would come before the Council for the 10% match, and  
28 would leave the balance in the CRF for future years or perhaps make less of a contribution into the  
29 CRF in future years.

30  
31 **MOTION made by Councilor Boyd and seconded by Councilor Albert to approve the request of**  
32 **Merrimack Fire Rescue to apply for a Federal Assistance to Firefighters Grant (AFG) for the**  
33 **purchase of at least 48 portable radios and associated equipment. MOTION CARRIED 5-0-0**

34  
35 **5. Discussion of Special Investigation Unit**

36 Submitted by Police Chief Denise Roy

37 Town Council to discuss options for establishing a special investigation unit within the Merrimack  
38 Police Department.

39  
40 Denise Roy, Police Chief, Merrimack Police Department, spoke of the discussion that took place at the  
41 Council's January 8<sup>th</sup> meeting regarding a special investigative unit.

42  
43 A Sergeant and Patrolman were able to be taken out of patrol, and their shifts covered with overtime.  
44 These two individuals have concentrated solely on drug activity and crime that has been going on at  
45 the hotels. Since January 8<sup>th</sup>, there have been 17 arrests (2-week period). When you couple that with  
46 the 33 arrests that came about during a 3-month period when this was concentrated on, it shows it has  
47 not gone away. This is similar to an infestation where you have one that comes in and they all come in  
48 right after that.

1 She commented she did not wish to mislead and suggest that every arrest was for a methamphetamine,  
2 it was not, but what happens is these lawless people come in, and have outstanding warrants. The  
3 department has had Immigration come down because there have been people who were wanted and  
4 deported. The department has made arrests for methamphetamines, heroin, marijuana, etc. Coupled  
5 with the 17 arrests, in the hotel area alone they have stopped 45 motor vehicles that were somehow  
6 related to the hotels and suspicious activity.

7  
8 Chief Roy remarked she and the Town Manager have talked about the department saturating the area  
9 and doing everything possible to let these people know the officers are there. Chief Roy stated the  
10 three of them have met with 3 of the 4 hotel Managers to begin a network for exchange of information.  
11 What they are finding is people get kicked out of one hotel and end up at another. With that network  
12 in place they can tell the individuals being kicked out that all the other hotels in Merrimack would be  
13 made aware. That is one example of the types of innovative ways being looked for to not simply arrest  
14 people, and do investigations.

15  
16 What they cannot touch upon yet is a noticed increase in prostitution at the hotels. People are  
17 advertising on social media and are hanging out in Merrimack hotels and asking people to come. The  
18 department is so busy with the drug portion of it with the two people the department has concentrating  
19 on that, that they can't do anything just yet about the prostitution problem. These things go hand-in-  
20 hand; crimes that are happening are a direct result of the drug activity, the lawless people who are  
21 coming in and making our Town appear to be other than it is.

22  
23 Chief Roy commented she is aware there was concern the department is not utilizing all the available  
24 resources, e.g., Federal, State and County resources. For large drug investigations, those agencies are a  
25 great resource and are here for us, but they handle the entire State, and there is only so much they can  
26 do to help. It is a daily struggle for the department. Since the beginning of the year, the department  
27 has responded to the hotels approximately 43 times for various things.

28  
29 Chief Roy noted three separate scenarios being presented as a means of trying to combat this problem.

30  
31 The first scenario is what is currently occurring; paying overtime to cover a Sergeant and Patrolman.  
32 Those individuals are working exclusively at the hotels and addressing drug activity in Town. For the  
33 department to pay for those positions from this time until the end of the current fiscal year, the cost  
34 would be \$45,991 for the Sergeant and \$39,834 for the Patrolman. To fill those two positions in the  
35 patrol division to ensure the sectors are covered and taxpayers are still receiving services, for a  
36 Sergeant and 1 Patrolman is \$85,825 and a Sergeant and two patrolmen is \$125,659. That is scenario 1  
37 and is just from now until the end of the current fiscal year paying overtime to fill the patrol division  
38 for these positions.

