

Approved: January 28, 2016

Posted: January 29, 2016



Town Council Meeting Minutes

Thursday January 14, 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 Vice Chairman Mahon, Councilor Boyd, Councilor Dwyer, Councilor Koenig, Councilor Rothhaus, Councilor Vaillancourt, and Assistant Town Manager/Finance Director Paul Micali. Town Manager Eileen Cabanel arrived at 7:04 p.m.

Pledge of Allegiance

Chairman Harrington led in the Pledge of Allegiance.

Announcements

Town Hall Offices will be closed on Monday, January 18th in observance of the Martin Luther King, Jr. day.

The Town Council will conduct budget meetings on Thursday, January 21st, and Monday, January 25th at 6:00 p.m. in the Matthew Thornton Room.

Regular meetings of the Town Council will be conducted on Thursday, January 28th at 7:00 p.m. in the Matthew Thornton Room.

Tuesday, February 9, 2016 is the Presidential Primary. Polls will be open from 7:00 a.m. to 7:00 p.m. at the Merrimack High School located at 36 McElwain Street. Absentee ballots are available at the Town Clerk's office.

Kinder Morgan – Proposed Northeast Energy Direct (NED) Pipeline Project

• Informational Reports and Updates

Liberty Utilities has requested approval of another 35,000 decatherms from the Public Utilities Commission. The Council was notified of this on December 29, 2015. The Council was asked to provide, with the New Hampshire Municipal Pipeline Coalition (Coalition), encouragement to allow the Town to be interveners. There was no means for the Council, in a day and a half, to gather to determine whether or not it wished to request intervener status. The Coalition did file for intervener status. They will keep the Council informed, and the Council will monitor that closely.

The New Hampshire Attorney General and the Office of Energy & Planning have filed with the Federal Energy Regulatory Commission (FERC) for intervener status.

The Council received a letter from the Coalition that was submitted to them by the Massachusetts coalition of towns requesting the Council write a letter of support requesting the FERC combine the proposals for additional gas pipeline capacity in New England into one consolidated review. The Council received the letter earlier in the day. Mr. Tad Putney, Town Administrator, Brookline, NH, who is heading the Coalition, would be the individual to sign the letter, but before doing so needs approval by all of the towns within the Coalition.

MOTION made by Councilor Mahon and seconded by Councilor Koenig to authorize Tad Putney, Brookline Town Administrator and Chair of New Hampshire Municipal Pipeline Coalition, to sign a letter of support on behalf of the Coalition, including the Town of Merrimack, requesting the FERC combine the proposals for additional gas pipeline capacity in New England into one consolidated review.

ON THE QUESTION

Vice Chairman Mahon remarked this is timely given the article that was distributed to the Council from British Columbia and Alberta, which highlighted their opposition to a crude oil pipeline for exactly the same reasons; they did not provide enough information for them to feel they could make an educated decision on the issue. The other reason relates to the other two articles that were sent around from New York and the Berkshires dealing with the same issues. The FERC is just looking the other way. Kinder Morgan is just trying to take advantage of it by saying no we won't have anything more until April, which is now 4 months into a 12-month process. Vice Chairman Mahon requested the letter also be sent to the Speaker of the House and the President of the Senate.

Councilor Boyd commented along with the email from Mr. Putney was a communication expressing a sense of urgency. He then stated the letter could wait a week if people have trepidation about the context of the letter. The context has to bullet points; one expressing frustration and the other asking for a response to the November 20th letter that was sent to the FERC. Councilor Boyd stated he would support a letter that includes the language in the first bullet. With regard to requesting a response to the November 20th letter, given the way it is written; saying that our letter may have been overshadowed, he felt was kind of snarky and trite. It was almost saying we sent you a letter why didn't you respond to us. Councilor Koenig commented it sounds good to him. Chairman Harrington remarked she believes that request was highlighting the frustration, and the non-compliance on the part of Kinder Morgan.

Town Manager Cabanel stated another email was received indicating the need for the decision of the Council by the following day, which is the deadline. She stated appreciation of the continued efforts of the Coalition.

Councilor Vaillancourt spoke of the difficulties that can arise relative to the meeting schedules of the boards of 13 communities. Those difficulties are only increased when attempting to coordinate with another state. She provided her opinion the two points expressed in the letter are very critical. They are sharing the frustration with the process; most importantly with the FERC accepting the application as incomplete as it was. The Council has noted the number of TBDs cited in the application time and time again. They are not giving us information, and it is just sliding through the process. That is very frustrating and disrespectful. To request that the FERC respond to a simple question is not unwarranted. Answers are not being provided by anyone. This is a huge project that greatly impacts these towns. She stated her wholehearted support of the efforts of the Coalition in sending the letter.

Councilor Dwyer stated for the sake of solidarity, he would support the motion. He shared his opinion these letters just don't matter much. He remarked when Vice Chairman Mahon commented the FERC is not paying attention, he wrote down the FERC is doing what they are designed to do. The FERC is not doing anything that is out of their nature. The more you learn about it the more frustrated and angry you become, but they have done nothing illegal. It could be that they have the right to say TBD.

Vice Chairman Mahon commented one of the other items was the stress of the Environmental Protection Agency (EPA) over the FERC's similar behavior, and trying to move them to what they think is their appropriate role in the draft Environmental Impact Statement, and getting essentially no response there.

