



## Town Council Meeting Minutes

Thursday April 28, 2016, at 7:00 PM, in the Matthew Thornton Room

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

### **Pledge of Allegiance**

Life Scout Joseph Mroz led in the Pledge of Allegiance.

### **Announcements**

Regular meetings of the Town Council will be conducted on Thursday May 12<sup>th</sup>, May 26<sup>th</sup>, and June 9<sup>th</sup> at 7:00 p.m. in the Matthew Thornton Room.

The Police Department Open House is scheduled for May 7<sup>th</sup>. Come and visit your Police Department and your police officers for displays and demonstrations throughout the day, and take a tour of your Police Department.

On Saturday, April 30<sup>th</sup>, Merrimack Police will hold a National Drug Take Back day from 10:00 a.m. to 2:00 p.m. Drop off your unused, unwanted, prescription medications, no questions asked. If you cannot make it on April 30<sup>th</sup>, come by any time, Merrimack Police have a prescription drug drop off box located in the lobby of the police station; it is open 24 hours a day 7 days a week.

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

Chairman Harrington spoke of having attended the April 8<sup>th</sup> meeting of the Board of Commissioners (Board) of the Merrimack Village District (MVD). During that meeting, the following reports were presented: Well #2 results showed 27 parts per trillion (ppt) where the previous test result was 17. The engineers that were present were not too concerned with this elevation. They are looking at weekly test results to identify the range. Well #7 was 26 and well #8, 8.5. They have shut down well #5, which tested at 52. The intent is to blend well #s 2, 7, and 8. No specific timeline was discussed. This blended water should diminish the blend to about 18 or 24. Weekly tests can verify the amount. Well #3 has been sampled; however, results are not yet available. This can be used to further dilute or as an additional source as the need for more water occurs during the summer.

The Board is looking into Pennichuck water, if needed, as a backup. Pennichuck had a test result of 3 ppt. The Board received initial, unofficial pricing on filtration systems, and discussed a temporary filtration system, which would take 6-8 weeks to install at nearly \$1 million. A permanent system would require 16-18 weeks to install, and would be at a cost of \$3 million - 4 million. They are waiting for the Environmental Protection Agency (EPA) to come up with a number as that will determine the extent of the filtration system needed.

Chairman Harrington suggested the Board consider sending mailings out to customers. Her points were related to increasing communication with customers particularly those who do not have computer

1 or cable access. The Board was receptive to that suggestion, and will ensure the new Hot Line #  
2 established by the New Hampshire Department of Environmental Services (NHDES) is included.  
3 On April 26<sup>th</sup>, the first PFOA Consortium meeting was conducted. Clark Freise, Assistant  
4 Commissioner, NHDES, was in attendance, and informed those present; 403 wells have been tested to  
5 date, 180 results have been received, and the rest are in backlog. There are only 3 places in the country  
6 that conduct this specific testing. The EPA is looking into a lab in Chelmsford, MA to establish as a  
7 PFOA testing site. The problem is they have Teflon in the apparatus. They have to be able to alter  
8 that before they could do testing.

9  
10 Soil samples from Saint-Gobain are reported to be 0.03 parts per million; well below even the most  
11 strict standard. Soil samples are being completed in sensitive areas within a 1 mile radius, which does  
12 include Reeds Ferry, which is slightly outside the 1 mile radius. It is believed that since the source is  
13 distributed by air and reportedly does not adhere to soil, the results most likely will be similar, but out  
14 of due caution they will continue to test and verify the information. They have established a meeting  
15 with counterparts, particularly in Vermont to discuss possible agricultural implications.

16  
17 Bottled water is being distributed to about 400 people; all private wells over 100 parts per trillion. The  
18 Merrimack River has been sampled, and the results were 2.1 parts per trillion. In 2015 Saint-Gobain  
19 stopped using C8, which was the PFOA, and started using C6. They are now including C6 in all of the  
20 samples they are sending out (including soil). It will also include testing on the smoke stacks at Saint-  
21 Gobain as well as all chemicals delivered to Saint-Gobain to verify that no PFOA is within the stock  
22 supply.

23  
24 Mr. Freise talked about remediation. Although final decisions have not been made, there was  
25 discussion of point of entry remediation, which would be on all affected wells. This would be a  
26 complex process, which would address the specific needs of each well. The filtration system would  
27 address those specific needs, and would incorporate a long-term commitment of monitoring. The more  
28 practical remediation would be to put all of those on wells onto the public water supply. For  
29 Merrimack, the MVD would be extended up Daniel Webster Highway to catch all of the private wells  
30 that have been contaminated. In Litchfield, it is much more extensive. Litchfield Selectman, Frank  
31 Byron, stated it has been estimated at a minimum of 10 miles of lines to the sites and another 10 miles  
32 to get to the customers from the Pennichuck Water supply.

33  
34 Mr. Freise also stated they feel they have determined the plume of contamination in Merrimack and  
35 Litchfield. Within the 1 mile and the 1.5 mile radius there were four (4). Anything beyond that has all  
36 been negative, including the Town of Londonderry. Mr. Freise left the meeting after providing his  
37 report. However, he stated he would be available at any time for further discussion with the  
38 Consortium or individual towns.

39  
40 The MVD was present at the Consortium meeting, and reported that they are only using well #7; 28  
41 ppt, and #8, which is 8.6 ppt as of Tuesday. They are blended in equal amounts and would, therefore,  
42 likely blend at between 18 and 22 ppt. They have taken a sample of well #3, but results are not yet  
43 available. They are hoping the results are good and that well can be used as a source as need increases.  
44 The remaining wells are not in use.

45  
46 Chairman Harrington noted she requested a blended sample be sent for analysis to verify the results.  
47 The MVD was responsive to that request. It was mentioned Pennichuck Water is being considered as a

1 backup if needed. In the meantime, they are waiting for EPA target numbers in order to determine  
2 further actions. The engineers continue to work on remediation options.

3  
4 Town Manager Cabanel stated shutting off well #s 2 and 5 and putting on #s 7 and 8 is only a  
5 temporary solution. Well #s 7 and 8 would never be able to cover the need capacity in the summer  
6 months.

7 Chairman Harrington remarked they will have to come to a decision on remediating specific wells or  
8 the system in general.

9  
10 The next meeting is scheduled for Tuesday, May 24<sup>th</sup> in Litchfield. Specific questions will be sent  
11 from the Consortium to the Air Quality arm of the DES regarding historical information, their policies  
12 and procedures, and practices related to monitoring. The Consortium discussed utilizing the Freedom  
13 of Information Act to acquire that data; however, decided to first make a request for the information.

#### 14 **Northeast Energy Direct (NED) Pipeline Update**

15  
16 Chairman Harrington remarked there is a temporary reprieve. The Council will keep a watchful eye on  
17 the situation.

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

19  
20 **Charles Mower**, 4 Depot Street

21  
22 Introduced a new environmental organization; Merrimack4AWL (air, water and land). Those wishing  
23 to communicate with the organization can do so via Merrimack4AWL.com. Mr. Mower remarked we  
24 have come to realize we are poorly equipped for continuing protection of our air, water, and land and  
25 that they are intrinsically united. The organization will make recommendations to the community they  
26 believe will be helpful in terms of zoning, ordinances, policies and procedures, etc. He commented he  
27 is encouraged to hear some of the suggestions that have been put forward relative to the NHDES. He  
28 suggested it would be nice if the DES could handle their air quality permits the same way they handle  
29 their national pollutant discharge elimination system permits where they are actually available in the  
30 town for inspection and monitoring.

