



Town Council Meeting Minutes

Thursday September 27, 2018 at 7:00 PM, in the Matthew Thornton Room

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

Pledge of Allegiance

Chairman Rothhaus led in the Pledge of Allegiance.

Announcements

On behalf of the Town Council, Chairman Rothhaus expressed deepest sympathies to the family and friends of Marty Carrier who passed away on Sunday, September 23rd at the age of 79. Marty was greatly involved at the State and local level to include serving as Call Lieutenant and Call Deputy Chief of the Merrimack Fire Department totaling nearly 34 years. He served as a Commissioner with the Merrimack Village District for 11 years, as a member of the South Fire Station Building Advisory Committee and a long-time board member of the National Volunteer Fire Council and the New Hampshire Association of Fire Chiefs. Marty was valued and respected, and his volunteer service and contributions will never be forgotten.

The Council observed a moment of silence in memory of Martin Carrier.

The NHDOT will hold a public hearing regarding the proposed improvements (widening) to the F.E. Everett Turnpike in Nashua, Merrimack & Bedford. This public hearing will be held at the Merrimack High School at 7:00 p.m. on October 3rd. The project will widen the F.E. Everett Turnpike to improve traffic operations and safety comprised of three segments; 1) from the vicinity of Exit 8 in Nashua northerly to the vicinity of exit 10 in Merrimack, 2) from the vicinity of exit 11 in Merrimack northerly to the southern limit of the Bedford toll plaza, and 3) from the northern limit of the Bedford toll plaza northerly through the I293 exchange. This project is tentatively scheduled for advertising for bids December 15, 2020.

The New Hampshire Department of Environmental Services (NHDES) PFAS Public Information meeting will be held on October 10th at 6:30 p.m. in the James Mastricola Upper Elementary School All Purpose Room.

Regular meetings of the Town Council will be held on Thursday, October 11th and 25th at 7:00 p.m. in the Matthew Thornton Room.

Eversource is offering a free Freon day event at the Transfer Station. On October 13th from 8:00 a.m. - 4:00 p.m. residents can bring their Freon based appliances to the Transfer Station and the normal fee for disposal will be covered by Eversource.

PFAS Update

1 The sub-committee of the New Hampshire Drinking Water and Groundwater Advisory Commission,
2 which addresses land conservation projects, has recommended approval of nearly \$3 million in grants
3 to support land conservation projects for source water protection throughout the State.
4

5 Councilor Boyd remarked while Merrimack was not a part of the process, during deliberations, he
6 noted Merrimack's commitment to "exploration" and looking for lands within our own town to
7 develop our own new sources of drinking water and source water protection; specifically the parcel the
8 town approved off of Klara Drive. The full Commission is scheduled to meet on Monday.
9

10 Governor Sununu has signed HB1101, which provides specific criteria for air emissions and instructs
11 the NHDES to identify a drinking water standard as it relates to Perfluorinated Chemicals (PFCs).

12 Councilor Boyd commented on the letter the Council sent to the Legislative Delegation requesting a
13 bill for specific air emission standards. It is believed NHDES will have rules in place by January 1st.
14

15 **Highway Garage Project Update**

16
17 Assistant Town Manager/Finance Director Micali stated the garage project is progressing. Earlier in
18 the day work was being done on the roof over the office space. Windows are expected shortly, and
19 doors are onsite. Flooring is being laid in the maintenance bay area. Siding on the two buildings
20 (existing and new) will be able to be matched making it more aesthetically pleasing. The project is on
21 target for a mid-November move-in date.
22

23 **Comments from the Press and Public**

24
25 Laurene Allen, 16 French Court
26

27 Provided the Council information obtained from the Senate sub-committee hearing held in
28 Washington, DC on September 26th and titled "The Federal Role in the Toxic PFAS Chemical Crisis".
29

30 Ms. Allen, Ms. Katharine Hodge, Ms. Andrea Amico (Testing for Pease), and others from areas such
31 as Michigan and Colorado attended the Senate hearing. They worked together on the coalition across
32 the country on how to engage the Senate with the needs of each impacted community. They met with
33 Senator Hassan's team as well as Senator Shaheen's team of leads representing the environment,
34 military, etc.
35

36 As one of the top scientists in this area, Linda Birnbaum, Director, National Institute of Environmental
37 Health Sciences and National Toxicology Program, was asked to participate. Questions asked of her
38 and her responses can be viewed [online](#). Dr. Peter Grevatt, Director, Office of Ground Water and
39 Drinking Water, U.S. EPA, also testified. Based on his comments, it appears the EPA is going to take
40 a different stand, meaning it is pushed back to the states. For New Hampshire it leaves us in the same
41 position we have been in. Ms. Allen commented based on a statement made by Director Grevatt, she
42 is of the belief there is no intent to change the 70 ppt limit. The focus is on testing. In her testimony,
43 Linda Birnbaum talked about cognitive and neurological challenges and associations and stated we
44 cannot test our way out of it.
45

46 Ms. Allen commented there is this tension between health impacts, lack of human study and the role of
47 the EPA. What needs to be kept in mind when engaging with NHDES is a public statement made by

1 the EPA that the way the Agency for Toxic Substances and Disease Registry (ATSDR) does their
2 science is not the way they do their science.

3
4 Ms. Allen spoke of the discussion the Council had at its September 13th regarding the community
5 exposure assessment proposed by the ATSDR. She noted the Pease study and the Newburgh Study
6 funding is under the Department of Defense. There was talk last year about including industrial
7 communities in the data. It has not been considered since at least April. Merrimack is not being
8 considered for any study other than documentations of support, which basically take exposure data
9 from NHDES and somehow magically put it into fact sheets that say what you can expect based on the
10 exposure that we believe you've had.