Councilor Boyd commented he almost would have preferred a letter that simply talked about the frustrations and focused on the fact the application was incomplete yet the FERC chose to accept it as complete. If it has TBD anywhere in any of those reports it is not a completed application. To him outlining a letter expressing those particular frustrations is better than saying what was said in the second paragraph. He would rather focus on the task at hand, on issues that impact our community, and worry about those particular issues as opposed to style. To him it is stylistic. He stated he too would support the motion because the policy was made to submit that particular letter. He will stand in solidarity with the Council. He agrees with what has been said about the Coalition communities, but his concern is with what impacts Merrimack.

Councilor Vaillancourt stated she is not sure she understands what is meant by style. She remarked asking for a response to the request that the FERC conduct a consolidated review of all of these pipeline projects, to her is not style that it is a very reasonable, valid, pertinent request. While she cares about Merrimack, she cares about the entire State. There is strength in solidarity, which is one of the reasons we are all working together. Requesting that the FERC review all of the proposals together would basically force them to consider the need of the quantity of gas that all of these projects would bring to the New England region. In her opinion, it is a very pertinent fact that ought to be considered. The fact that the FERC reviews each one of these pipeline projects individually, and the possibility they could all be approved is a process that is mindboggling to her.

Councilor Boyd remarked it would also require the FERC to get together and decide whether they are going to consolidate or not. Councilor Dwyer remarked it is not their purview to consolidate policy that is done at another level. They are a planning board on a local level.

MOTION CARRIED 7-0-0

Councilor Vaillancourt stated her assumption there is no word on a Merrimack Village District (MVD)/Kinder Morgan meeting.

She questioned if the Town has received a completed road work permit from Kinder Morgan since the Council's last meeting. Town Manager Cabanel stated the Town has not. Kinder Morgan completed the application; it came in, went to the individual at the Public Works Department (PWD) who reviews applications who said there is the need to provide for insurance and to be more specific rather than making a blanket request. Nothing has been received back since.

Comments From the Press and Public

Gina Rosati, 15 Dunbarton Drive

Thanked the Coalition for its efforts commenting without them, she believes Merrimack would be home to a huge pipeline. She noted the deadline for filing a motion to intervene was 5:00 p.m. the following day. She commented individuals do not need to be abutters to intervene. Residents of the

Town of Merrimack or the State of New Hampshire will be affected by the pipeline in some way, shape, or form. Residents wishing to intervene can visit the Facebook page for Merrimack Citizens for Pipeline Information where there is a pinned post that provides instructions on how to e-file.

With regard to the importance of reviewing all of the proposed pipelines together, she noted the Governor has asked for .6 billion cubic feet/day of gas. If Kinder Morgan, Access Northeast, and AIM Energy Group, Inc. are all approved, it would bring in approximately 3.5 billion cubic feet/day of gas. Bear Head is a facility they want to build in Nova Scotia that would be exporting liquid natural gas. They would have to get that from the Marcellus Shale Field up through New England to Dracut, and then it would go out through the Maritimes & Northeast Pipeline. Spectra Energy is in charge of 70% of that spigot that would turn the gas to go either way. A good portion of this gas would be for export. She stated her belief it would be to benefit of everyone in the State to fight this.

Recognitions, Resignations and Retirements - None

Appointments

1. Annual Review with the Conservation Commission

Submitted by Conservation Commission Chairman Tim Tenhave

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

Tim Tenhave, Chairman, Merrimack Conservation Commission (Commission), introduced the members of the Commission, and noted there is 1 full-time and 3 Alternate open positions on the Commission.

Per RSA 36-A, the Commission is responsible for the proper utilization and protection of natural resources and watershed resources in the Town, and to coordinate unofficial bodies with similar purposes. The Commission also provides recommendations to the New Hampshire Department of Environmental Services (NHDES) on Dredge & Fill permits, and in dealings with compensatory mitigation projects. The Commission reviews and provides recommendations to the Planning Board for projects in the Aquifer Conservation District and Wellhead areas, and manages approximately 1,600 acres of conservation open space land in Merrimack.

Mr. Tenhave commented when before the Council last year, he provided a list of proposed activities, and wished to provide status updates for each of those items. An activity that will be seen again this year is to continue acquisition mode. The Town has provided the Commission with a large sum of money with the intent of conserving properties and managing those conserved properties. The Commission is trying to leverage those monies and utilize them appropriately. This past year the Commission purchased approx. 120 acres, which abuts Grater Woods (GW). As part of the Commission's efforts to continue educational opportunities, this past year the Commission sponsored a vernal pool party at GW in cooperation with the New Hampshire Association of Conservation Commissions (NHACC).

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With regard to the goal of understanding what the NED Pipeline means to Merrimack, a great deal of knowledge has been gained, and efforts are ongoing. The Commission has filed for intervenor status. The Commission wishes to address an update of Chapter 111 of the Town Code on Conservation Properties, and establish clear rules for the major properties. This goal was not achieved last year.

The Commission wishes to create updated and consistent Forestry/Management Plans for Commission properties. This has been discussed in terms of different means of accomplishing this, e.g., contract out for the larger properties versus the Commission doing the work in-house.

