TOWN COUNCIL – AGENDA REQUEST FORM

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

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

MEETING INFORMATION

Date Submitted: 01Jul16
Submitted by: David Elliott
Department:
Speakers:

Date of Meeting: 21Jul16
Time Required: 20 min.
Background Info. Supplied: Yes: ☐ No: ☐

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

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

TITLE OF ITEM

Target Shooting on Town Owned Land.

DESCRIPTION OF ITEM

REFERENCE (IF KNOWN)

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

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

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

CONTACT INFORMATION

Name: David Elliott
Address: 54 Wilson Hill Rd, Merrimack
Phone Number: 931-551-5831
Email Address: dave.elliott15@gmail.com

APPROVAL

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

Hold for Meeting Date: _____

27JUL16 Town Hall Meeting Talking Points

David Elliott

I. Introduction
II. Problems discussed regarding target shooting in prior town meeting
    a. Laws already in place to address all of the issues
    b. RSA's, town ordinances
    c. Punishing the masses for the actions of a few
III. Impact new law will have on good people
    a. Problems with private clubs
    b. Indoor ranges
    c. Impact on hunters and responsible shooters
IV. Information provided by Merrimack PD
    a. Types of gun related calls
    b. Seriousness of calls
    c. Laws emplaced to address the issues.
V. Discuss prospect of Merrimack Town Range

Road, pursuant to RSA 231:43 and to authorize the Town Manager to send written notice to the Amherst Selectmen, as required by State RSA

ON THE QUESTION

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

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

Councilor Vaillancourt commented it is confusing because we don't do any maintenance to that road now. Because the Town is required to maintain its roads what is being referred to there is road maintenance. Mr. Tenhave stated the RSA covers all classes of roads even though at this point it is a Class VI road.
MOTION CARRIED 7-0-0

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

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

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

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

1. **Posting on Town Owned Property**
   Submitted by Conservation Commission Chairman Tim Tenhave
   Town Council to consider a request that as the property owner, to post all Town-owned properties to prohibit target shooting, in accordance with RSA 635:4.

Mr. Tenhave stated the request stems from an activity the Commission began in 2015 after becoming aware of target shooting occurring on Commission property as well as a parcel the Commission was interested in purchasing. Of greatest concern was that shooting was taking place with what appeared to be complete disregard for anyone else that might be using the property; targets were mounted high up in trees, on top of hills and dunes, alcoholic beverages were being consumed, and individuals would

line up on the side of the road and just start firing. This activity was heard by some over and over again.

A site visit revealed individuals participating in this activity left behind unused shells (some live ammunition), televisions, pink flamingos, propane tanks, fire extinguishers, speakers, etc. Although trash is a problem, what was most concerning was the shooting of firearms. One of the areas being fired upon was a hill that was part of a trail (predominantly used by motorized vehicles). Anyone coming up the back side of that trail would rise over a peek and be staring down 12 gauge shotguns, 22s, 45s, and 50 caliber weapons. There was no regard to who could be on the other side of that hill. In other areas, where targets were hung on trees, they were firing up. A 45 round or even a 226 or a 22 will travel 2-4 miles if it hits nothing on its way, and still be fairly lethal.

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

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

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

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

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

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

Vice Chairman Rothhaus remarked after seeing the report on the number of man hours involved in the clean-up effort, it annoys him that people could display such blatant disregard for the property. He stated his support for the request, and questioned if the Commission would be doing the posting. Mr. Tenhave stated the Commission has posted one trouble spot and would be posting others whether owned by the Commission in fee or owned by the Town and managed by the Commission based on the decision of the Council. One hundred signs have been purchased. Vice Chairman Rothhaus spoke of the comment made regarding firearms within 1000' of a school zone, commenting he is unsure if that is accurate. It was stated to be Federal law.