31  
32 The organization believes it to be critical to start taking a look at the environment ethically; that it is all  
33 connected; air, water, and land, and that for the most part soils are the indicator that establishes the  
34 quality of air and water. He suggested the need to change the culture of how we think about our  
35 environment and how we use that environment on a residential, commercial, and industrial basis.

36  
37 Mr. Mower commented sometimes it gets disconnected and lost that we are in fact all in this together.  
38 It is something that will require a great deal of work over time. From the organization's point of view,  
39 the MVD, while laudably thinking about various remediation systems, are thinking about remediation  
40 in terms of how we fix this issue today. These issues will continue to impact us as we grow and  
41 develop. There are continuing impacts that will degrade our air, water, and land quality. When we  
42 plan something for our future as capital as a filtration system or a remediation system, we have to  
43 anticipate not only how it will arrest the present problem, but how it will arrest future problems such as  
44 those being seen in various communities across America. We can learn from that experience and try to  
45 move forward into the future with an ethical approach about air, water and land when we make all of  
46  
47

1 our planning and zoning decisions, etc. The organization looks forward to playing a role in this that  
2 will be helpful in the community.

3  
4 Chairman Harrington spoke of having heard there are over 85 emerging contaminants that are not  
5 measured.

6  
7 **Reorganization of the Town Council**

8  
9 ● **Pursuant to Charter Article IV, 4-2, Organizational Meeting**

10 *Chairman Harrington called for nominations for the position of Chairman.*

11  
12  
13 **Councilor Dwyer nominated Councilor Harrington**

14  
15 Councilor Dwyer commented Councilor Harrington has done a fine job in her role as Chairman, and he  
16 would like to see that continue. He added he is always partial to nominating those who are retired as  
17 they have the time available to do the job. He stated appreciation for the additional time and effort  
18 required to fill that role.

19  
20 ***Vote on the election of Councilor Harrington to the position of Chairman of the Town Council***  
21 **6-0-1**

22 *Councilor Harrington abstained*

23  
24 *Councilor Harrington declared Chairman of the Town Council.*

25  
26 Councilor Vaillancourt expressed her gratitude for the time and effort the Chair has put into her role.  
27 She added Chairman Harrington is very supportive of transparency, which is something that is of great  
28 importance to her.

29  
30 *Chairman Harrington called for nominations for the position of Vice Chairman.*

31  
32 **Councilor Koenig nominated Councilor Rothhaus**

33  
34 Councilor Koenig stated Councilor Rothhaus has always been a great advocate for the Town of  
35 Merrimack and a great support for the Town Council. He has been in the position of Chairman in the  
36 past, knows what is required, and could step in and do the job when and if needed. He has Merrimack  
37 in his heart, which is shown on a daily basis.

38  
39 *Councilor Rothhaus accepted the nomination.*

40  
41 ***Vote on the election of Councilor Rothhaus to the position of Vice Chairman of the Town Council***  
42 **5-1-1**

43 *Councilor Vaillancourt voted in opposition*

44 *Councilor Rothhaus abstained*

45  
46 *Councilor Rothhaus declared Vice Chairman of the Town Council.*

1  
2 **Recognitions, Resignations and Retirements** - None

3  
4 **Appointments** - None

5  
6 *There being no objection, the Council went out of the regular order of business to take up Item #1*  
7 *under Old Business.*

8  
9 **1. Eagle Scout Project Presentation**

10 Submitted by Joseph Mroz Life Scout

11 Joseph Mroz to present his finished project of a trail that he constructed at Grater Woods to the  
12 Town Council.

13  
14 Life Scout Mroz stated his goal was to make the forest more usable for people. He spoke of having  
15 been inspired by his older brother whose Eagle project was a trail at the Horse Hill Nature Preserve  
16 (HHNP).

17  
18 The trail is known as the Eagle Trail, is approx. ½ mile in length, a Category B, single-track trail,  
19 which connects the Red Maple Trail to the Brickyard Trail. Included is a bridge that spans 26' L x 3'  
20 W over a seasonal runoff. Life Scout Mroz displayed a series of photographs depicting the project in  
21 various stages, and commented on the number of volunteers that supported his project (43).

22  
23 The project was estimated to cost slightly over \$500. Total cost was \$760. Two fundraising efforts  
24 resulted in a project budget of \$1,100. At project completion, a stockpile of wood and funds remain,  
25 which will be donated to the Conservation Commission for use in other projects.

26  
27 The project completed on schedule; was approved in June of 2015, fundraising efforts kicked off in  
28 late August, and trail work began. The project was completed in the first week of December. Total  
29 estimated number of services hours was 500, which included the planning and approval process as well  
30 as the fundraising efforts and actual trail work. The total number of service hours was reduced slightly  
31 based on the number of fundraising events being reduced, and 1-2 workdays with a lesser number of  
32 volunteers.

33  
34 The original plan called for the bridge to be constructed in two sections. It was re-designed onsite as it  
35 was deemed more efficient to cross in a single section. Life Scout Mroz displayed trail signs, which  
36 will be posted on the trail.

37  
38 Councilor Boyd questioned if Life Scout Mroz worked with the Conservation Commission to approve  
39 the naming of the trail, and was told he had. Councilor Boyd commented Grater Woods is a crown  
40 jewel of the community, and it is always exciting when Eagle Scout projects involve things going on in  
41 our parks as it enhances the quality of life in the community.

42  
43 Councilor Vaillancourt noted several members of the Conservation Commission and the Grater Woods  
44 Sub-Committee worked with Life Scout Mroz on the actual construction. The Conservation  
45 Commission wholeheartedly supported the project, and is grateful for the donation.

46  
47 *There being no objection, the Council recessed for five minutes at 7:39 p.m.*  
48 *The Council reconvened at 7:44 p.m.*

1  
2 *The Council returned to the regular order of business.*

3  
4 **Public Hearing**

5  
6 **1. Public Hearing – Discontinuance of a Portion of South Grater Road**

7 Submitted by Merrimack Conservation Commission Chairman Tim Tenhave

8 The Town Council will hold a public hearing for the purpose of discussing and voting upon the  
9 discontinuance of a portion of South Grater Road, a Class VI public highway, pursuant to RSA  
10 231:43.

11  
12 **2. Public Hearing - Emergency Lane Creation Along a Portion of South Grater Road**

13 Submitted by Merrimack Conservation Commission Chairman Tim Tenhave

14 The Town Council will hold a public hearing for the purpose of discussing and voting upon the  
15 creation of an Emergency Lane along a portion of South Grater Road, a Class VI public highway,  
16 pursuant to RSA 231:59-a.

17  
18 Tim Tenhave, Chairman, Merrimack Conservation Commission (Commission) provided a [PowerPoint](#)  
19 presentation. He stated the desire for the Council to discontinue a portion of South Grater Road and  
20 declare a portion of South Grater Road an emergency lane. There is a legal process that has to be  
21 followed; notice had to be provided to abutters for the discontinuance, which was done, and a Public  
22 Hearing conducted followed by a vote of the Council.

23  
24 The intent is to prevent access by trucks, jeeps, four-wheelers, side-by-sides, and ATVs through this  
25 discontinued portion of the road mainly because of severe wetland concerns and ongoing violations of  
26 wetland rules. In addition, use by these motorized vehicles is creating a tremendous maintenance  
27 issue; going through there and spots where culverts should be but instead it is all mud, they are  
28 uprooting rocks and trees and disturbing wildlife and creating a large problem for the road service,  
29 which would prevent having adequate emergency access if not addressed in the near future.

30  
31 The second request is intended to vastly improve emergency access. There are other areas of Grater  
32 Woods that have great access for ambulance, fire, etc., but most of the western side has does not. The  
33 Commission would like to be able to provide for conservation based forestry work and other  
34 maintenance access. An improved road structure would make it both easier and less expensive for the  
35 Town and Commission to undertake such activities.