The Commission has installed four water control devices on different properties, which has resulted in a large reduction to the amount of time spent by the PWD managing water issues. The Commission paid for the maintenance of those devices. All indications are the devices are working as hoped. Mr. Tenhave stated his understanding the Wastewater Department may have done some of their own device work. The Commission is looking at conducting more of that activity. There is the need to update the Beaver Management Policy to reflect new learning.

The Commission continues its efforts in bringing more people onto the properties. The capacity of the Amherst Road parking lot for the HHNP is often exceeded. As a result, the Commission is looking at expanding that parking lot in the spring time providing more opportunities for people to stay off the roadway. The Commission may want to look at signage along the road to discourage parking in that area. A wetlands study was conducted in the area to identify the wetlands and determine the amount of room available. It is believed the lot can be increased 2 to 2.5 times its current size. Although paving was considered, it is not cost effective. The Commission also looked at utilizing the same surface as was used at the Wasserman Park lower parking lot. As soon as there is a Town project underway that would allow for that, it could be considered.

There has been slow improvement on the www.merrimackoutdoors.org website. The Commission has been working on documenting its processes and procedures.

The Commission contracted for an Ecological Assessment of the HHNP and the Gilmore Hill Memorial Forest, which included a review of wildlife, endangered species, wetland, habitats, vernal pools, etc.

In 2015, the Commission was pleased to have had a significant Eagle Scout project completed in Grater Woods by Joe Mroz. Another Eagle Scout project was conducted by James Jolly. His project helped start the implementation of the Town Center Trail, which will, at some point, connect down under the Chamberlain Bridge over to Watson Park and complete the connection all the way across over into Wildcat Falls. He also placed benches in the area; an outstanding job.

The Commission continues to conduct its annual seedling giveaway. This year will be the 16th year of the event, which will be conducted on Saturday, May 7, 2016 at Currier Orchards.

The Commission is negotiating the purchase of 3 additional parcels (approx. 120 acres). Approximately 100 acres would be an expansion to Grater Woods. The additional acreage is a small parcel along Baboosic Brook. The Baboosic Brook parcel will likely be before the Council in the late February/early March timeframe (donation).

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Invasive species control was done at 10 Brookside Drive. Police patrols on GW were started with the intent of educating the public around activities that can and cannot occur on the property, to discourage the improper use of motorized vehicles on the trails that don't allow it, and to get a better handle on what was occurring with regard to target shooting that was happening on a parcel that is now owned by the Commission. By utilizing Commission funds, they were able to have dedicated patrols in the area during the times of heaviest use. For the long-term the Council may need to consider how those kinds of things will be done for all of the properties.

The Commission has initiated the process of a target shooting ordinance. There are some issues with newly purchased parcels. That will be brought forward to the Council.

During 2015, the Commission conducted a joint meeting with the Merrimack Planning Board and another with the Amherst Conservation Commission. The Commission continues to effectively manage all of its parcels and properties with the invaluable assistance of three very capable sub-committees. 2015 saw improvements in trails, bridges, trail markings, and signs through the efforts of volunteers and sub-committees.

As of June 30, 2015, the current balance for the Special Conservation Fund (51) was \$42,913.06, the Land Use Change Contribution Fund (53) was \$1,216,992.47, and the HHNP Fund was \$1,296.01. Fund 53 was reduced with the purchase of the parcels out by GW. Currently the balance is in the mid \$700,000 range. The 15/16 Budget (under Community Development Department (01-21-8393-0; Conservation) was available to cover support aspects of the Commission.

Goals/Activities for 2016 include continued acquisition efforts. The desire is to take advantage of the fact that land values are down slightly. Mr. Tenhave spoke of the Commission having started the process of looking at land trusts and what they can offer. If the proposed NED Pipeline does come through the Town it will likely provide additional monies that could be leveraged for acquisitions. The Commission is trying to follow what has been outlined in the Biodiversity Plan and the Town Master Plan; filling in conservation focus areas around the HHNP, GW, and the water systems in Town.

The Commission will continue to provide educational opportunities for the citizenry. Activities will continue with regard to the proposed NED pipeline. He stated his belief the pipeline activities could become expensive for the Commission simply because of the property that would be involved if the current route is approved. He reiterated the Commission will suggest an update to Chapter 111. However, assistance is necessary. He stated the desire for a chapter that covers all of the Commission properties. He spoke of the individual deeds and the differing activities that are and are not allowed. If issues arose that require enforcement, without inclusion in the Town Ordinances or State Law, enforcement is difficult.

The target shooting ordinance will come forward in 2016. The intent is for it to cover the Town, School District, and Commission properties. The Commission needs to expand the GW Stewardship Plan now that there is additional acreage. A lot of the work that was outlined as activities in Appendix E has been accomplished. The Commission is looking at doing an update to Appendix E identifying completed projects. The intent is for that part of the Plan to be a living document.

Per the GW Stewardship Plan, the Commission wishes to discontinue a portion of South Grater Road and add gates. The Commission had put that on hold this past year as it had the opportunity to

purchase additional acreage. Something has to occur with this portion of South Grater Road as currently four-wheelers are utilizing the property and traversing through a beaver pond. There needs to be access for emergency vehicles (western portion of property). The Commission has improved access to the north part of the property as well as through the middle.