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

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

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

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

Councilor Boyd questioned whether it would be beneficial to amend the existing ordinance to include the additional properties. Doing so would provide for the ability to reference Town Ordinance on signage. It was noted hunting is allowed on some of the Town owned properties, e.g., Grater Woods, HHNP. Vice Chairman Rothhaus remarked hunting and target shooting are two separate activities. The Ordinance language that addresses discharging of firearms takes care of the areas of wetlands where it is too tight for anything anyway. What is being proposed keeps it clean; on Town owned properties target shooting is prohibited. The other pieces that are already codified are in place serving

their purpose as well. He suggested it would confuse things more to start adding onto existing ordinance language.

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

Town Manager Cabanel stated Section 142-10 states: "No person shall discharge firearms within any restricted recreational area. No hunting or trapping will be done or permitted within any restricted recreational area unless necessitated by reasons of wildlife management, preservation or conservation practices. Fishing shall be permitted at designated times and locations within restricted recreational areas." It then goes on to list them. She suggested the Council would not want to place that level of restriction on all parcels.
Councilor Boyd questioned the amount of time required to post the perimeter of all Town owned properties. Mr. Tenhave responded he is uncertain, but it would be a large number. The intent wasn't to post all properties; only where problems are being seen, and when problems arise. Councilor Boyd responded even though we are potentially deciding on a policy to prohibit target shooting on Town owned properties you are really only going to be posting in the nuisance areas. Councilor Koenig remarked that is certainly where you start. Councilor Dwyer commented the good news is we don't have a dozen problem areas. We're attacking the trouble spots that need addressing. Councilor Boyd remarked, we don't know the number of people who are target shooting on Town property. Councilor Vaillancourt stated her belief the Commission has a pretty good idea where the majority of target shooting is taking place because of the level of debris left behind.

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

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

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

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

<u>MOTION</u> made by Councilor Boyd and seconded by Councilor Vaillancourt that the Town Council post all Town owned properties to prohibit target shooting in accordance with RSA 635:4. <u>MOTION CARRIED</u> 7-0-0

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

<u>John Eldridge</u>, 101 Wilson Hill Road

Stated he resides on the south end of Grater Road, and commented residents have cleaned the area on occasion. Despite the posting of signs, target shooting has continued. He suggested a sign be posted on Grater Road by the end of his property. Although the area beyond the powerlines is the prime location where the activity has been occurring, the landing area just up the road before the powerlines, although blocked by trees, etc., has seen such activity as well.

Mr. Eldridge remarked were the Town to consider an outdoor shooting range, it would be necessary to place limits on the caliber of weapon. Councilor Dwyer responded if such a request were made and considered there would be the need for restrictions. To properly vet such a request would likely take a year's time. He remarked he had simply wished to express if residents wished for something like that, there is a process by which to make such a proposal.
Mr. Eldridge remarked local people have traditionally used it, but carefully and with consideration. It is when you introduce alcohol and partying, e.g., shooting at night, etc. that it is dangerous.
The Council returned to the regular order of business.

<u>Legislative Updates from State Representatives</u> - None

<u>Town Manager's Report</u>

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

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

<u>Consent Agenda</u> - None

<u>Old Business</u>

2. **Polling Location Update**
   Submitted by Town Council Chairman Nancy Harrington
   Update regarding the Town Council and School Board joint meeting about potential polling locations.

TITLE LXII
CRIMINAL CODE

CHAPTER 635
UNAUTHORIZED ENTRIES

Section 635:4

635:4 Prescribed Manner of Posting. – A person may post his land to prohibit criminal trespass and physical activities by posting signs of durable material with any words describing the physical activity prohibited, such as "No Hunting or Trespassing", printed with block letters no less than 2 inches in height, and with the name and address of the owner or lessee of such land. Such signs shall be posted not more than 100 yards apart on all sides and shall also be posted at gates, bars and commonly used entrances. This section shall not prevent any owner from adding to the language required by this section.

Source. 1977, 284:1, eff. Aug. 21, 1977.