36  
37 The Commission wishes to re-route the roadway to avoid the wetland areas and provide a proper  
38 surface allowing that section of road to be traveled by dirt bikes and ATVs, which are allowed in the  
39 approved Stewardship Plan. Eventually, the Commission would like to complete the vision of the  
40 Stewardship Plan through placement of appropriate gating.

41  
42 Mr. Tenhave displayed maps detailing the areas being discussed. He noted RSA 231:43 allows the  
43 Town Council to discontinue a portion of a road. He noted the requirement to notify the Town of  
44 Amherst because the road adjoins with another municipality. Once discontinued, the Town is relieved  
45 of any liability for the discontinued portion of the highway. Mr. Tenhave displayed a map depicting  
46 the portion of the road to be discontinued. When a road is discontinued it is split evenly down the  
47 middle with each half going to the owners of the parcels located on each side. In this case, that is the  
48 Town of Merrimack and the Commission. There are no private landowners involved.

1  
2 Once the work is completed, the Commission plans on gating the road closing it completely to four-  
3 wheelers, jeeps, etc. The next phase would be to create a woods road that is more accessible and takes  
4 the high ground and gets out of the wet areas. There are other wet areas and streams that feed the pond  
5 area. Those would all be corrected at the same time. Once that is done it will provide the adequate  
6 fire, emergency, and police access. The project to re-route the road would be a mitigation type project.  
7

8 With regard to an emergency lane, State RSA allows for repairs such as removal of brush, repair of  
9 washouts or culverts, or any other work deemed necessary to render such way passable by firefighting  
10 equipment and rescue or other emergency vehicles. In order to do this, the Council needs to make  
11 written findings, recorded in the minutes of the meeting, that there is a public need for keeping such  
12 lane passable by emergency vehicles. Mr. Tenhave stated the opinion the use that exists and the fact  
13 that there is so much forestry land makes for the public need for doing this. The Council can, at any  
14 time, rescind this. Class VI roads, by definition, are non-maintained roads. Overlaying a portion of  
15 the Class VI road and declaring it an emergency lane allows the Town or the Commission to do the  
16 maintenance in order to have the adequate emergency access.  
17

18 Mr. Tenhave highlighted on the map the portion of South Grater Road to be declared an emergency  
19 lane; starts at the Amherst/Merrimack Town line on South Grater Road and extends to just beyond the  
20 back side of the Bender property. What that does is preserves the Class VI road in full access for them  
21 to access their property all along that side border and have access to the back side of their property, if  
22 they would like to, through Commission property. Just beyond that point is where the emergency lane  
23 would stop, and the beginning of the discontinuance would be.  
24

25 Mr. Tenhave displayed an aerial photo, and highlighted the Commission owned properties noting the  
26 reason for the discontinuance stopping in the area it is intended is to avoid impacting a private land  
27 owner. He reiterated the intent to re-route the road up and out of the pond.  
28

29 Councilor Dwyer asked Mr. Tenhave, as a member of the Commission, which has studied this more  
30 than anyone else in Town, to put on the hat of someone who may not wish for this action to be taken,  
31 and present an argument in opposition. Mr. Tenhave stated his belief the public's greatest concern  
32 would be that they would now be blocked from utilizing a roadway that has been used in the past. The  
33 counter the Commission has for that is that the portion of the roadway they use the most is a portion  
34 they should not be using per State wetland rules (not permitted). Most of that access will be restored  
35 through a non-wetland area. Like with all Commission properties, the intent is to not have a public  
36 way any longer. Councilor Dwyer asked for clarification in 2-3 years when the road is redirected the  
37 intent would be for the gates to remain. Mr. Tenhave stated that to be correct.  
38

39 Councilor Boyd questioned when a road is a wetland. He remarked several years ago down at  
40 Horseshoe Pond, Island Drive had flooded over, which is the same idea as what the beaver pond is  
41 doing to this portion of South Grater Road. He commented Mr. Tenhave eluded to the fact someone  
42 driving up and down South Grater Road, technically is impacting a wetland. Mr. Tenhave responded a  
43 wetland becomes a wetland because of three things per State RSA and the NHDES. It is based on soils  
44 first, then the presence of vegetation that is normally found in a wetland, and the presence of water.  
45 The soils dictate a wetland.  
46

47 Mr. Tenhave stated if you were to dig in that area you would find the soils are wetland soils. The road  
48 was placed over wetland soils probably when it wasn't understood what a wetland was. Basically the

1 beaver pond has just consumed it. If they weren't wetland soils the water would drain right through.  
2 He noted the water in this portion will hold most of the year. Last year it did dry out, but there have  
3 been years where it has never dried out.

4

5 Councilor Boyd questioned if wetland RSAs take precedent over the RSA that governs the  
6 classification of roadways. Mr. Tenhave stated his understanding wetlands take precedence over  
7 roads. The only way to do that is follow a permit to do a Dredge & Fill and go through the proper  
8 process, which would raise the roadway and would also mitigate the wetland area that you are now  
9 disturbing.

10

11 Councilor Koenig questioned what is created if it is no longer a road. Mr. Tenhave responded it would  
12 become a woods road; part of the Commission property.

13

14 Councilor Flood commented it would be helpful to view a map that shows both Merrimack and  
15 Amherst portions. Mr. Tenhave noted the Commission has been working with the Amherst  
16 Conservation Commission and the Amherst Land Conservancy to create a joint trail system. Amherst  
17 has about 1,200 acres of open space and Merrimack about 600 acres; hopefully by summer near 700  
18 acres, and when all is said and done somewhere between 800-900 acres in the next few years.

19

20 *Chairman Harrington declared the Public Hearing regarding the Discontinuance open at 8:03 p.m.*

21

22 Mark Bender, 20 Grater Road, Amherst

23

24 Questioned where access for dirt bikes and ATVs would be on the north end of South Grater Road.  
25 Mr. Tenhave responded since the Town of Amherst doesn't permit ATVs, the only access would have  
26 to come from Merrimack's Gateway Trail inside of Grater Woods, which means the access would  
27 come from the Merrimack side; probably a few miles from there in terms of trails. He added the  
28 Commission has no intent to create a parking area, etc., which would put ATVs on the Amherst side of  
29 things because they don't allow them.

30

31 *Chairman Harrington declared the Public Hearing closed at 8:04 p.m.*

32

33 **MOTION made by Councilor Vaillancourt and seconded by Councilor Boyd to discontinue a**  
34 **portion of South Grater Road, starting 210' from the border with the Town of Amherst and**  
35 **running to 2,840' as a public highway including any utility easements, permits, or licenses**  
36 **therein with the ownership of the underlying land reverting to the abutters who are the Town of**  
37 **Merrimack and the Merrimack Conservation Commission, each to the mid-point of the road**  
38 **with the discontinuance to take effect upon the passage of this motion, and that the**  
39 **discontinuance relieves the Town of all future maintenance costs for this portion of South Grater**  
40 **Road, pursuant to RSA 231:43 and to authorize the Town Manager to send written notice to the**  
41 **Amherst Selectmen, as required by State RSA**

42

43 ON THE QUESTION

44

45 Town Manager Cabanel questioned if it is required for the Town of Amherst to respond in favor. Mr.  
46 Tenhave stated the RSA states you are required to give them notice. They do have the opportunity to  
47 counter and bring this forward and have a say, and there would be a legal process for that.