39  
40 Councilor Albert commented \$227,000 is budgeted for this fiscal year for overtime, and questioned  
41 how much of that has already been expended expressing concern with how the proposed overtime will  
42 be covered. Chief Roy stated the budgeted overtime is intended to fill positions during times of  
43 vacations, trainings, and holiday pay. In terms of where the budget is now, it is being depleted quickly  
44 to try to maintain some control.

45  
46 Assistant Town Manager/Finance Director Micali stated there to have been a number of vacancies in  
47 the Police Department in the patrol division. The last Patrolman was hired recently. There are two in  
48 the academy now that were hired the beginning of last month. The positions having gone unfilled for a

1 period resulted in savings in salaries. With those savings and associated benefits, it is believed the  
2 \$85,000 cost will be covered. Councilor Albert questioned if the \$125,000 could be covered, and was  
3 informed it is believed the savings will be sufficient to cover that as well. Town Manager Cabanel  
4 stated if all of it is not available within the Police Department's budget, a request could be made of the  
5 Council to move it from another department's budget.  
6

7 Chief Roy stated Scenario B, which she and her staff are hopeful the Council will support, would result  
8 in hiring 1-3 new officers now. If hiring them now the overtime pay would still be required. She  
9 spoke of how involved the process is in training an officer and preparing him/her to go out on the  
10 street. The Department is fortunate to have some people who have passed the testing and are on a wait  
11 list. Given the opportunity to hire them once re-interviewed and given a conditional offer, through the  
12 background check, etc., the department would not be hiring them until at least April 1<sup>st</sup>. The next  
13 academy starts on April 30<sup>th</sup>. The time prior to the academy would be utilized for in-house training,  
14 e.g., qualify with firearm, policy and procedures, etc. They will not be ready to be out on their own  
15 just under the supervision of a Sergeant or Lieutenant until at least November or the beginning of  
16 December.  
17

18 The salary (and benefits) for a new Sergeant (until June of 2018 and in the current FY budget) is  
19 \$33,250, a Patrolman is \$21,350. The total is either \$140,425 or \$201,609 for a Sergeant and two  
20 Patrolmen. She reiterated this is the cost just until the end of the current fiscal year.  
21

22 Councilor Albert commented he believes some will be concerned overtime will result in officer  
23 fatigue, and questioned how overtime would be disbursed to avoid that. Chief Roy stated that is faced  
24 a lot. The shifts run in 8 hours. They do not allow an officer to do more than 16 hours in a day. They  
25 are limited in the number of hours per week as well.  
26

27 Town Manager Cabanel remarked there have been discussions about the availability of officers. The  
28 Chief has indicated she would ensure the priority overtime would not be for details but instead for  
29 covering the staffing for the Town.  
30

31 Starting July 1<sup>st</sup> when the new fiscal year begins, a new Sergeant salary and benefits is \$133,000. A  
32 new Patrolman's salary is \$85,398. These officers, if hired, will not be ready until  
33 November/December. To continue addressing the daily struggles at the hotel, those positions would  
34 have to be filled in the patrol division with overtime. Those two costs; Sergeant until November 30<sup>th</sup>  
35 would be at a cost of \$ 45,9091 and the Patrolman \$39,835. Total for the FY19 budget with the new  
36 positions and the overtime needed would be \$304,224 and \$429,457 if there were a Sergeant and two  
37 Patrolmen.  
38

39 Scenario 3 is if we say we are not going to hire until July 1<sup>st</sup>. If we do nothing other than pay the  
40 overtime to fill the shifts now, and do not hire until FY19, the salaries and benefits for the Sergeant  
41 and Patrolman would be the same. However, the overtime that would have to be expended would be  
42 pushed out to March of 2019. If we hire July 1<sup>st</sup> we have to go through the entire process of the  
43 background check, and the academy does not start until sometime late August, which would push the  
44 graduation to December. Then you still have to go out the 3-4 months for that officer to do field  
45 training. It pushes the ability to have two trained officers on the road by themselves until March of  
46 FY19. That is why the salary plus the overtime would total \$361,442 for one and \$513,231 for 2. That  
47 also includes the overtime for this current fiscal year.