11
12 In a letter to ATSDR, the Congressional Delegation requested a community assistance panel, which is
13 something they have had in Pease for several years. They asked for a more in-depth evaluation of
14 community exposure including biological monitoring of community members and the assessment of
15 adverse health outcomes and health trends.

16
17 Nancy Murphy, 20 Brenda Lane

18
19 Stated Merrimack Citizens for Clean Water has had the opportunity to access the movie "The Devil we
20 Know"; an investigative documentary about a small town, Parkersburg, WV, that had a significant
21 amount of contamination from DuPont, which was known to DuPont, and a lawsuit that ensued. She
22 spoke of similarities to the exposure here and the contamination of public drinking water. The film
23 will be shown at 7:00 p.m. on Friday, October 12th in the little theatre at the high school.

24
25 **Recognitions, Resignations and Retirements** - None

26
27 *There being no objection, the Council went out of the regular order of business to take up Item #3*
28 *under New Business.*

29
30 **3. Donation Acceptance for Parks and Recreation Department**

31 Submitted by Parks and Recreation Director Matthew Casparius

32 The Town Council to consider the acceptance of the donation of a commemorative bench, with an
33 estimated value of approximately \$571.33 (including shipping), to the Parks and Recreation
34 Department to be placed near the waterfront at Wasserman Park, pursuant to RSA 31:95-e and
35 Charter Article 8-15.

36
37 Kim Sherman, 3 Royal Court

38
39 Commented she and her husband reside in an area that allows them to walk to Wasserman Park, which
40 is something she has done every day for the past 20 years. She would like to donate a bench and
41 sitting area to overlook the lake. It is a location that does not have such an amenity and an area she
42 enjoys on a daily basis. She commented her husband turns 50 next year, and she believes this would
43 be a great surprise.

44
45 **MOTION made by Councilor Boyd and seconded by Councilor Harrington to approve the**
46 **acceptance of the donation of a commemorative bench from Kimberly Sherman to Wasserman**
47 **Park overlooking the water, not to exceed Five Hundred and Seventy Five Dollars (\$575.00) in**
48 **total cost pursuant to RSA 31:95-e and Charter Article 8-15, and furthermore that the Town**

1 **Manager or her proxy be authorized to sign any and all documents necessary to perfect the**
2 **transaction**

3
4 ON THE QUESTION

5
6 Councilor Boyd thanked Ms. Sherman for her donation.

7 **MOTION CARRIED 7-0-0**

8
9 *The Council returned to the regular order of business.*

10
11 Appointments

12
13 **MOTION made by Councilor Boyd and seconded by Councilor Harrington to take from the**
14 **table the Annual Review with the Conservation Commission. MOTION CARRIED 7-0-0**

15
16 **1. Annual Review with the Conservation Commission [Tabled at the September 13, 2018, Town**
17 **Council meeting**

18 Submitted by Conservation Commission Chair Gage Perry

19 Per Town of Merrimack Charter Section 6-6, at least annually, there should be an annual review
20 with the Conservation Commission. This agenda item is to highlight the commission's significant
21 actions, current projects, anticipated actions, and to raise any concerns the Council should know or
22 could act on.

23
24 The Commission was created by Town Charter in 1967, and operates under State RSA 36-A. Its
25 charge is to ensure the proper utilization and protection of the natural resources and the protection of
26 watershed resources, and balancing those against the outdoor activities we all enjoy.

27
28 Gage Perry, Chairman, Conservation Commission, spoke of the major parcels, which include the
29 Horse Hill Nature Preserve (HHNP), Grater Woods, and Wildcat Falls. Each of these parcels has an
30 active sub-committees that addresses the day-to-day operations. A sub-committee has been formed for
31 the Fields Farm parcel located off of Amherst Road, and volunteers are sought to participate on that
32 sub-committee. The Commission is working with the Public Works Department (PWD) and the
33 Souhegan River Local Advisory Committee (SoRLAC) to determine what can be done on that parcel
34 to improve accessibility.

35
36 A new sub-committee will also be formed (likely at the start of next year) for the Sklar Waterfront
37 parcel, which adjoins town land (boat landing on Merrimack River). Volunteers will be sought.

38
39 Mr. Perry commented three members of the HHNP sub-committee have retired over the last 12-16
40 months. Roland Roberge, Deborah Huffman, and Newt Coryell served on the sub-committee since the
41 time the parcel became the HHNP in 2002. Their vision and work have been greatly appreciated by all
42 who have had the opportunity to walk that property.

43
44 Mr. Perry spoke of the work the Commission does with scouting organizations and the numerous
45 projects that have benefited the town. This year the Commission was pleased to have the Girl Scouts
46 come before to conduct projects. The Girls Scouts retreaded bridges and are currently working on
47 walking sticks for the HHNP.

1 The Commission has undertaken the review of Chapter 111. Work that is done on the properties is
2 believed to go a long way towards drawing people into the parcels. However, the greater the use the
3 greater the need for regulation. It is believed the update to Chapter 111 will prove helpful to
4 enforcement efforts. The update requires a great deal of research as each parcel has its own restrictions
5 included in Deed language.

6
7 This year marks the 18th year the Commission has conducted the Seedling Giveaway at Carrier
8 Orchards. Approx. 400 seedlings were purchased for the event and 12 remained at the conclusion.

9
10 Nearly 2 years ago the Commission began working with Eversource; doing planning work in terms of
11 when they would be in the area, what work would be done and how they would do it. The work was
12 done over the summer, and for the most part is complete. They made a rather large road along the
13 powerlines at the HHNP. Because of the sheer size of it, greater damage would be caused by trying to
14 return the area to its prior state. Eversource agreed to gate it.