48



1 Councilor Dwyer questioned the language that states “discontinuance relieves the Town of all future  
2 maintenance costs, etc.”; specifically if that means it is the Conservation Commission that would be  
3 responsible for future maintenance costs. Mr. Tenhave explained it relieves the Town for the actual  
4 road that exists today. Going forward, if other work is done out there the Town could pay for it or the  
5 Commission could pay for it, but it would be on public land at that point.

6  
7 Councilor Vaillancourt commented it is confusing because we don’t do any maintenance to that road  
8 now. Because the Town is required to maintain its roads what is being referred to there is road  
9 maintenance. Mr. Tenhave stated the RSA covers all classes of roads even though at this point it is a  
10 Class VI road.

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

12  
13 *Chairman Harrington declared the Public Hearing regarding the Emergency Lane open at 8:07*  
14 *p.m.*

15  
16 *Chairman Harrington declared the Public Hearing closed at 8:08 p.m.*

17  
18 **MOTION made by Councilor Vaillancourt and seconded by Councilor Boyd that the Council**  
19 **declare the portion of South Grater Road, which is currently a Class VI Highway that starts at**  
20 **the border shared with the Town of Amherst and runs 210’ as an emergency lane, pursuant to**  
21 **RSA 231:59-a, and that the public need for keeping this section of South Grater Road passable**  
22 **by emergency vehicles is supported by an identified public welfare or safety interest, which**  
23 **surpasses or differs from any private benefits to landowners abutting such lane. MOTION**  
24 **CARRIED 7-0-0**

25  
26 *There being no objection, the Council went out of the regular order of business to take up Item, #2*  
27 *under New Business.*

28  
29 **1. Posting on Town Owned Property**

30 Submitted by Conservation Commission Chairman Tim Tenhave

31 Town Council to consider a request that as the property owner, to post all Town-owned properties  
32 to prohibit target shooting, in accordance with RSA 635:4.

33  
34 Mr. Tenhave stated the request stems from an activity the Commission began in 2015 after becoming  
35 aware of target shooting occurring on Commission property as well as a parcel the Commission was  
36 interested in purchasing. Of greatest concern was that shooting was taking place with what appeared  
37 to be complete disregard for anyone else that might be using the property; targets were mounted high  
38 up in trees, on top of hills and dunes, alcoholic beverages were being consumed, and individuals would  
39 line up on the side of the road and just start firing. This activity was heard by some over and over  
40 again.

41  
42 A site visit revealed individuals participating in this activity left behind unused shells (some live  
43 ammunition), televisions, pink flamingos, propane tanks, fire extinguishers, speakers, etc. Although  
44 trash is a problem, what was most concerning was the shooting of firearms. One of the areas being  
45 fired upon was a hill that was part of a trail (predominantly used by motorized vehicles). Anyone  
46 coming up the back side of that trail would rise over a peak and be staring down 12 gauge shotguns,  
47 22s, 45s, and 50 caliber weapons. There was no regard to who could be on the other side of that hill.

1 In other areas, where targets were hung on trees, they were firing up. A 45 round or even a 226 or a 22  
2 will travel 2-4 miles if it hits nothing on its way, and still be fairly lethal.

3  
4 The Commission began looking at ways in which that access could be prevented. When the  
5 Commission dealt with this problem on the HHNP and other locations, it had heard from the Police  
6 Department that they need an ordinance or some legal method of enforcement. They could enforce bad  
7 behavior, public drunkenness, littering, but to really stop the use of the weapons in that manner, they  
8 need a legal method. The Commission began considering an ordinance. Late in 2015, with the help of  
9 the Town's counsel, Town Manager, and other members of Town staff, an ordinance was developed,  
10 which the Commission believed would address all of the issues occurring on Commission as well as  
11 Town property and potentially, because of the proximity of the Middle School, school property.

12  
13 The Town currently has ordinances; Chapters 111, 142, and 128, that address discharging of firearms,  
14 but not target shooting. The recommended language was provided by legal counsel was accompanied  
15 by cautionary notes; there are State RSAs which oversee the use of firearms and whether or not a  
16 municipality could control the use of firearms. That made the issue not so clear cut. It was clear  
17 enough that counsel stated it could be defended in court but not clear enough where she could say she  
18 could definitively know the Commission would be successful in such a challenge. The Police Chief  
19 was uncomfortable with something that wasn't clear or well defined.

20  
21 The Commission looked again at how to accomplish what it was looking to do. As the owners of the  
22 property, the Commission has the right to dictate what can and cannot occur on its property, and can  
23 post the property stating the same. Were the Commission to post "target shooting is prohibited" it  
24 would be enforceable. If the Police come upon someone partaking in such activity they can be  
25 reminded of the rule, and informed if they continue the behavior they could be arrested for trespassing.  
26 The Commission also came to learn that Federal law establishes a 1,000' gun free zone for schools.  
27 By Federal law the police have the ability to enforce gun activity around schools.

28  
29 In March, the Commission decided to prohibit target shooting on Commissioned owned properties. As  
30 property owners there is the option to make exceptions. If someone were to come before the  
31 Commission and present a viable plan that the Commission believed to be safe and appropriate for the  
32 parcel, that exception could be made.

33  
34 Mr. Tenhave noted, over the past weekend, with the help of the Town Manager and the assistance of  
35 Town staff, the area of greatest concern was cleaned. He spoke of how professional the staff was, and  
36 how efficiently they addressed the area. They were onsite for 4-5 hours along with a large contingent  
37 of volunteers.

38  
39 Mr. Tenhave noted Grater Woods is a shared ownership; both the Town and the Commission are  
40 property owners. He requested the Council approve of the posting of that area as well as the Town  
41 owned parcel near the Greeley Street boat ramp where issues of target shooting and littering are  
42 occurring. In addition to being an area utilized by residents for a variety of recreational activities, the  
43 area is connected to a flood zone. Were the Town to post its properties, it would provide the police the  
44 enforcement mechanism it needs to discourage the bad behavior.

45  
46 Vice Chairman Rothhaus remarked after seeing the report on the number of man hours involved in the  
47 clean-up effort, it annoys him that people could display such blatant disregard for the property. He  
48 stated his support for the request, and questioned if the Commission would be doing the posting. Mr.

1 Tenhave stated the Commission has posted one trouble spot and would be posting others whether  
2 owned by the Commission in fee or owned by the Town and managed by the Commission based on the  
3 decision of the Council. One hundred signs have been purchased. Vice Chairman Rothhaus spoke of  
4 the comment made regarding firearms within 1000' of a school zone, commenting he is unsure if that  
5 is accurate. It was stated to be Federal law.

6  
7 Chairman Harrington questioned if the Commission has encountered dumping on conservation  
8 properties. Mr. Tenhave stated there to be a lot of back lots that have been donated to the Commission,  
9 and people who abut them consider them areas where they can put their boats, tree stumps, etc. In  
10 another area of Grater Woods it appears some folks have decided it to be too long of a drive to make it  
11 to the Transfer Station, and instead drive in the road and find a spot to dump. In the HHNP, mounds of  
12 roofing tiles and asphalt have been found.

13  
14 Councilor Vaillancourt commented when a member of the Commission encountered target shooters on  
15 the property, he noted out-of-State license plates on some of the vehicles. Councilor Vaillancourt  
16 stated the area on Greeley Street is a mess, and will need some attention at some point.

17  
18 Councilor Dwyer stated his support of the request. He stressed any resident wishing to request the  
19 Council consider creating an outdoor target shooting range on some of the 1,000 acres owned by the  
20 Town, is able to follow the process of being placed on an agenda to bring forward a proposal to create  
21 a range in a safe and appropriate way.