1 Chief Roy added after an officer is trained and ready to go, for a normal fiscal year, without any  
2 overtime or having to cover any shifts, for a Sergeant and 1 Patrolman it is \$218,398, and for a  
3 Sergeant and 2 Patrolmen it is \$303,796.

4  
5 Councilor Boyd questioned, and was informed every \$33,000 adds \$0.01 on the tax rate.

6  
7 Town Manager Cabanel stated her recommendation to be the 2<sup>nd</sup> scenario. She spoke of being fiscally  
8 conservative while at the same time interested in ensuring this problem that has crept up on us very  
9 quickly is also eradicated very quickly. This scenario would be to hire 1 Sergeant and 1 Patrolman as  
10 soon as possible, fill with overtime, and carry those two positions forward through the budget for next  
11 year. The new Sergeant is already in there, and the new Patrolman would have to be added. The  
12 Administration would find, within the general fund budget, the money for the \$140,000 for this fiscal  
13 year, which is what would be needed to hire those positions now and cover the cost of overtime.

14  
15 She spoke of the department's success with that model, and stated her belief to get the job done  
16 effectively you could always add more overtime, but it is very difficult to hire someone and then not  
17 keep them if you find that additional position is not needed.

18  
19 Vice Chairman Rothhaus questioned what the School Resource Officers (SROs) do during the summer  
20 months. Chief Roy noted the SROs are very busy in the summer months as well. There are still school  
21 activities they are associated with. However, when needed, they can be looked to.

22  
23 Councilor Albert asked for additional information on the number of manhours required for a single  
24 investigation.

25  
26 Captain Levesque commented timeclock that starts from the time of arrest involves the officer and a  
27 backup officer on scene for about an hour gathering statements, evidence, etc. Depending on the type  
28 of call there may be a third officer on scene for half an hour. The arresting officer then transports to  
29 the station, and between transport, booking, fingerprinting, photographing, etc. it is about another hour.  
30 If a drug case, they like to try to debrief/gather intelligence from the subject. During that time, they are  
31 also trying to confirm the intelligence is good. That can take another hour and a half or so. Court  
32 paperwork, affidavits, things they need to show probable cause for the arrest can take at least an hour.  
33 They call a Bail Commissioner in who to set the bail. The officer must be with them during the entire  
34 process, as he goes through all the court paperwork, which is at least another 25 minutes. If they have  
35 to transport the subject to the Valley Street jail in Manchester that is another 45 minutes. They come  
36 back to the station and have to log evidence, which can be another 45 minutes. This basic arrest can  
37 take upwards of 4½ hours for one officer, and does not include the time of the officers that are on  
38 scene assisting.

39  
40 A lot of times with these drug cases they run into issues where they might have to apply for search  
41 warrants. They ran into a situation recently where they went to a hotel for a disturbance, made an  
42 arrest, and realized they had to do a search warrant. They had to take an officer off the street and have  
43 him sit on a hotel room to secure the scene. That officer was there for 5 hours by the time the search  
44 warrant was applied for. The search warrants are very detailed and typically take about 2 hours for an  
45 experienced officer. Meanwhile they are cross-referencing past reports to gather enough probable  
46 cause to make sure we can get into these places. That officer must write the report, and find and meet  
47 with a Judge to have him sign off, which can be another hour. Searching, gathering evidence,  
48 documenting the scene is probably another 2 hours. From there, they go back to the station and log

1 evidence again (another hour). That search warrant alone took that 1 officer 6 hours. Unfortunately, at  
2 times it leads into other things. While addressing the issue, they were alerted to another by the hotel,  
3 which resulted in another arrest and another search warrant being applied for, and the next thing you  
4 know these officers are 14 hours on an investigation. These are two people that were pulled off the  
5 street that were called in to assist.