15
16 The Commission is funded through the Land Use Change Tax and a small budget that comes from the
17 Town.

18
19 While a parcel of land is enrolled in current use, it's taxed at its traditional use value, which can result
20 in significant tax savings to the landowner. When land is removed from current use, it is subject to a
21 land use change tax equal to 10% of the full and true value of the land.

22
23 Historically, when receiving Land Use Change Tax funds, the Council has allocated monies into the
24 fund when its balance is below \$1 million. Monies in excess of that threshold are allocated to the
25 Town.

26
27 The Commission manages three funds; Conservation Fund, which is funded by the Town (current
28 balance \$44,000), the Land Use Change Tax Fund (\$740,000 balance), and the HHNP Fund, which
29 was created when the property first became its own parcel and individuals wished to make donations
30 directly to that parcel (\$571 balance).

31
32 **2. Greater Nashua Public Health Network (GNPHN) Presentation by Public Health Network
33 Services Coordinator Patty Crooker**

34 Town Council to be presented with the GNPHN's current programs and initiatives.

35
36 The Greater Nashua Public Health Network includes the City of Nashua and 12 surrounding
37 communities, including Merrimack. Patty Crooker, Public Health Network Services Coordinator,
38 Greater Nashua Public Health Network (GNPHN), provided a brief overview of some of the programs.

39
40 Network partners are referred to as the Public Health Advisory Council. GNPHN looks to those
41 organizations to help as they develop different health related initiatives and priorities within the
42 communities. The Executive Committee (Committee) is made up of different stakeholders who are
43 really decision level folks in their organizations that can help brainstorm and implement ideas as well
44 as provide data and information.

45
46 Ms. Crooker commented Merrimack's representation has always been strong noting Fire Chief,
47 Michael Currier and former Chief Mark Doyle were members of the Committee. Police Chief, Denise

1 Roy is now a member. Representatives from the Merrimack School Board have historically been on
2 the committee as well.

3
4 Main programs under the public health network include the public health emergency preparedness
5 program. The GNPHN is tasked with trying to develop plans to be able to support the communities
6 and residents during any mass public health emergency. Those plans specifically deal with distribution
7 of medication or vaccine. Merrimack Middle School is one of the pod sites within the region (8 in
8 total). The goal of the program, in regard to medical counter measures, is to be able to prophylax 100%
9 of the population in a 48-hour timeframe (206,000 people).

10
11 The substance abuse prevention program, Beyond Influence, works closely with local prevention
12 coalitions. They have been ongoing members of Merrimack's Safeguard since 2013 when they took
13 over the program and have done a number of events in coordination with them. They now have a
14 substance use disorder continuum of care program. They meet with the Mayor's Opioid Task Force in
15 Nashua to come up with initiatives to address substance use within the region. That includes all
16 municipalities. This specific workgroup was started by Mayor Donchess when he took office, but they
17 work closely with the Beyond Influence leadership team. Ms. Crooker stated she and the Prevention
18 Coordinator sit on both and ensure there is a lot of the same people at the table.

19
20 A new program, Young Adult Leadership, began last year. Historically there has been a real focus on
21 providing suicide prevention education within the region. They utilize the NAMI NH connect program
22 in order to achieve that. The Public Health Advisory Council member organizations decided to utilize
23 one program to be consistent throughout the region. They have held trainings specifically for folks in
24 public safety and emergency departments as well as mental health and school counselors. This
25 program is targeted at the age group 18-24. It is a train the trainer program. The first training was
26 done last year with 9 participants. Another training will be conducted this year.

27
28 Another large project is the community health assessment. The most recent assessment was published
29 in 2017 (copy provided). It is a project advised by the Executive Committee of the Public Health
30 Advisory Council, which is kept up-to-date as the process is underway, e.g., what data will be looked
31 at, what health issues will be looked at, etc. This was the third community health assessment. It
32 allows people to access data specific to our public health region and be able to use it not only to inform
33 their organizations, themselves, and the communities, but also when organizations are applying for
34 grant funding or trying to validate the outcomes of any initiatives. The first assessment was done in
35 2011 and some change can be seen since that time in some of the indicators.

36
37 Ms. Crooker spoke of the Community Health Improvement Plan. After the assessment is completed,
38 the data is reviewed, and a determination made of the priority health issues within the region to focus
39 on for the next three-year cycle. They then develop goals and objectives for each and activities under
40 each to meet the identified goals and objectives. The most recent plan, dated 2015-2018, included
41 priority areas of chronic disease, heart disease, stroke, diabetes, obesity, access to healthcare,
42 emergency preparedness, and behavioral health, which included substance misuse, suicide, and mental
43 illness.

44
45 It is now time for the new community health improvement plan, and many of the health priority areas
46 are the same. There is a new priority area of maternal and child health. Questions and feelers are put
47 out to determine where within that area people want to focus. A lot will be on education for healthy
48 behaviors for people that are pregnant as well as information about children's health and development.

1 They have separated the chronic disease priority into the chronic disease with heart disease, stroke, and
2 diabetes, and now instead of obesity being in there, there is weight management, physical activity and
3 nutrition, really looking at the positive aspects of health issues. Instead of trying to reduce the number
4 of obese individuals within the region, which was one of the previous outcomes hoped for, they want
5 to increase the healthy weight of individuals. It not only addresses those who are overweight or obese
6 but also people that are under weight, and really looking at physical activity along with weight
7 management and nutrition for that holistic approach.