22  
23 Councilor Boyd questioned if the Town has a policy regarding target shooting on Town owned land.  
24 Mr. Tenhave stated the HHNP has a policy, which is covered under Chapter 128 of the Town Code. In  
25 Chapters 111 (conservation chapter) and 142 (Town parks), the language does not address target  
26 shooting, but instead prohibits the discharge of firearms. That is restriction is placed on five properties  
27 that the Town designated in 1995 when the Ordinance was approved.

28  
29 Councilor Boyd questioned whether it would be beneficial to amend the existing ordinance to include  
30 the additional properties. Doing so would provide for the ability to reference Town Ordinance on  
31 signage. It was noted hunting is allowed on some of the Town owned properties, e.g., Grater Woods,  
32 HHNP. Vice Chairman Rothhaus remarked hunting and target shooting are two separate activities.  
33 The Ordinance language that addresses discharging of firearms takes care of the areas of wetlands  
34 where it is too tight for anything anyway. What is being proposed keeps it clean; on Town owned  
35 properties target shooting is prohibited. The other pieces that are already codified are in place serving  
36 their purpose as well. He suggested it would confuse things more to start adding onto existing  
37 ordinance language.

38  
39 Councilor Boyd remarked what he was looking to do was determine if there is a need to codify it. Mr.  
40 Tenhave stated the Commission started down the road of codifying it. That is where they ran into the  
41 stumbling block where the attorney said it is not clean and would require effort and activity. What the  
42 Commission decided to make a policy statement that says there will be no target shooting on Town  
43 properties. If that policy statement doesn't work and codifying were required, that would be the next  
44 step.

45  
46 Town Manager Cabanel stated Section 142-10 states: "No person shall discharge firearms within any  
47 restricted recreational area. No hunting or trapping will be done or permitted within any restricted  
48 recreational area unless necessitated by reasons of wildlife management, preservation or conservation

1 practices. Fishing shall be permitted at designated times and locations within restricted recreational  
2 areas.” It then goes on to list them. She suggested the Council would not want to place that level of  
3 restriction on all parcels.

4 Councilor Boyd questioned the amount of time required to post the perimeter of all Town owned  
5 properties. Mr. Tenhave responded he is uncertain, but it would be a large number. The intent wasn't  
6 to post all properties; only where problems are being seen, and when problems arise. Councilor Boyd  
7 responded even though we are potentially deciding on a policy to prohibit target shooting on Town  
8 owned properties you are really only going to be posting in the nuisance areas. Councilor Koenig  
9 remarked that is certainly where you start. Councilor Dwyer commented the good news is we don't  
10 have a dozen problem areas. We're attacking the trouble spots that need addressing. Councilor Boyd  
11 remarked, we don't know the number of people who are target shooting on Town property. Councilor  
12 Vaillancourt stated her belief the Commission has a pretty good idea where the majority of target  
13 shooting is taking place because of the level of debris left behind.

14  
15 Vice Chairman Rothhaus remarked his reading of the Statute lead him to believe the entire property  
16 had to be posted. Mr. Tenhave stated for where you want to enforce it, it does.

17  
18 Councilor Vaillancourt noted the Commission was not looking to prohibit hunting; for the properties  
19 where hunting is currently permitted, that will not change. The desire is to put a stop to dangerous  
20 behavior. She, Mr. Tenhave, Town Manager Cabanel, and Police Chief Doyle participated in a  
21 conference call with legal counsel to discuss all of the nuances of an ordinance and posting of the  
22 properties. The desire was to ensure that what is put in place is something that counsel could defend  
23 and the police could enforce.

24  
25 Councilor Boyd questioned the cost involved in the recent clean-up of a section of Grater Woods.  
26 Town Manager Cabanel responded she had not requested cost information she had looked for the  
27 number of man hours (5 hours by 5 employees and equipment). Cost information can be sought and  
28 provided. Mr. Tenhave remarked the Town Manager offered to cover the cost as did the Commission  
29 understanding the property is that of the Commission.

30  
31 Councilor Koenig stated his support of the action requested. He remarked he is a little hesitant to enact  
32 these kinds of rules and policies because of where they could lead. In this instance, a good case has  
33 been made regarding the bad behavior. Because of that he will support the effort, and is thankful it  
34 was restricted to target shooting prohibition.

35  
36 **MOTION made by Councilor Boyd and seconded by Councilor Vaillancourt that the Town**  
37 **Council post all Town owned properties to prohibit target shooting in accordance with RSA**  
38 **635:4. MOTION CARRIED 7-0-0**

39  
40 *As a member of the public expressed a desire to provide comment, Chairman Harrington opened the*  
41 *floor to the public.*

42  
43 John Eldridge, 101 Wilson Hill Road

44  
45 Stated he resides on the south end of Grater Road, and commented residents have cleaned the area on  
46 occasion. Despite the posting of signs, target shooting has continued. He suggested a sign be posted  
47 on Grater Road by the end of his property. Although the area beyond the powerlines is the prime

1 location where the activity has been occurring, the landing area just up the road before the powerlines,  
2 although blocked by trees, etc., has seen such activity as well.

3  
4 Mr. Eldridge remarked were the Town to consider an outdoor shooting range, it would be necessary to  
5 place limits on the caliber of weapon. Councilor Dwyer responded if such a request were made and  
6 considered there would be the need for restrictions. To properly vet such a request would likely take a  
7 year's time. He remarked he had simply wished to express if residents wished for something like that,  
8 there is a process by which to make such a proposal.

9 Mr. Eldridge remarked local people have traditionally used it, but carefully and with consideration. It  
10 is when you introduce alcohol and partying, e.g., shooting at night, etc. that it is dangerous.

11 *The Council returned to the regular order of business.*

12  
13 **Legislative Updates from State Representatives** - None

14  
15 **Town Manager's Report**

16  
17 Town Manager Cabanel stated, with the concurrence of the Town Council, Kyle Fox is now the  
18 Director of Public Works.

19  
20 Town Manager Cabanel displayed a plaque, and informed the Council the Town of Merrimack and  
21 City of Nashua, along with CLD Consulting Engineers was awarded the Outstanding Achievement  
22 Award by the American Council of Engineering Companies for the reconstruction of the Manchester  
23 Street Bridge.

24  
25 **Consent Agenda** - None

26  
27 **Old Business**

28  
29 **2. Polling Location Update**

30 Submitted by Town Council Chairman Nancy Harrington

31 Update regarding the Town Council and School Board joint meeting about potential polling  
32 locations.

33  
34 Chairman Harrington questioned the will of the Council relative to conducting a joint meeting with the  
35 School Board to discuss potential polling locations.

36  
37 It was noted the information the Council received previously regarding potential polling locations was  
38 submitted to Marge Chiafery, Superintendent of Schools, and will be distributed to the members of the  
39 School Board. Town Manager Cabanel added she, Paul Micali, and Chief Doyle met with  
40 Superintendent Chiafery and Matt Shevenell, Assistant Superintendent for Business, to go over the  
41 maps and provide them with a copy of the meeting minutes, written commentary regarding ingress,  
42 egress, etc.

43  
44 Councilor Dwyer remarked he had the impression the next step would be the Council identifying  
45 whether the desire is to go with 3 or 4 locations. Although the Council desires the cooperation of the  
46 School Board/District, a decision on the number of polling locations is that of the Council. He  
47 requested the Council look towards finalizing that decision at its next meeting.

1 Chairman Harrington stated her understanding the Council agreed there would be more than one  
2 polling location; minimum of three (3) and possibly four (4). She further understood that distinction  
3 could not be made until feedback is received from the School Board.

4 Town Manager Cabanel remarked she believes the decision is dependent upon a combination of the  
5 availability of various school buildings and churches, the size of the buildings, and their location. She  
6 stated her belief the Council and School Board would go over locations relative to schools so that the  
7 School Board could identify the pros, cons, and concerns they may have with the use of school  
8 buildings. With that information, the Council would meet to discuss the best available options.