6  
7 Not every arrest takes 4 hours, but when talking drug investigations, they are very detailed, and you  
8 have to be very thorough to make sure you gather all of the information, so it can be used for the  
9 future, so the problem can be eradicated.

10  
11 Chief Roy stated she and the Town Manager have discussed this a great deal. She understands and  
12 supports her position. When last before the Council she was asked what her ideal situation would be.  
13 It would be a Sergeant and 2 Patrolmen, and that is simply because of how much time and effort goes  
14 into these investigations. The instances cited were just at the time of an arrest. She spoke of the  
15 amount of time involved in gathering of information prior to an arrest. They are making it work with 2  
16 people. The department is trying to be as fiscally conservative as possible. It is understood this is  
17 putting a burden on the taxpayers, and that nobody has asked for this problem to come to Merrimack.

18  
19 Chief Roy stated her recommendation to be the second scenario; 1 Sergeant and 2 Patrolmen. She  
20 reiterated they can absolutely make a Sergeant and 1 Patrolman work.

21  
22 Councilor Flood stated her greatest concern to be the safety of the officers. She had not considered the  
23 amount of time involved with paperwork, etc.

24  
25 Chief Roy stated appreciation for that concern, and stated that to be her #1 priority. She spoke of the  
26 type of individuals they are encountering creating a more and more dangerous situation the officers  
27 have to place themselves in. Vice Chairman Rothhaus stated his hope the department would be able to  
28 take advantage of the SROs and whatever other creative thing they can find on top of that.

29  
30 Councilor Boyd commented since January 8<sup>th</sup> with the overtime, 17 arrests equate to 1 a day. That  
31 means if you are arresting and processing 1 individual in that day it is taking up anywhere from 6-8  
32 hours of that officer's time. When asked if that is a fair assessment, Chief Roy responded depending  
33 on what the arrest was for, but it is a fair statement.

34  
35 Councilor Boyd stated he recently stated publicly, and still believes a Sergeant and 2 Patrolmen is an  
36 appropriate way to attack. However, he noted the Chief's statements regarding being able to make it  
37 work with 1 Sergeant and 1 Patrolman. He spoke of his trust in the Chief and Captains to manage the  
38 patrol officers that are keeping our community safe.

39  
40 **MOTION made by Councilor Boyd and seconded by Councilor Thornton to approve Scenario B**  
41 **with 1 Sergeant and 1 Patrolman with the numbers as presented. Furthermore, that the Council**  
42 **be given data, monthly, regarding how we are attacking the problem. The data may be used to**  
43 **revisit the issue, and determine if a second patrol officer can be justified to participate in the**  
44 **Special Investigation Unit**

45  
46 **ON THE QUESTION**

1 Councilor Boyd reiterated he does not wish to throw money at a problem. He would want to be  
2 informed of the successes resulting from the additions.

3  
4 Councilor Albert noted the motion would result in the hiring of two new officers for the department.  
5 Town Manager Cabanel stated that to be true, and that they would be hired as soon as possible.  
6 Councilor Albert remarked the Chief has indicated she and her staff can make that work, and stated his  
7 support for the motion.

8  
9 Councilor Flood stated she is still inclined to provide for the Sergeant and 2 Patrolmen. She is  
10 concerned for their safety given the tough situations they will be facing. With misgivings, she  
11 supported the motion.

12  
13 Councilor Boyd remarked he does not necessarily disagree with Councilor Flood's comments. He  
14 believes the Council is, for the most part, aligned on attacking the problem, it is just a matter of how to  
15 attack it at this stage.

16  
17 Chief Roy stated they would not be taking these two people away from what they are doing. They will  
18 not supplement patrol, they are just going to concentrate on the problems being faced.

19 **MOTION CARRIED 5-0-0**

20  
21 **6. 2nd Quarter Financial Review**

22 Submitted by Finance Director Paul T. Micali

23 Finance Director Paul Micali will review the key financial information of the quarter ending  
24 December 31, 2017.

25  
26 Assistant Town Manager/Finance Director Micali stated the Town is in a great financial position; has  
27 significant appropriations and revenues are coming in better than expected in some key areas.