8
9 Councilor Healey questioned if the results of the community health assessment are shared with area
10 physicians and was informed they are. Ms. Crooker remarked they decided on doing it in a three-year
11 cycle because the hospitals, in order to meet an IRS requirement, have to do community benefits
12 assessments every three years. They all contribute to that same assessment. Hospitals are able to then
13 disseminate it and have it available to their providers. There are providers on some of the work groups
14 for the different initiatives. Ms. Crooker brings information to various entities/groups as well.

15
16 Councilor Healey questioned if the assessment would include items such as the recent report
17 concerning an increase in pediatric cancer rates. Ms. Crooker responded there is a chapter in the
18 community health assessment on cancer as it is one of the leading causes of death in the State. It was
19 published in September of 2017. They try to limit the number of chapters included, but they do
20 include different topics. Last year there was a special grant through the State (CDC funded), CDC
21 Building Resilience Against Climate Effects (BRACE) Initiative on climate change and health. They
22 subcontracted with the Nashua Regional Planning Commission on getting that assessment done.
23 People have been very pleased with the results of the assessment, which is included as a chapter within
24 the Community Health Assessment so that it is distributed that way as well as independently. They do
25 try to come up with new topics that they have not covered before to be able to gain a baseline.

26
27 Councilor Boyd commented knowing that Lyndeborough, Wilton, and Mason are on the western
28 peripheral of the network, how much of a difficulty is there for people in the rural parts of the network
29 with regard to gaining access to the specific services offered. Ms. Crooker stated the services they
30 offer as a network are easily accessed. It is really just a matter of getting in touch with them. A lot of
31 the services tend to be around training, education, etc. They tend to have close contacts at a number of
32 different organizations in each town but may not have many outward facing public events. If people
33 are interested in different programs they have, it is easy to set something up. The issue is the capacity
34 of that town or organization in order to be able to embrace or take on an initiative they might help them
35 lead.

36
37 Councilor Boyd spoke of an element that seems to be missing. Harbor Homes has been working to get
38 programs in place for people that are in recovery; pairing with a mentor. He questioned if it would be
39 a focal point at some time to not only deal with the prevention aspect, which they are very strong in,
40 but deal with the recovery piece as well. He commented on the need for continued support following
41 an individual having participated in a program, e.g., the supports and services that were available in the
42 front end are not as readily available. Ms. Crooker commented that was one of the reasons the State
43 implemented their providing a substance use continuum of care position, to be able to facilitate the
44 linkages between prevention, intervention, treatment, and recovery programs. Not only were they
45 trying to increase awareness of the programs that were going on but increase their awareness of each
46 other and ability to work together to ensure that there is a warm handoff for folks from one step to the
47 next as well as try to identify gaps in the region.

48

1 One of the things they focus on is education about stigma and trying to teach our community to not
2 judge people because of issues that they have. They also work closely with a number of peer recovery
3 organizations. They do trainings for individuals who utilize the recovery organizations. They also
4 have a community connections guide to recovery, which is maintained online. It lists not only
5 emergency services that are available, but also regular health related services not specific to substance
6 use, and then lists prevention, intervention, treatment, and recovery resources as well as providing
7 important side information and data.

8
9 Councilor Boyd questioned the emergency preparedness component; specifically if coordination
10 occurs with area animal control groups so that, in the instance of a crisis, there are resources available.
11 Ms. Crooker replied beginning in 2009, they started doing co-located shelter planning so that there
12 would be a pet shelter there as well. They work with veterinarians as well as the Disaster Animal
13 Response Team of New Hampshire. They are fortunate in that the Division of Public Health in Nashua
14 also oversees the city's contract with the Humane Society, which provides some leverage in contract
15 language.

16
17 Councilor Boyd requested a link to the Greater Nashua Public Health Network be posted to the Town's
18 website.

19
20 Councilor Albert asked for clarification and was told the Merrimack Middle School is a point of
21 dispensing (mass clinic location). He questioned what would occur at the site in such an instance and
22 was informed it would be for vaccinating or providing antibiotics or prophylaxis. There are plans for
23 an acute care center and that is really a low acuity service for one specific issue, e.g., if influenza they
24 would provide oxygen, perhaps IV antibiotics; nothing higher than that (just to take surge off
25 hospitals). The two sites identified for those are the Nashua high schools. One of the neighborhood
26 emergency help centers, which is a triage center, is located at the southern immediate care facility in
27 Merrimack.

28 29 **Public Hearing**

30 31 **1. Public Hearing – Traditional Cable Television Franchise Renewal Discussion**

32 Submitted by Media Services Coordinator Nicholas Lavallee

33 The Town Council will hold a public hearing to gauge customer satisfaction with Comcast's
34 traditional cable television service. This hearing is part of the ongoing Cable Television Franchise
35 Renewal negotiations relative only to traditional cable television and does not include internet or
36 phone services.

37
38 Nicholas Lavallee, Media Services Coordinator, spoke of a presentation given at the Council's
39 September 13th meeting, which provided an overview of the current franchise agreement. Presently,
40 there is a single cable provider in Town, Comcast, which is who the franchise agreement is with. He
41 noted Bryan Christiansen, Comcast Senior Manager of Government and Regulatory Affairs, was in
42 attendance to hear any public comment provided.

43
44 The current franchise agreement expires in January and is relative only to traditional cable television
45 services and does not include the internet or phone services that Comcast provides. Mr. Lavallee noted
46 the Town has had its inbox open to public comment as well, and received a single email this evening at
47 6:47 p.m. He also spoke to Noah Mandell, a resident who provided input at the Council's September
48 13th meeting.