9  
10 Chairman Harrington stated her recollection of the decision that every election would have the same  
11 configuration. Several members of the Council responded that was in fact the consensus of the  
12 Council. Chairman Harrington suggested if the School Board were to say, for example, there is no  
13 way Thorntons Ferry could be isolated enough, that would rule out the use of that school. That may in  
14 fact create the boundaries of what is available.

15  
16 Councilor Flood stated her belief it would be more productive for all participants to come into the  
17 meeting with an open mind as opposed to the Council having already determined the locations it would  
18 like to utilize.

19  
20 Councilor Vaillancourt stated she was comfortable going into the discussion having determined there  
21 will be at least three locations. She is of the belief discussion with the School Board regarding  
22 viability of each building could dictate how many sites there will be. She stated her personal desire to  
23 hold off on identifying a particular number of locations until that conversation with the School Board  
24 can be had.

25  
26 Councilor Boyd stated his belief the Council has agreed there will be 3-4 locations. Vice Chairman  
27 Rothhaus stated he is not on board with that decision. Councilor Boyd responded, conceptually there  
28 is a majority of the Council that is looking at 3-4 locations. If agreeing, conceptually, to look at  
29 multiple polling locations, the whole point of the conversation is to work with the School Board to  
30 look at feasibility and gain their buy-in as that is needed to utilize school facilities. It then comes down  
31 to what facility becomes practical for our community's needs.

32  
33 Vice Chairman Rothhaus stated if elections are to be conducted at the schools, he believes they have to  
34 be for all elections. He does not know that that requires a joint meeting. He does not believe that is  
35 practical without closing some of the schools, which really means you have to close them all. The  
36 upper elementary school works and has for years; school can be conducted, etc. For other schools that  
37 might not be that practical. He reiterated he does not believe a joint meeting is necessary to obtain  
38 those answers; the School Board would know whether or not they could close buildings and how it  
39 might work.

40  
41 Councilor Vaillancourt spoke of the amount of commentary received from residents, and that residents  
42 want to see the Council working on this issue, and doing it publicly. She stated her opinion the perfect  
43 way to do that is through a joint meeting with the School Board. It is school district buildings that are  
44 probably going to be the most viable options to solve this problem.

45  
46 Chairman Harrington remarked it may be that schools would not have to be closed to accommodate the  
47 need.

1 *The Council reached consensus to conduct the Joint meeting on Wednesday, May 18th at 7:00 p.m.*  
2 *in the Matthew Thornton Room.*

3  
4 **3. Excess Town-Owned Land Committee**

5 Submitted by Town Council Chairman Nancy Harrington

6 Town Council to consider the formation of a committee for the discussion and evaluation of the  
7 current excess Town-owned properties.

8  
9 Chairman Harrington stated the Council has discussed establishing a committee to review current  
10 excess Town-owned properties. She noted in 2000 and 2007-2008 she and Mr. Tenhave pulled  
11 together information on Town owned land. In 2009, an auction was conducted based on that  
12 information. A need has been voiced to establish another committee to again review Town owned  
13 land.

14  
15 Assistant Town Manager/Finance Director Micali stated his belief Councilor Dwyer brought the issue  
16 forward. He added a few residents have come forward for some Town owned parcels. It is believed to  
17 be beneficial for a committee to be formed to review all Town owned parcels as opposed to addressing  
18 them a few at a time. It may be that another auction is conducted, if the Council so chooses.

19  
20 *Councilors Flood, Dwyer, and Koenig volunteered to work on the committee. Councilor Dwyer will*  
21 *be designated as the contact person.*

22  
23 **4. Merrimack Dog Park and the Veterans Park Boat Ramp Update**

24 Submitted by Town Manager Eileen Cabanel

25 The Town Council to be presented with an update and details on the Merrimack Dog Park and the  
26 Veterans Park boat ramp.

27  
28 Kyle Fox, Director, Public Works Department (PWD), stated last summer he and the summer interns  
29 surveyed the area of the Veterans Park boat ramp. Their efforts culminated in identifying a concept for  
30 work that could be done to improve the boat ramp. The primary aspects they looked at in devising a  
31 plan were access to the water for boats and mitigating erosion and stormwater issues into the lake.

32  
33 Data was compiled over the winter months and incorporated into a wetlands application submitted to  
34 the NHDES on February 25<sup>th</sup>. That application has been accepted for review. The NHDES has 75  
35 days to review the application. On March 7<sup>th</sup> he presented the project to the Conservation Commission  
36 after which Mr. Tenhave wrote a very nice letter to the NHDES supporting the project.

37  
38 Once approval is received, whatever comments the NHDES issues with the permit will be incorporated  
39 into the design, the design plans will be finalized, and the project put out to bid. Presumably the boat  
40 ramp could be constructed late summer/early fall when the peak use of the ramp has subsided.

41  
42 Director Fox spoke of having received a letter from an abutter, and spoke of having met with the  
43 abutter and one of the Board members of the Naticook Lake Association to discuss concerns they had.  
44 Their primary concern is erosion into the lake. Access that exists is a 10% grade down to the lake. It  
45 is hard to stabilize anything on a 10% grade. The commitment he has made is that the PWD will leave  
46 the area better than they found it. The goal of the project is to improve access and stabilize all  
47 surrounding areas as best they can within the constraints of the project budget.

1 Director Fox explained up until two years ago the ramp was a gravel path down to the lake. Anyone  
2 who visits the area can see the erosion that has been going on for years. Soil from the gravel road and  
3 the ramp itself is eroding into the lake. The PWD placed some fairly rugged stone in last year. While  
4 that does a fine job helping the erosion issue, it makes access pretty difficult for smaller vehicles.  
5

6 Councilor Flood stated her recollection there was Milfoil in the lake. Director Fox stated there was.  
7 When asked if it has been eradicated, members of the Council stated it is currently under control.  
8

9 Chairman Harrington stated the [letter](#) from Mr. Quinby regarding a concern with runoff will be  
10 attached to the minutes of this meeting.  
11

12 Councilor Vaillancourt stated the letter from Mr. Quinby cited very specific concerns. She questioned  
13 if they were addressed in such a fashion that he can now support the project. Director Fox responded  
14 the letter was written after their meeting. He does not believe Mr. Quinby is 100% supportive of the  
15 direction being taken. Both Mr. Quinby and Mr. Goulet were looking for the Town to construct a  
16 detention pond in the area of the stone walls. It is his understanding the stone walls were the  
17 foundation of a former ice house from back when ice was harvested from the lake. He informed  
18 Messrs. Quinby and Goulet he would not be taking down the stone walls as they likely have historic  
19 value. They didn't necessarily agree with that. They are trying to work around the differences in  
20 concept. Although consensus cannot be assured, the department will work with them as it would any  
21 stakeholders for a project.  
22

23 Chairman Harrington noted the letter was sent to the NHDES, and will be taken into consideration by  
24 them.  
25

26 Councilor Dwyer spoke of having had conversations with several people who reside on that lake over  
27 the years. There are many who live on the lake, and don't want to see the boat ramp improved. They  
28 have a paradise of sorts and don't want everybody to discover it. Better boat ramps tend to bring more  
29 activity. It is difficult to get a boat off a trailer in that area without putting the tailpipe of your vehicle  
30 in the water because of the existing conditions resulting from erosion.  
31