The Commission will work on Forest Management plans and management plans in general for the properties. The Commission will continue with its water control activities, and hopes to get a Beaver Management Plan update for the Council to review. The desire is always to bring more people out on to the properties, to improve their experience, and help educate them on the value of the open spaces we have.

In terms of how the Council can be of assistance to the Commission, there is assistance needed with purchase approvals, easements, etc. The Town's counsel has been very helpful. Mr. Tenhave stated the desire to fill the open positions on the Commission. He noted the openings are announced at every meeting of the Commission. The Winter Carnival at Wasserman Park should have a billboard stating open positions in Town boards/committees/commissions. He suggested opportunities of public gatherings should be taken advantage of in that regard.

The GIS system is a tremendous tool for the Commission. It would be helpful to gain additional layers, fix some of the boundary line issues, etc. The Commission would like to add layers to the system, and discussions have begun in that regard.

Mr. Tenhave expressed gratitude for the support of the Council and the Town's legal counsel, work of the volunteers on the sub-committees, and the tremendous support provided by staff in the Community Development Department, Town Manager's Office, and the Media Department.

Councilor Koenig commented Mr. Tenhave pointed out there is a lot of work the Commission has been doing and some goals that could not be achieved such as the Chapter 111 effort. However, we can't change the fact that the NED pipeline has railroaded through Town and taken over anything that we would consider to be spare time plus a lot beyond that. The Town Manager has been swamped with it, the Council has been swamped to some degree with it, and the Commission has been swamped with it. He stated appreciation for the amount of work the Commission has done. From his perspective, the Council will continue to support the efforts identified under goals, but understands the pipeline will continue to be up front for probably another year or two.

Councilor Dwyer commented he is a big supporter of the Commission and is thankful for the work the Commission does. Knowing what the Town has acquired for property, his first reaction when hearing a goal of continue acquisition mode is, do we need more, and are we biting off more than we can chew if we take on more. He stated that to be his only concern. He reiterated the Commission has done a great job in doing that, and he would never micro-manage what they are doing. He stated his hope additional purchases would not dip into the fund balance too greatly as he wishes to see the fund retain money to maintain the properties already preserved.

Councilor Dwyer spoke of an existing target shooting ordinance, and questioned what is desired to be added. Mr. Tenhave stated the current ordinance only covers 1 property (HHNP). The desire is to spread it across other properties. The Commission is not looking to limit hunting or any of the other legal activities. That is not the intent at all. The desire is to stop careless use of firearms where other people are actually also recreating trying to do the things they want to do. It is really careless what has

been going on. With the target shooting pits these individuals have created, they are trashing the place. They are shooting up televisions, etc. A responsible target shooter would ensure they had an appropriate location, were not putting anyone else in jeopardy, etc. A round out of a rifle or even a pistol can travel more than 1 mile. They are looking to stop the bad behavior. The belief is we need to give the Police Department the tools they need to enforce that. The Commission would rather the individuals get educated, but if it comes down to a repeat offender then there is the need to do something about it.

Mr. Tenhave commented on being good stewards of the land and the conservation fund, and efforts to look for ways to leverage existing funds. The Commission is looking at ways of doing that, and is trying to fill in holes of areas that are already protected.

Chairman Harrington questioned the position of the Commission with regard to utilizing the Conservation Fund for acquisition versus maintenance. Mr. Tenhave stated agreement with the need to retain funds for maintenance of existing properties.

Councilor Vaillancourt remarked it is a good point and a great discussion to have regarding acquisition of land. As was stated, the Commission is not simply looking for pieces of land. There are certain parcels that have been targeted; some for almost 20 years, that would complete a certain parcel of land. There are parcels that have been targeted because of what is on the parcel that would benefit greatly from conservation. It is very specific targeting of pieces of land not to make the total of conservation area in Town greater, but to complete what we have. It's that kind of thought process. She stated appreciation for the subject matter being brought up for discussion, and her opinion this Commission is very pleased to have those types of conversations with the Council.

Councilor Vaillancourt stated she is proud to be part of the Commission. Each member of the Commission brings to it a different talent/strength. She commented she has been on a lot of groups in Town, and has not seen as many work as closely together and compliment and balance each other like this group does. She commented the proposed NED pipeline could have totally derailed all of the work the Commission was doing this year. A lot of time was taken up on that, but so many other things got accomplished. She spoke of the efforts of the Commission Chairman, how effective he is as a communicator, his tireless efforts to bring transparency to the Commission, and his continued efforts towards documenting the processes and procedures of the Commission.

Vice Chairman Mahon remarked isn't the gauge of your success the number of problems that are starting to crop up as more people start using the property. He commented on the discussion around having coordination between the Police Department and the Commission in order to maintain the usefulness and desirability of the usefulness of the properties. He reiterated that speaks volumes to what the Commission, over time, has developed, particularly in the last 6 years. He spoke of the improvements made to the properties by the Scouts, and his appreciation for the efforts of the Commission.

Councilor Rothhaus echoed the remarks of his colleagues. He questioned what the invasive species was that was addressed. Mr. Tenhave stated it is believed Baboosic Brook is promoting or advancing the situation, but what was found on the property are Japanese Knotweed and a number of other invasives. It is believed the waterway is transporting them downstream. If they are not stopped at Brookside Drive, which is about half-way through the Town, they will end up going further down.