1 Chairman Rothhaus read the following into the record:

2
3 *“Dear Town Council, I will be unable to attend the Public Hearing scheduled for September 27th. I*
4 *write with the expectation that my thoughts and concerns will be part of the Public Hearing record. In*
5 *previous Franchise Agreements the Town required the vendor to maintain an office in Merrimack.*
6 *This requirement has ceased, and the nearest office is in Londonderry. I urge the Council to consider*
7 *reinstating the local office requirement.*

8
9 *Comcast has advised me that certain services can be best performed at their office in Londonderry.*
10 *This would include exchanging a remote controller or a DVR. When I call Comcast for service I*
11 *routinely get delayed because they have incorrect identification information. They refuse to correct it*
12 *by phone requiring that I must come to the office and do this transaction in person.*

13
14 *For equipment exchanges they can send a service technician. We all know the difficulties of*
15 *scheduling and waiting for a service technician. Londonderry is a long drive and an expense if you*
16 *have to hire a taxi as I would often do. It is certainly not conducive to combining with other errands,*
17 *which can be accomplished in Merrimack.*

18
19 *Thank you for your consideration and your efforts on behalf of Merrimack residents.*
20 *Chris Christensen.”*

21
22 Councilor Albert spoke of the document provided the Council entitled “Additional Items to Consider
23 in the Renewal Franchise”. He requested a copy of the document be provided to Bryan Christiansen
24 noting the list identifies the items found to be important.

25
26 Chairman Rothhaus declared the Public Hearing open at 7:58 p.m.

27
28 Kurtis Kuszek, 273 Baboosic Lake Road

29
30 Mr. Lavallee spoke of having read the email received from Mr. Kuszek commenting some great points
31 were made.

32
33 Mr. Kuszek stated he has been a resident for nearly a decade, is a systems and networks engineer by
34 trade and works from home 100% for his primary income. He questioned if a review has been done of
35 franchise agreements of neighboring communities to determine if there is the possibility for
36 collaborative bargaining power.

37
38 Chairman Rothhaus commented the Council began its process with the presentation Mr. Lavallee
39 provided at the September 13th meeting. This Public Hearing is one step in the process and one of the
40 forums for soliciting public input.

41
42 Mr. Kuszek commented this year the number of consumers who cancel their paid tv service (cord
43 cutters) and don't re-subscribe will climb 32.8% to 33 million adults, according to new estimates from
44 eMarketer, a market research company. Compared to 24.9 million cord cutters at the end of 2017, the
45 increase is 43.5% year over year.

46
47 The dynamics of the market are changing and changing drastically fast. Those statistics do not include
48 those who don't sign up for services. Merrimack needs to act to secure and protect access services. If

1 these statistics continue at current rates, the traditional cable tv model is highly unlikely to survive the
2 10-year term of the proposed agreement. This likely forces Comcast to change their business model by
3 providing IP TV services instead of traditional channel based offerings before the ten-year timeframe.
4

5 There is the need to ensure the Town is protected to allow fair competition moving forward. In that
6 regard, he suggested implementing verbiage that gives negotiating power to the Town given the recent
7 negative direction of federal protections regarding net neutrality and throttling of services such as such
8 as Netflix and Hulu. This continues to be very important as more people cut the cord at a drastically
9 increasing rate. Additional language could state services shall operate in a way that does not impede or
10 degrade competing media content services that share the same physical or virtual infrastructure for the
11 purposes of providing services to residents of the Town of Merrimack.
12

13 Page 15 of the draft contract, Section 4.1 needs to be redefined to update what is included in subscriber
14 network.
15

16 Page 7, Section 1.1 (8), should also have the scope broadened. As defined, it is indemnifying Comcast
17 from franchise agreement regulations and limitations impeding IP provider services as well as
18 competing services over IP network. We need to empower the Town against losing its leverage as that
19 transition happens in magnitudes during the extent of the agreement.
20

21 Implement verbiage protecting right-of-way access and preventing provider bullying on pole
22 attachments. An example being new and existing construction of infrastructure shall provide
23 unimpeded shared access for any municipal or competing content services providing its
24 implementation does not reasonably interfere with the franchisee's ability to provide services as
25 needed and inclusive of existing right-of-way including conduit and pole attachment rights. The
26 franchisee should be expected to, at reasonable and direct cost, accommodate requests requiring access
27 in a timeframe considered appropriate and fair by any persons involved in the request. This
28 requirement supplements but doesn't supersede the FCC pole attachment rules and provisions.
29

30 That gives the municipality or designee the right and rates of utilization equal to a dedicated cable or
31 telephone provider. It also grants the Town the right to authorize itself or designee to non-disruptively
32 relocate lines on the poles in the event the franchisee fails to comply within 30 days for the purpose of
33 fair use.
34

35 Mr. Kuszek remarked one of the ways that providers such as Comcast have historically tactically
36 prevented competition is by dragging their feet on things like pole attachments. It is made such a
37 bureaucratic process that it becomes much more expensive.
38

39 Comcast passes the franchise fee directly from the Town to the consumers. Those fees are effectively
40 a tax under another name funding the existing three PEG channels. Mr. Kuszek stated his belief
41 Merrimack does not necessarily need to fund three public access channels with resident funds. The
42 video equipment is antiquated. The Town doesn't supply programming guide data. If you want that
43 information you have to go to the MerrimackTV website where all relevant content is housed. It is
44 also not up to date.
45

46 He would prefer to see the funding from this used towards a technology infrastructure support fund
47 going towards a dig once ordinance implementation like Keene and the National Broadband Plan has
48 published recommendations around; effectively every time we do roadwork we dig once and lay down