32 Councilor Dwyer questioned if the project would include minor dredging to create more of a drop.  
33 Director Fox stated that to be part of the plan. At the very bottom of the ramp and going into the water  
34 will be pre-cast concrete slabs. In between each of those slabs will be ¾" crushed stone, which will  
35 allow the slabs to move with the terrain. A few feet outside of the high water level the ramp will be  
36 paved. The purpose for that is because of the 10% slope and the need to stabilize the ground. When  
37 asked if there is a way around the 10% grade, Director Fox responded not unless you lower the grade  
38 of Brundage Way, which would involve a lot of tree cutting, probably some retaining walls to hold up  
39 the ballfields, etc. That would be a very expensive project.  
40

41 Director Fox thanked Don Provencher of Provencher Engineering who developed the concept plans for  
42 the Dog Park at no charge to the Town. His concept plan was utilized to develop bid specifications  
43 and proposals for the park. The project is currently out to bid. Bids are scheduled to be open on May  
44 9<sup>th</sup>. The proposal calls for a completion date of June 30, 2016.  
45

46 Assistant Town Manager/Finance Director Micali stated once the bids are opened, the Dog Park  
47 organization will be back before the Council for final approval to move ahead with the project. Town  
48 Manager Cabanel clarified it is the Town project. The Town is approving the design. The Dog Park



1 group is welcome to come in and endorse it, but the Town has taken it to do the way the Town feels it  
2 needs to be done. The Town is the owner of the project. She spoke of the tremendous effort the Dog  
3 Park group has done and continues to do with regard to fundraising for the project.

4  
5 When asked about available funding, Assistant Town Manager/Finance Director Micali stated  
6 information relative to total cost of the project as well as monies raised will be brought before the  
7 Council once the bid process has completed.

8  
9 Councilor Flood spoke of the tremendous work done by the Dog Park group, and stated she is pleased  
10 with the public/private partnership this project has resulted in. Town Manager Cabanel noted it was  
11 Councilor Flood who suggested the location for the park.

## 12 13 **New Business**

### 14 15 **2. Merrimack Rocks**

16 Submitted by David McCray

17 To review 2015 Merrimack Rocks and to update the Town Council with the details of the  
18 upcoming 2016 Merrimack Rocks event.

19  
20 Chairman Harrington stated the item will be rescheduled for the May 12<sup>th</sup> meeting.

### 21 22 **3. Town Manager Annual Evaluation**

23 Submitted by Town Council Chairman Nancy Harrington

24 Town Council will discuss performance and contract modifications.

25  
26 Chairman Harrington stated the annual evaluation of the Town Manager has been completed by the  
27 Town Council. By contract, only a determination of satisfactory or unsatisfactory performance can be  
28 made. This evaluation has resulted in a satisfactory rating. The Town Council also determined that  
29 the Town Manager will receive modification in the contract to reflect the same salary increase and  
30 health insurance adjustments as the other not contractual Town employees.

### 31 32 **4. Town Council Retreat / Goal Session**

33 Submitted by Town Council Chairman Nancy Harrington

34 Town Council to decide when their Retreat / Goal Session will be held.

35  
36 The consensus of the Council was to look into the availability of a location for June 10<sup>th</sup>. Councilors  
37 were asked to forward requests for agenda items to the Chairman no later than May 20<sup>th</sup>.

### 38 39 **5. Town Council Committee Assignments**

40 Submitted by Town Council Chairman Nancy Harrington

41 The Town Council will determine committee assignments for the current year.

42  
43 *The following committee assignments were made:*

44  
45 Adult Community Center Representative; Councilor Harrington

46 Conservation Commission; Councilor Vaillancourt

47 Economic Development Citizen Advisory Committee; Councilor Boyd

48 Heritage Committee; Councilor Rothhaus

1 Highway Safety Committee; Councilor Rothhaus  
2 Merrimack Safeguard; Councilor Rothhaus  
3 New Hampshire Rail Transit Authority; Tom Mahon  
4 Parks & Recreation Committee; Councilor Dwyer  
5 Planning Board; Councilor Koenig  
6 Planning Board, Alternate; Councilor Boyd  
7 Nashua Regional Planning Commission; Councilor Boyd  
8 Technology Committee; Councilor Koenig  
9 Town Center Committee; Councilor Flood  
10 Councilor Vaillancourt respectfully requested updates be provided on the activities of the various  
11 committees at the end of each Council meeting.  
12

### 13 **Minutes**

14 Approve the minutes from the Town Council meeting of April 14, 2016.

15 *The following amendments were offered:*

16 Page 7, Lines 17 & 18; delete “was” before “made” and add “was not accurate” after “practice”  
17

18 **MOTION made by Councilor Boyd and seconded by Councilor Koenig to accept the meeting**  
19 **minutes of the April 14, 2016 Town Council meeting as amended. MOTION CARRIED 6-0-1**  
20 *Councilor Flood abstained*  
21

22 **Comments from the Press** - None  
23

24 **Comments from the Public**

25 Charles Mower, 4 Depot Street  
26

27  
28 Representing Merrimack4AWL stated we used to pollute out of ignorance, when we pollute now we  
29 pollute out of arrogance. We’re seeing an increasing opportunity for it to be dismissed as background,  
30 and that it is ubiquitous in the environment. PFOAs are not ubiquitous in the environment. They do  
31 not belong in the environment, and they do not belong in our drinking water. If they don’t belong in  
32 our drinking water they also don’t belong in our land and in our air. We cannot separate the three of  
33 those things ethically. He remarked we fully recognize that nobody wants to drink PFOA  
34 contaminated water. Nobody wants it in their soil and nobody wants it in their air.  
35

36  
37 There is a stratospheric game going on with agencies several thousand feet above us, and they are all  
38 trying to limit their exposure to liability, focus their charge so that they can get things done that they  
39 think are within their controllable sphere of influence. That is not really good enough. We now know  
40 that in part Saint-Gobain left Bennington, VT and came to Merrimack because the environmental laws  
41 in Vermont were too strict. They found that by coming to New Hampshire they could save about  
42 \$350,000 a year because they didn’t have to have the pollution control devices in their stacks that were  
43 required in Vermont.  
44

45  
46 Mr. Mower stated he finds that inadequate on the part of the State of New Hampshire. At the local  
47 level we exclusively rely upon the EPA, the NHDES, etc. They are no longer acting entirely in our

1 best interests and they will not unless we force them to be partners in this community. They would not  
2 want PFOAs in Lake Winnepesaukee; we don't want them here.

3  
4 Mr. Mower stated we should not settle for the idea that they are ubiquitous, they are in the background,  
5 they have been around since 1940, etc. They don't belong here, and they have already recognized that  
6 they don't belong here because they worked for 11 years with Saint-Gobain to eliminate the use of  
7 PFOAs at their facility knowing full well what the ramifications of that would be, and never having  
8 told us at the local level anything. He agrees with Senator Ayotte that someone should tell the EPA to  
9 act relative to setting standards. They are facilitated through the DES. We see that there are weak  
10 links here that we are the victims of. We are the recipients of the pollution that degrades our economic  
11 and environmental well-being.

12  
13 Mr. Mowers requested the Council write to the EPA encouraging them to set a standard, and to  
14 consider the lowest possible standard; zero. Vermont has a much lower standard than New Hampshire  
15 and New Hampshire has arbitrarily picked the same as Maine. The science is clear; they don't belong  
16 in our environment, and we should take a strong stand to say that we don't want them in our air, our  
17 water, or our soils.

18  
19 Mr. Mower stated he was encouraged to hear the grasp of the Conservation Commission relative to air,  
20 water, and land. Provided was a very thorough response to Councilor's Boyd's question about what is  
21 a wetland. It is defined by soils, it is defined by vegetation, and the transitional zones that are  
22 connected to it. We need to apply that understanding in all of our decisions. We need an entire  
23 administrative review of policies and procedures that we might actually pull the best. Only then will  
24 we satisfy a stable, economic business climate whether it is real estate or industry.