Japanese Knotweed looks like bamboo; it grows fairly tall and very quickly. It grows by cutting off a piece of it and letting that piece go somewhere else, rooting and growing further. It doesn't grow by flowers and seeds. It is seen a lot on the roadway (Joppa Road, etc.). If there are folks chopping them and leaving them down on the ground, if the wind blows them we have issues. He commented on having noticed that the PWD has been following Best Management Practices for that very well to try and stop some of the spread. Herbicides had to be used to stop it from spreading. The idea is to kill them in place. You don't want to leave them next to the brook where they would flow downstream. There is a real issue with Burning Bush as well in a few different places (6-10 acres on the Wasserman Conservation parcel).

Councilor Rothhaus remarked he has always anticipated when acquisitions were complete the fund would be sufficient to maintain the properties. He questioned if there is any idea of yearly expenses associated with maintenance for the properties combined. Mr. Tenhave replied, as a Commission, they have not had that discussion. He stated his belief the Commission expends \$10,000 - \$20,000 a year on maintenance activities; building bridges and other improvements. Keeping that fund healthy is very important to the Commission. He stated his belief, in the coming year, the Commission will be able to leverage tens of thousands of dollars while picking up hundreds of acres because there are willing participants in donations and acquisitions.

Vice Chairman Mahon commented most of the properties being viewed by the Commission for possible acquisition during his time weren't what he would call prime developable land. In some places it is hardscrabble stuff and other places it is habitat. He commented about 10 years ago he was concerned with the amount of land that was being chewed up in these kinds of acquisitions. He was concerned with how that might impact the overall affordability of the community. The work the Commission has been doing in acquiring the properties put those concerns to rest.

Public Hearing

1. Public Hearing – Consideration of Changes to the Town of Merrimack Charter

Submitted by Library Board of Trustees Chair Jennifer Jobin and Library Director Yvette Couser

The Town Council to hold a public hearing to consider the acceptance of recommended changes to Charter Article VI, Section 6-2 (B) - Library Trustees, of the Town of Merrimack Charter, pursuant to RSA 49-B:5.

Chairman Harrington declared the Public Hearing open at 8:12 p.m.

Assistant Town Manager/Finance Director Paul Micali stated the requested change is to add up to three alternate positions to the Board of Library Trustees. Councilor Vaillancourt questioned if the situation looking to be addressed is that of difficulty obtaining a quorum for meeting.

Jennifer Jobin, Chairman, Library Board of Trustees, stated the Board has not, as of late, had difficulties obtaining a quorum. That was the case in the past with the death of Trustees and mid-term resignations. Last year, at election time, there was some interest expressed. It is believed it would be favorable to be able to allow someone to come on as an Alternate member for a year or so and gain valuable experience before putting their name on a Ballot.

No public comment was offered.

Chairman Harrington declared the Public Hearing closed at 8:14 p.m.

When asked, Ms. Jobin stated it is currently a five member board. State RSA allows for 3 alternate positions, and dictates the size of the Board. Councilor Koenig commented theoretically, if all three alternate members were appointed, a majority of the Board would be appointed by the Council as opposed to elected by the people. He questioned if it would be deemed more appropriate to have 2 appointed by the Council or if it is believed 3 is necessary. Yvette Couser, Director, stated not every Library in New Hampshire has 5 Board members. She stated her belief it is dependent on the population. Vice Chairman Mahon stated he is uncertain what the rationale is, but he does not believe there to be any board size at the municipal level that is dependent on the population of the community. He stated his belief it is likely a choice that was made years ago by the voters.

It was noted Alternate members are not voting members unless called upon to sit in as a voting member in the absence of a full-time member.

Councilor Dwyer commented if there are 3 Alternate positions it does provide for that period of training. Councilor Koenig stated he is not opposed to that, it is just that philosophically it would seem to him 2 would be a better number.

Vice Chairman Mahon noted the request does not identify the length of term alternate positions would be appointed for. Ms. Jobin responded State RSA indicates a 1 year term. The State RSA is referenced in the proposed amendment. Vice Chairman Mahon questioned, and was told the language has been reviewed by counsel.

Councilor Rothhaus stated agreement with the remarks made that, with 3 alternate positions, it is conceivable that there would come a time when an appointed majority could do the business that an elected majority should otherwise. The question was raised as to whether there needs to be a quorum of the elected board present to call a meeting to order to then appoint an alternate member to sit in for an absent full member.

Councilor Vaillancourt stated she would support an amendment to 3 alternate positions. However, would support the request either way. When asked, Ms. Jobin stated they would not object to an amendment.

Assistant Town Manager/Finance Director Micali stated his belief legal counsel wrote the amendment as three and the Library Trustees re-wrote it to "up to three" when they voted on it.

Councilor Boyd questioned procedural requirements, and was told the protocol is that the Town Council vote on the amendment, if passed, it would go back to legal counsel for review. The Town Clerk/Tax Collector then has to send it to the Attorney General, Department of Revenue Administration, and the Secretary of State. They review it, and give their blessing. It then goes on the ballot and the citizenry votes yeah or nay.