1 conduit. The Town lays the conduit for pennies on the dollar and can recoup some of that cost by
2 leasing it to whomever sees fit to put in fiber, etc. That reduces the barrier of entry for any competition
3 by 90%. We could lease it to organizations just like the pole space and provide more reliable service.
4

5 Addressing the idea of quality, USA Today has Comcast as one of the 20 most hated companies in
6 America. The American Consumer Satisfaction Index rates Comcast as the lowest satisfaction rate of
7 any television provider. Section 13.2 FCC customer service obligations, specified in our franchise
8 agreement, says that under normal operating conditions, telephone answer time by a customer
9 representative including wait time shall not exceed 30 seconds from when the connection is made no
10 less than 90% of the time. What happens when they don't meet that requirement? How is anyone
11 being held accountable?
12

13 Mr. Kuszek commented on the need to remember this is protecting the Town and its residents from a
14 company with a long history of abusing its customers and why we sign a franchise agreement to begin
15 with.
16

17 Mr. Lavallee commented he was pleased with the information provided by Mr. Kuszek and is looking
18 forward to speaking with him. Information relative to cord cutting was something that was touched
19 upon in the presentation. With regard to the quality of programming, the Town has high definition
20 (HD) cameras in the ready. A lot of programming has to be downgraded to standard definition (SD)
21 and then outputs to SD on the Comcast channels because we are on the SD tier. That is why a lot of
22 the content doesn't look all that great. Online offerings are not HD because of the workflow; to get the
23 meetings online as quickly as possible, they put an SD version up on YouTube. Over the past month,
24 an upgrade has occurred in the control room to allow high definition content on the YouTube channel.
25 As far as scheduling, the channels are scheduled from Friday morning until Thursday afternoon. One
26 of the points brought up regarding the channels not being on the Comcast guide is something the Town
27 has always wanted. In prior years attempts were made to push Comcast to include our local
28 programming on their guide. It is a struggle for public access centers throughout the State and country
29 to make that happen.
30

31 Steven Ayotte, 8 Berry Lane
32

33 Has been a resident since 2010. He spoke of being familiar with cable franchise agreements having
34 gone through the process in Londonderry, where he resided previously. He questioned the process
35 indicating he was concerned with the way people were addressing the language at the last meeting and
36 with service.
37

38 His family has Comcast cable television and has had a good relationship with them. He questioned the
39 rationale for the Town Council being the franchise authority stating his assumption the franchising
40 authority would be the Town government. Town Manager Cabanel responded the Town Council is the
41 Town Government.
42

43 When asked for further clarification, Town Manager Cabanel explained the Town Council is the
44 governing body of the town. Town staff reports to the Town Manager and the Town Manager reports
45 to the Town Council. Town Council sets priorities, etc. and the Town Manager Administers.
46

47 Mr. Ayotte remarked in terms of the contract, it is the Council that is responsible for responding to
48 complaints if a consumer/resident contacted Comcast and did not receive a response. He questioned if

1 the Council has received any complaints relative to Comcast's service. Chairman Rothhaus stated he
2 has not received any. Councilor Harrington stated that to be part of the discussion; complaints have
3 been heard, but not through any official channel. The discussion was around a mechanism to inform
4 the public to contact the Media Services Coordinator who acts as the Council's representative.
5

6 Mr. Ayotte asked for clarification there was a process in place for the past ten years. Chairman
7 Rothhaus commented people were not familiar with it. Mr. Ayotte questioned the number of
8 complaints it would take to trigger an investigation. Chairman Rothhaus responded when these
9 conversations begin every 10 years, that is when conversation gets triggered. In the meantime people
10 sort of just go with the flow. He has not personally received complaints.
11

12 Mr. Ayotte commented the tone of the last few meetings implied there would have been people in the
13 room who would have filed complaints.
14

15 Mr. Ayotte noted the Town's website identifies a Cable Television Advisory Committee; however,
16 indicates it has been disbanded. Mr. Lavalley stated the committee was disbanded shortly after the last
17 franchise agreement was renewed. It was an advisory committee and the Town Council was still very
18 much the franchising authority. When the Town went from Adelphia to Comcast, the situation
19 improved dramatically. The number of complaints reduced to 2-3/year at most. Those complaints are
20 immediately sent to Bryan Christiansen who is quick to resolve customer complaints.
21

22 Mr. Ayotte questioned why it took nearly a decade to pick up on the interest Comcast is able to gain
23 through retention of franchise fees. Councilor Boyd commented he discussed this at the last meeting
24 having read the agreement and noted the franchise fee would be provided to the Town every three
25 months. He had questioned why the funds would not be transferred monthly.
26

27 Mr. Ayotte questioned what would occur if the current agreement were to expire before a new
28 agreement could be put in place and was told the agreement would move forward month to month.
29 There would not be a disruption of service. When asked what portion of the franchise fees is used to
30 offset the tax rate, Town Manager Cabanel stated approx. \$400,000 in revenue was received, and
31 \$250,000 is being utilized to offset the tax rate.
32

33 Mr. Ayotte stated his preference to be for the franchise fee to be raised to its maximum (5%)
34 commenting if the department is given the full amount a better quality of programming content may be
35 able to be achieved. Other media sources such as Hulu and YouTube are cracking down on what you
36 can and cannot post making it more and more difficult for the smaller independent types.
37

38 He questioned what would be done in terms of upgrades for media services and community access
39 channels, e.g., wish list when negotiating. Mr. Lavalley remarked in terms of how he budgets the
40 division, that is a discussion that will occur over the next couple of months, first with the Capital
41 Improvement Plan he will submit on Monday and later in November/December during the budget
42 process where he will put forth, for discussion, equipment, upgrades, etc. With the franchise
43 agreement underway and the hope the Town will get an HD channel, he would look to spend a
44 significant amount of funding in the head end at Town Hall so that the quality of programming can
45 increase. He also believes the quality of programming online will change with such upgrades.
46