28  
29 One of the areas reviewed is health insurance costs. Expenses are approx. \$22,000 lower than this  
30 same time last year. All Town employees are on the new plan. A trend is being seen in health  
31 insurance, and the hope is additional savings will be achieved further down the road.

32  
33 The New Hampshire Retirement System (NHRS) costs are up across the board. NHRS costs for the  
34 Fire Department are up from this time last year, which correlates with the department now being fully  
35 staffed. Overtime from the Police Department is up, which correlates to their NHRS costs having  
36 increased.

37  
38 In terms of overtime, although the Fire Department is coming down, most of the difference is  
39 associated with the department having been short-staffed in the first part of last year. Overtime in the  
40 Highway Department is tracking with the numbers from the previous year.

41  
42 Auto registrations continue to grow, and revenue is on track to hit the projected number. It has taken  
43 nearly 10 years to get interest figures on pooled cash back to where they were in 2008-2009 (over  
44 \$200,000 level). Assistant Town Manager/Finance Director Micali stated he and the Deputy Finance  
45 Director have been pounding the pavement seeking the best interest possible. It is projected, at year  
46 end, that figures will be in the \$350,000 - \$275,000 range.

1 Revenue from building permits is a little higher compared with this time last year. It is hoped that  
2 trend will continue.

3  
4 **Minutes**

5  
6 January 8, 2018

7  
8 *The following amendment was offered:*

9  
10 Page 7, Line 45; insert “the department” following “However,”

11  
12 **MOTION made by Councilor Boyd and seconded by Councilor Thornton to accept the meeting**  
13 **minutes of the Town Council budget meeting of January 8, 2018, as amended. MOTION**  
14 **CARRIED 5-0-0**

15  
16 January 11, 2018

17  
18 **MOTION made by Councilor Boyd and seconded by Councilor Thornton to accept the meeting**  
19 **minutes of the Town Council meeting of January 11, 2018, as presented. MOTION CARRIED**  
20 **5-0-0**

21  
22 **Comments from the Press** - None

23  
24 **Comments from the Public** - None

25  
26 **Comments from the Council**

27  
28 Councilor Boyd thanked Sean Valenti and a host of people that live by the Reeds Ferry School,  
29 Baboosic Brook, Pearson Road, Brenda Lane, Cathy Street, and Cabot Road. His dog, Adidas, got  
30 loose and went on a 21-hour journey, which included running across Baboosic Brook. On behalf of  
31 Adidas, his family, and the Midnight Run Kennel, he thanked Sean and all the neighbors who helped  
32 get him home.

33  
34 Councilor Boyd requested the February 8, 2018 Council agenda include discussion of the Council  
35 submitting a letter in support of SB309. The Bill seeks to provide NHDES standards regarding PFOAs  
36 and PFOSs and how water quality is measured. The Bill also includes an annual review of standards.  
37 He stated he would like to encourage the Senate to add some of the C4, C5, C6 that Mrs. Thomas  
38 alluded to today.

39  
40 Town Manager Cabanel stated she would be on vacation from February 3<sup>rd</sup> to the 10<sup>th</sup>, and will not be  
41 in attendance for the February 8<sup>th</sup> meeting. She commented as we start talking about regulating  
42 PFOAs and various substances in the water we must keep in mind C6 for example is not even on the  
43 EPAs emerging contaminants list. We need to leave room open for them to start discussing these  
44 things once they become regulated and investigated. It is not necessarily advisable for the Council to  
45 start listing them until they get on the emerging contaminants list.

1 **Adjourn**

2

3 **MOTION made by Councilor Boyd and seconded by Councilor Thornton to adjourn the**  
4 **meeting. MOTION CARRIED 5-0-0**

5

6 *The January 25, 2018 meeting of the Town Council was adjourned at 10:36 p.m.*

7

8

9

10 Submitted by Dawn MacMillan

DRAFT