MOTION made by Councilor Boyd and seconded by Councilor Mahon to move forward the recommended changes to Charter Article VI, Section 6-2 (B) - Library Trustees, of the Town of Merrimack Charter, pursuant to RSA 49-B:5. MOTION CARRIED 7-0-0

Legislative Updates from State Representatives

Representative Richard Barry

Stated when last before the Council the budget was still in limbo; the Governor had vetoed it, and they were working on the previous budget. The House and the Senate overrode the veto, and the budget is in play.

He informed the Council of several meetings that took place to address problems that resulted from the veto of the budget. Representative Barry stated those are being addressed both in law and Statute. He stated the Comprehensive Annual Financial Report (CAFR) should be out the next day. It is expected the spending from last year will be to the point where there is about a \$10 million surplus. Year to date revenues for general and education is \$870 million, about 4% ahead of plan, but when you look at \$10 million out of about a \$2 billion total budget for the year, that is nothing.

There are several bills in the works and several issues before the Fiscal Committee, which meets monthly and takes in accounts where people say I need more money for nametags because it wasn't in the budget or I am going to move some money around. Because they see the \$10 million surplus they all seem to be about \$10 million costs. Some would like to see that surplus in the \$80 million to \$90 million range.

Town Manager Cabanel questioned if that is this year's anticipated surplus for the year or the cumulative for the entire fund. Representative Barry responded the CAFR is for the last budget. As of June 31st the expectation is a \$10 million surplus, which is the previous fiscal year.

The State is back on the increased budget. The budget the Governor vetoed was about a 5.5% increase over the previous one. The State employees' pay raises were allowed to go through. The Governor did not want the business tax cuts to be considered, and she lost on that front.

Since then, the opioid crisis has escalated. There were numerous meetings that went on and there are several Bills. The Senate can process Bills differently than the House can. They held Public Hearings the prior week on several of the Bills the House wanted to fast track through to get in. An example was the penalty for using Fentanyl is as bad as using Heroin. It is considerably more powerful, and what is really hurting folks. Pharmacists are allowed to prescribe Naloxone, also known as Narcan. Those are givens. There are several where people want to spend money to provide treatment services/beds. He Commented the last time before the Council he spoke of the Sununu Center, which is a 144-bed facility that is for kids under 18 that have been in the system 4, 5, or 6 times, and a Judge finally says we need to have you in a real secure facility. That has resulted in between 45 and 50 individuals being sent to the facility. The preference is to bring in outside people who handle that kind of a problem today to look at the Sununu Center and identify how it can best be utilized; whether it be to shut it down and do something somewhere else, whether someone else comes in and takes over, and then expands to other psychiatric rehabilitation and treatment facility, etc.

There is a Bill in that would impact the Land and Community Heritage Investment Program (LCHIP). It intends to stop it from being a dedicated fund and put it into the general fund. The issue is that we have 136 dedicated funds, and this language that says it shall go to this specific area. When you've

only got \$10 million to play with you try to find money somewhere. These funds either get raided or the money doesn't get put into them.

There was a meeting earlier in the day with all of the Chairs and Vice Chairs, the Speaker, the Clerk of Courts, and the staff. One of the things that came out of that meeting is they want us to be a kinder, gentler operation. You get 400 people up there and sometimes they get a little testy. It is okay if you are testy with a fellow State Rep. who is coming to introduce a Bill and hasn't got their facts straight or one of the lobbyists, and you are asking them for information, and they make continued promises. When the general public comes in and they have an issue they want to talk to their State Representatives or the Senate, you want them to feel comfortable.

Representative Barry questioned if the Council wished to be provided an update on a particular matter.

Town Manager Cabanel stated the Town is seeking monies to build a boat ramp on the Merrimack River. The Town has matching funds, but would like to see if there is some kind of fund or agency from which funding could be sought. Representative Barry stated the Department of Environmental Services has funds they work with; they have Federal, State, and private funds. Timing might be bad as a Bill was heard the prior day that several towns had wastewater treatment plants and clean water treatment plants that receive Federal and State Funds. Because there was not enough money, some have not been paid.

Councilor Vaillancourt remarked, over the years in her involvement in local government, Representative Barry has always been one of the State Representatives that visits the local elected officials and shares information. She stated her appreciation of his continued willingness to communicate. She remarked his comments regarding behaving badly is a matter of decorum, and there are some Representatives or local government for whom sometimes a reminder is necessary that they are elected to represent the people. Respectfully disagreeing with ones colleagues is something she always supports and looks for in an elected official. To her it should be a given. She stated her pleasure to hear of efforts to change the culture.

Councilor Vaillancourt spoke of House Bills moving forward that pertain to issues towns are facing relative to the proposed NED pipeline. She is interested in hearing what the Merrimack State Representatives positions are, how they interpret those Bills, and if they have an opinion around how they are going to vote. She stated her understanding some of the sponsors of these Bills are going around to the different towns and sharing information.

Councilor Vaillancourt stated the proposed pipeline is a very big issue in Merrimack, and she is hopeful the State Representatives are hearing the citizenry of Merrimack and what it is that is being asked for on that issue.