47 *The Public Hearing was declared closed at 8:29 p.m.*

1 Assistant Town Manager/Finance Director Micali noted the comment period remains open until
2 October 10th. Input can be submitted to the Town Council via MerrimackTV@MerrimackNH.gov, call
3 the Town Manager's Office at 424-2331, send a letter to the Town Manager's Office.
4

5 Councilor Harrington spoke of her expectation Mr. Lavallee would look to incorporate into the
6 language what is appropriate from the input provided. She commented on being intrigued with the
7 discussion of looking at broadband for the Town. It has been discussed, but plans should be put in
8 place while there is a revenue stream being generated.
9

10 Councilor Boyd stated appreciation for the feedback provided. He is anxious to see what Keene has
11 done as it ties into some of his comments regarding expanding municipal broadband to people based
12 on people cutting the cord. It is important for this community to have choices.
13

14 Kurtis Kuszek, 273 Baboosic Lake Road
15

16 Remarked when it comes to municipal broadband, it is a very common pursuit for a lot of areas of
17 America where you have ISPs come in as a last mile provider, so the town can run the fiber, lease the
18 lines, and then hire the Comcasts, Fairpoints, etc. and then those are the people we call who hook into
19 the municipal internet. If you look at other countries like the UK, they have 20-30 providers they can
20 choose from. There are only 2-3 backend companies that do the overhaul on the back side, but you
21 have 20-30 companies you can deal with.
22

23 **Legislative Updates from State Representative** - None
24

25 **Town Manager's Report**
26

27 The Public Works and Parks and Recreation Departments will meet with abutters to Watson Park to
28 discuss the proposed improvements to the park including volleyball courts and skating rink to seek
29 their feedback on the proposal. The meeting will be held on Thursday, October 4th at 6:30 p.m. in the
30 Memorial Conference Room at Town Hall. The public is welcome to attend.
31

32 Town Manager Cabanel explained the meeting is intended to discuss the Council's initiative to move
33 the skating rink there and put in a volleyball court; where it would be located, lighting, etc. mostly
34 relative to the abutters.
35

36 Councilor Albert spoke of how invested the Parks and Recreation Committee has been in Watson Park,
37 and commented he is a little surprised this was not an agenda item for that committee.
38

39 Town Manager Cabanel commented it was one of those issues where deadlines are approaching, and
40 the thought was maybe someone from Parks and Recreation and Assistant Town Manager/Finance
41 Director Micali would go over and speak with the abutters and then thought it would just be easier to
42 have a meeting. There was no intent to leave anyone out of the process.
43

44 **Consent Agenda**
45

46 **1. Consideration of Changes to Chapter A198, Administrative Code [Final Reading]**
47 Submitted by Town Council Chair Nancy Harrington and Vice Chair Finlay Rothhaus

1 The Town Council to consider the acceptance of recommended changes to Chapter A198,
2 Administrative Code, of the Merrimack Town Code, pursuant to Charter Article V.

3
4 **MOTION made by Councilor Boyd and seconded by Councilor Koenig to move the Consent**
5 **Agenda. MOTION CARRIED 7-0-0**

6
7 **Old Business** - None

8
9 **New Business**

10
11 **1. 2018 Rotary Club of Merrimack Annual Christmas Tree Sale**

12 Submitted by Rotary Club Member Bill Wilkes

13 The Rotary Club of Merrimack is requesting the use of Watson Park for their annual sale of
14 Christmas trees.

15
16 A request was made, by Mr. Wilkes, to table the item until the next meeting.

17
18 **MOTION made by Councilor Boyd and seconded by Councilor Healey to table until the**
19 **Council's October 11, 2018 meeting. MOTION CARRIED 7-0-0**

20
21 **2. Donation Acceptance for Parks and Recreation Department**

22 Submitted by Parks and Recreation Director Matthew Casparius

23 The Town Council to consider the acceptance and expenditure of a donation in the amount of
24 \$278.30 from Boy Scout Rohan Sreenivasan, to the Parks and Recreation Department for future
25 use for Wasserman Park, pursuant to RSA 31:95-b and Charter Article 8-15.

26
27 **MOTION made by Councilor Boyd and seconded by Councilor Albert to approve the acceptance**
28 **and expenditure of a donation in the amount of Two Hundred Seventy Three Dollars and Thirty**
29 **Cents (\$278.30) from Boy Scout Rohan Sreenivasan, to the Parks and Recreation Department**
30 **for future use for Wasserman Park, pursuant to RSA 31:95-b and Charter Article 8-15**

31
32 **ON THE QUESTION**

33
34 Councilor Boyd requested a letter be sent to Life Scout Sreenivasan expressing the Council's gratitude
35 for the donation, and request the Council be made aware of the date of his Eagle Court of Honor.

36 **MOTION CARRIED 7-0-0**

37
38 **4. Committee Appointment Recommendation**

39 Submitted by Town Council Chairman Finlay Rothhaus and Vice Chair Tom Koenig

40 The Town Council to consider reappointing the following recommended individual to the Parks
41 and Recreation Committee, pursuant to Charter Article 6-1:

42
43 Maureen Hall – (Merrimack Senior Citizens Club Representative)

44
45 **MOTION made by Councilor Boyd and seconded by Councilor Healey to reappoint Maureen**
46 **Hall as the Merrimack Senior Citizens Club Representative to the Parks and Recreation**
47 **Committee, pursuant to Charter Article 6-1**

1 ON THE QUESTION

2
3 Councilor Boyd thanked Ms. Hall for her participation on the committee. Councilor Albert remarked
4 Ms. Hall does a great job and represents the seniors well.