25  
26 Mr. Mower remarked the world has now changed and we either move forward with trying to change  
27 the culture of how we view the environment as central to our economic well-being or we just continue  
28 to have ubiquitous pollution. Members of Merrimack4AWL feel now is the time, not only for what  
29 has happened recently, but to go back and look at all of the pollution sites in Merrimack. We need to  
30 know how many remediation plans were put in place that didn't work, what is the status of those  
31 remediation plans, e.g., Nashua Corporation with its Toluene, its PCBs and its Benzene; yes we had a  
32 remediation plan, but where does that stand now.

33  
34 Mr. Mower stated we need to arrest environmental degradation or it will consume us. That is the belief  
35 of Merrimack4AWL, and they hope to be able to contribute something, and try and lead, to the degree  
36 they can, on these issues.

37  
38 Vice Chairman Rothhaus remarked, since the time of the Public Hearing, as he listens to the NHDES  
39 say they issued an air quality permit to Saint-Gobain in 2005 and have never once come down to the  
40 property to do anything about it, as each day has progressed he has become more annoyed and angered  
41 about that.

42  
43 He spoke of a young man who 20± years ago purchased a piece of property next to his Dad's on  
44 Baboosic Lake, and torn down a cottage to build his year-round home. He had placed large rocks  
45 along the embankment about 4-5' high to prevent erosion. It had absolutely no environmental impact  
46 on the water; no water quality issues. Because the neighbor didn't like it, and called the NHDES, they  
47 came down, and because he was low-hanging fruit/someone they could terrorize, they made him put it  
48 back to the way it was. Here in 2005, they issue this permit and do nothing to ensure it is all good. He

1 stated he is in favor of sending a letter to the EPA. He questioned if because those at the DES did not  
2 do their job, have they allowed this open door where the corporate neighbor has the ability to say that  
3 wasn't us because there is no way of proving one way or the other that it was.  
4

5 Chairman Harrington stated that is one of the reasons why the Consortium will be asking specific  
6 questions related to what did occur, what didn't occur, why the DES utilized bottling from New York  
7 to make a determination about whether a permit should be given, etc.  
8

9 Town Manager Cabanel commented when asked what was done from the perspective of air quality, the  
10 DES talked about re-creating a model based on the information that was submitted to them by Saint-  
11 Gobain. They didn't verify.  
12

13 Chairman Harrington stated her support of the Council writing a letter to the EPA demanding the  
14 determination of a standard of zero. Vice Chairman Rothhaus remarked there are other products that  
15 are able to be used. Councilor Vaillancourt stated her support of writing a letter. She questioned  
16 process; the item was not included on the agenda for action by the Council. She requested the Town  
17 Manager draft a letter to be brought before the Council for consideration.  
18

19 Chairman Harrington requested the Town Manager draft a letter to be placed on the agenda for the  
20 Council's next meeting.  
21

### 22 **Comments from the Council**

23  
24 Vice Chairman Rothhaus stated his preference to have the unanimous vote of the Council when  
25 considering the nomination for the position of Vice Chairman. He stated his belief it would be best to  
26 have someone in the position who could gain the unanimous support of the Council.  
27

28 Councilor Boyd noted a member of the Council could motion for reconsideration given the item is on  
29 the agenda. Such a motion would have to be made by someone who voted on the prevailing side.  
30

### 31 **MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to respectfully 32 reconsider the vote on Councilor Rothhaus as Vice Chairman**

### 33 34 **ON THE QUESTION**

35  
36 Councilor Boyd stated he is stunned. Vice Chairman Rothhaus restated his belief the vote should be  
37 unanimous. He stressed he has no issue with reconsideration. Councilor Flood stated authoritarianism  
38 gives unanimous results, democracies aren't so good. Vice Chairman Rothhaus responded that is all  
39 true, and that is not a problem for him, he simply believes it would be best for the Council. Councilor  
40 Dwyer stated he does not think it matters and does not think it would be best for the Council.  
41 Chairman Harrington stated agreement. Councilor Dwyer stated in the 6 years he has been on the  
42 Council there have been Chairmen elected by votes of the Council that were not unanimous.  
43

### 43 **MOTION FAILED 1-6-0**

44 *Councilors Harrington, Boyd, Dwyer, Flood, Koenig, and Vaillancourt voted in opposition.*  
45

46 Councilor Koenig commented he has tried to be quiet on subjects such as the PFOAs because he does  
47 not have enough knowledge to talk in depth on the issue, but he was encouraged that Mr. Mower,  
48 towards the end of his discussion, mentioned all of the other aspects and concerns in the Town of

1 Merrimack. There are lots of things that could be out there contaminating our air, water, and soils. He  
2 remarked if we decide to start taking in Pennichuck water we could be sucking in a whole other  
3 problem and just not paying attention to it. It is real easy now to hit that target and say let's figure out  
4 how much PFOAs is in the wells and totally ignore lead or sodium or any of those other things that are  
5 very prevalent. Sodium is a tremendous problem in this Town. We have to be diligent. He applauded  
6 Merrimack4AWL and anyone else who steps forward to try and understand how we are potentially  
7 polluting our environment and killing ourselves.

8  
9 He stated the need to make sure we don't just focus on one thing to the exclusion of all others. We  
10 have concerned ourselves with the proposed pipeline because it is coming and hitting us in the face,  
11 we're concerning ourselves with PFOAs because it is hitting us in the face. It is impacting us not only  
12 chemically, but financially and socially and every other aspect. He reiterated he applauds the  
13 Merrimack 4AWL for looking into the other issues; how much remediation has effectively worked.  
14 He remarked we look at Watson Park and know there is a barrier 2' deep because of soil contamination  
15 there. We need to be continuously diligent about how that is impacting the Town and its residents.

16  
17 Councilor Boyd thanked Chairman Harrington for attending the MVD meeting. He remarked there  
18 was a lot of information that was communicated in that meeting. A review of the meeting minutes of  
19 that meeting provided more of a synopsis as opposed to the type of depth and breadth that Chairman  
20 Harrington relayed in her remarks.

21  
22 Chairman Harrington remarked the MVD has been very diligent. They have been doing a lot of good  
23 work. They have started looking at Pennichuck. They do themselves a disservice because they are  
24 working so hard and they are spending a good deal of time and money to look at all of the aspects  
25 involved, and people just don't know it. She stated her pleasure in being able to share that.

26  
27 Councilor Koenig commented on the sign outside of their building that says check our website for  
28 information. Chairman Harrington stated the only thing on the website is a link to the DES. Councilor  
29 Vaillancourt stated the issue she finds the MVD has the most struggles with is communication. She  
30 noted the MVD is an entirely separate entity from the Town government. Lots of people still don't  
31 understand that. She does not know is the DES understood that until recently. People look to the  
32 Town Council and the Town Manager for information, but sometimes we are walking a fine line trying  
33 not to speak on their behalf having no authority to do so.

34  
35 At the same time, the Council understands the information people are craving. She encouraged people  
36 to reach out and ask questions noting she has found when people have contacted the MVD they have  
37 received very specific detailed answers to their questions. She remarked whatever the Council can do  
38 to support the MVD should be done, but they should be encouraged to communicate.

39  
40 **Adjourn**

41  
42 **MOTION made by Councilor Boyd and seconded by Councilor Koenig to adjourn the meeting.**  
43 **MOTION CARRIED 7-0-0**

44  
45 *The April 28, 2016 meeting of the Town Council was adjourned at 10:05 p.m.*

46  
47 Submitted by Dawn MacMillan