Representative Barry responded he would be glad to look at the House Bills and provide a status update. He remarked whatever is seen on the website today is more than likely not what will be voted on. When it gets voted on is when it will be known who is supportive of it. He knows most of the Representatives are strongly in support. The thing he keeps trying to get at is show me the numbers. He is being told there will be a lot of gas coming through the pipeline and it will reduce energy costs. He wants to see a plan or at least something that can be tied in. He stated he has asked that, and asked it of the head of the Science & Technology Committee to use that as they go through.

He commented what the Town has done is pretty good up to this point, but the Town has not yet gotten to the point of saying there is no way in hell you are coming through here. He added the Town probably can't do that. He spoke of having learned on the Planning Board that you can't stop something from coming through, but you can identify the places where it can go through and be mitigated. Some of that has been done by the Town. He stated uncertainty how that is tied in with the surrounding communities or how we get to the point we build a wall.

Councilor Vaillancourt stated the Bills she was referring to aren't are you in support of or in opposition to the pipeline; they deal with specific things like the tariffs and other issues that the State will be facing if this pipeline goes through. She offered to provide information on the exact Bills she was referring to. She stated the opinion she has gained is the Bills would be supportive of Merrimack should the pipeline go through.

Vice Chairman Mahon touched on the subject of decorum and remarked in comparison to what he saw in the mid '80s, there is a marked difference in expertise, knowledge, and the way it is applied. In his opinion, it was a very good experience from that standpoint. Now they are very well briefed, they have done their homework, and have learned what is necessary to make informed decisions. From that standpoint he believes it to be a favorable change from the way they operated 15-20 years ago. Representative Barry spoke of the 1/3 turnover that is seen each session.

Town Manager's Report

The Library is holding several "Tech Drop-in Sessions" for people who would like help becoming more familiar with new electronic devices they received as gifts. No registration required. The Library's Mid-Winter Book Sale is 1/30 & 1/31 with Friends of the Library Members-Only Pre-Sale afterhours on 1/29.

The Citizen's Police Academy begins next Wednesday, and there are a few spaces left available. For more info, contact Officer Robert Kelleher at 424-3774. Don't forget, now that winter is here, to clean off your cars before driving. Not only is it the right thing to do, it's the law.

Vice Chairman Mahon informed the Council a few weeks ago owners of a property over on Tinker Road came before the Planning Board to have a sub-division declared on two pieces of a property that was split by the reconstruction of Tinker Road when Continental Boulevard was constructed. It appears the State still owns about 200-300' off of Continental Boulevard. The Planning Board was curious as to whether or not that had ever been reverted back to the Town or if it is really State property. He is unsure if Tim Thompson, Director, Community Development Division, was going to follow up on that or not. The issue of who owns it came up, and it was indicated the State owns it. When the question of who plows it came up, he had stated his belief the Town plows it.

Gina Rosati, 15 Dunbarton Drive

Stated that area is where the pipeline is planning on going through. It is the 30' peatbog.

Consent Agenda - None

Old Business

1. Legal Fees Associated with Kinder Morgan [Follow-up from November 5, 2015 Town Council Meeting]

Submitted by Town Councilor Dan Dwyer

The Town Council to review the total cost of legal fees paid to date in association with the proposed Kinder Morgan pipeline project.

Assistant Town Manager/Finance Director Micali stated through the end of November, the Town has paid legal counsel, for Kinder Morgan related issues, \$65,983. Total costs incurred in the Month of December are not yet known. The Conservation Commission paid \$38,238 for the environmental study on the HHNP and Gilmore Hill Memorial Forest.

New Business

1. Request to Tap Maple Trees in Wasserman Park

Submitted by Scott Delibac

Town Council to consider resident Scott Delibac's request to tap maple trees in an area of Wasserman Park for the purpose of making maple syrup.

Chairman Harrington stated the item would be tabled as a result of a question that has come up regarding whether the site is owned by the Conservation Commission or the Town.

Councilor Vaillancourt stated there to be a Declaration of Restrictive and Protective Covenants and a project agreement, etc. that the Conservation Commission has forwarded for review in advance of any discussions with the resident making the request.

Chairman Harrington spoke of a previous request from an individual. She requested the meeting minutes from the prior request be pulled and provided so that a review could be done of the determination that was made at that time. It was noted there have been prior requests for tapping of Birch trees adjacent to Kids Kove and another on the HHNP.

When asked, Town Manager Cabanel stated legal counsel is looking into the ownership. Councilor Koenig commented to the right of the driveway the Town is responsible for Wasserman Park. He thought the Town owned to the left of it as far as the parking lot, and that the line for conservation was from the parking lot over to the far end of the property. The request is clearly in the parking lot area. It is just a question of whether that conservation land juts out and grabs that little rectangle there.

MOTION made by Councilor Mahon and seconded by Councilor Koenig to table the request to tap maple trees in an area of Wasserman Park until the information requested from the attorney interpreting the ownership of the land, and the covenants and restrictions that may have been placed on the land is received

ON THE QUESTION

Councilor Rothhaus stated his hope legal counsel moves swiftly as he believes timing to be an issue.

MOTION CARRIED 7-0-0

2. Donation Acceptance for Parks and Recreation Department Scholarship Fund

Submitted by Parks and Recreation Director Matthew Casparius

Town Council to consider the acceptance and expenditure of a donation in the amount of \$780.00 from Merrimack Friends and Families for the Parks and Recreation Department's Camp Scholarship Fund, pursuant to Charter Article 8-15 and RSA 31:95-b.