5 **MOTION CARRIED 7-0-0**

6
7 **5. National Suicide Prevention Awareness Month Proclamation**

8 Submitted by Town Councilor Chairman Finlay Rothhaus and Vice Chair Tom Koenig
9 The Town Council to issue a proclamation designating September as “National Suicide Prevention
10 Awareness Month” to promote awareness of suicide prevention resources available to our
11 community and to learn how to help prevent suicide.
12

13 A letter was received from Joe Frieders, Alderman, Yorkville, IL. Alderman Frieders has requested
14 councils across the country participate in proclaiming September as “National Suicide Prevention
15 Awareness Month.” Chairman Rothhaus requested the Council’s support.
16

17 Councilor Albert stated his support of the Proclamation. After 32 years in law enforcement in this
18 community he understands that like every other community in this country, Merrimack is touched by
19 this problem.
20

21 Councilor Boyd remarked suicide is personal to him having lost 2 friends that way. He noted the
22 availability of resources for people to avail themselves of if they have a need. He stated his support of
23 the Proclamation.
24

25 The following Proclamation was read into the record:
26

27 **TOWN OF MERRIMACK**
28 **TOWN COUNCIL**
29 **PROCLAMATION**

30
31 **National Suicide Prevention Awareness Month September of 2018**

32
33 **WHEREAS;** September is known in the United States as National Suicide Prevention Awareness
34 Month with the intention to help promote awareness;
35

36 **WHEREAS;** Suicide thoughts can affect anyone regardless of age, gender, race, orientation, income
37 level, religion, or background; and
38

39 **WHEREAS;** Suicide is the 10th leading cause of death in America claiming the lives of nearly 45,000
40 each year; and
41

42 **WHEREAS;** the Town of Merrimack is no different than any other community in the country, but
43 chooses to publicly state and place our full support behind local educators, mental health professionals,
44 athletic coaches, pack leaders, police officers, and parents as partners in supporting our community;
45 and

1 **WHEREAS**; organizations like National Suicide Prevention Lifeline and the National Alliance on
2 Mental Illness (NAMI) are on the front lines of a battle that many still refuse to discuss in public, as
3 suicide and mental illness remain too taboo a topic to discuss in public; and
4

5 **WHEREAS**; every member of our community should understand that throughout life’s struggles we
6 all need the occasional reminder that we are all silently fighting our own battles; and
7

8 **WHEREAS**; we encourage all residents to take the time to inquire about the wellbeing of their family,
9 friends, and neighbors and to genuinely convey their appreciation for their existence by any gesture
10 they deem appropriate.
11

12 **NOW, THEREFORE**, be it resolved that we, the Town Council of the Town of Merrimack hereby
13 proclaim September as National Suicide Prevention Awareness Month in the Town of Merrimack,
14 New Hampshire.
15

16 Dated this 27th day of September of 2018
17

18 **MOTION made by Councilor Koenig and seconded by Councilor Thornton that the Town**
19 **Council issue the proclamation proclaiming September as “National Suicide Prevention**
20 **Awareness Month”, as read. MOTION CARRIED 7-0-0**
21

22 Minutes

23
24 September 13, 2018
25

26 *The following amendments were offered:*
27

28 Page 2, Line 15; replace “\$405,000” with “\$45,000”

29 Page 3, Line 14; replace “that” with “delay of the NHDES meeting”

30 Page 3, Line 18; delete “being” and insert “to remove PFAS” following “smoke stacks”

31 Page 5, Line; include the action that was taken to table the matter.

32 Page 7, Line 26; replace “Senator” with “Merrimack’s State Senator Gary”

33 Page 9, Line 40; replace “Senator” with “Senate”

34 Page 11, Line 17; replace “Judaea” with “Judea”

35 Page 11, Line 27; replace “If able to get off the EPA impaired water list” with the sentence with “If
36 the lake is to get off the EPA impaired this, then,”

37 Page 18, Line 44; replace “Brulett” with “Brouillette”
38

39 **MOTION made by Councilor Boyd and seconded by Councilor Healey to accept the meeting**
40 **minutes of the Town Council meeting of September 13, 2018, as amended. MOTION CARRIED**
41 **7-0-0**
42

43 **Comments from the Press** - None
44

45 **Comments from the Public** – None

1 **Comments from the Council**

2
3 The Michael Loverme 5K will be held on Sunday, October 7th at 12:00 noon at the Merrimack High
4 School. All proceeds benefit the Michael Loverme Scholarship, which targets students that are looking
5 to get into technology based education.

6
7 Councilor Albert wished luck to Assistant Fire Chief Brian Borneman. He spoke of having worked
8 with him for many years. He was a pro and a great guy to have in an emergency situation and to work
9 with. He will be missed.

10
11 Chairman Rothhaus noted the MYA is celebrating their 50th anniversary and are now looking for
12 volunteers to join a committee to conduct a fundraiser to help offset costs of participation in the MYA
13 for children who might not otherwise be able to participate. Contact information for individuals
14 interested in participation on the committee can find found on the Town's website.

15
16 Councilor Boyd spoke of the collection, to benefit the food bank, taking place at the Merrimack vs. BG
17 game.

18
19 **Adjourn**

20
21 **MOTION made by Councilor Boyd and seconded by Councilor Thornton to adjourn the**
22 **meeting. MOTION CARRIED 7-0-0**

23
24 *The September 27, 2018 special meeting of the Town Council was adjourned at 9:00 p.m.*

25
26
27
28 Submitted by Dawn MacMillan