MOTION made by Councilor Mahon and seconded by Councilor Dwyer to accept and approve the expenditure of a donation in the amount of Seven Hundred and Eighty Dollars (\$780.00) from Merrimack Friends and Families for the Parks and Recreation Department's Camp Scholarship Fund, pursuant to Charter Article 8-15 and RSA 31:95-b

ON THE QUESTION

Councilor Rothhaus commented Merrimack Friends and Families do a lot of this type of work, and stated his appreciation.

MOTION CARRIED 7-0-0

3. First Quarter Financial Update

Submitted by Finance Director Paul T. Micali

Finance Director Paul Micali will review the key financial information of the quarter ending September 30, 2015.

Assistant Town Manager/Finance Director Micali stated for the first quarter of FY16 the Town has expended about \$10,000 more than FY15 in health insurance for the Town. There was a slight rate increase from the prior fiscal year, which is tracking with what was budgeted. There was a bit of a spike in the New Hampshire Retirement System, which is the result of an increase in rates. The employer portion (portion Town pays into system) for Group 1 is at 11.1%, Fire is at 29%, and Police 26%. Police had a significant jump going up from 19%. Those are tracking with what was budgeted.

Overtime is pretty steady. It has been a good first half of the year in overtime in the Highway Division. There has been a little bit of a spike in the Police overtime due to bringing on employees, etc. There were several vacancies in the first quarter in the Police Department. All of those positions are now filled. When asked, he stated there is a savings in the 8104 accounts (payroll). Town Manager Cabanel stated that would more than offset the increase in overtime. She noted in addition to a savings in payroll there were savings in health insurance, etc.

With regard to revenues, Assistant Town Manager/Finance Director Micali stated interest is still tracking low. Building permits are starting to pick up, and seem to be tracking right on the \$100,000 mark that was budgeted for. Auto registrations are up \$100,000 for the first quarter alone. He spoke of having heard recently that there were 17 million more cars bought in the United States last year. If everything stays the same, auto registration revenue will probably exceed budgeted amounts by \$200,000 - \$300,000.

Councilor Vaillancourt spoke of the information provided relative to percentage of budget remaining, and questioned the departments that show having substantially less than 75% of the budget remaining. She noted the Solid Waste percentage was listed as 45%. Assistant Town Manager/Finance Director Micali responded the Town does a Purchase Order at the beginning of the year for all trash removal.

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Posted: January 29, 2016

That ties up that money for the entire year. Other departments also have Purchase Orders that are done for the full year that are taken in the first quarter. Councilor Vaillancourt questioned the Welfare Department budget, and was informed the monies provided to the various organizations are paid out at the start of the fiscal year. That represents \$75,000 of that budget.

Minutes

Approve the minutes from the Town Council meetings of November 19, 2015 and December 17, 2015

November 19, 2015

Councilor Dwyer stated, after talking with staff and reviewing the audio with Becky Thompson, he is comfortable letting the minutes stand as written.

The following amendments were offered:

Page 4, Line 11; replace “that” with “she”

Page 11, Line 42; add “stated” after “Councilor Vaillancourt”

Page 12, Line 15; replace “begins” with “begin”

Page 20, Line 20; add “management” after “beaver”

MOTION made by Councilor Boyd and seconded by Councilor Mahon to approve the minutes of the November 19, 2015 Town Council meeting as amended. MOTION CARRIED 7-0-0

December 17, 2015

The following amendments were offered:

Page 7, Line 26; replace “this” with “the ordinances pertaining to the right to survey”

Page 7, Line 34; replace “they have” with “Kinder Morgan has”

Page 7, Line 37; insert “private” before “properties”

Page 27, Line 29; replace “Councilor Boyd” with “Councilor Dwyer”

Page 28, Line 45; insert “Boyd” after “Councilor”

Page 30, Lines 24 and 25; insert a space after remarks made by Councilor Vaillancourt

MOTION made by Councilor Mahon and seconded by Councilor Dwyer to approve the minutes of the December 17, 2015 Town Council meeting as amended. MOTION CARRIED 7-0-0

Comments from the Press - None

Comments from the Public - None

Comments from the Council

Councilor Vaillancourt commented in reviewing the minutes from November 19, 2015 she noticed at the very end that the Council was discussing the New Hampshire Municipal Association, and Town Manager Cabanel had indicated she would ask the department heads to provide a list of things they

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receive in terms of training, etc. so that it could be reviewed again. She questioned if that information would be provided during the budget process. Town Manager Cabanel stated she would look into that. Councilor Koenig informed the Council the Technology Committee met the prior evening, and continues to review the status of technology in Town with Chuck Miller. The Committee continues to discuss matters relative to security, networks, mapping, infrastructure, etc. They are looking at every possible way to achieve cost savings.

Adjourn

**MOTION made by Councilor Mahon and seconded by Councilor Koenig to adjourn the meeting.
MOTION CARRIED 7-0-0**

The January 14, 2016 meeting of the Town Council was adjourned at 9:22 p.m.

Submitted by Dawn MacMillan