



## Town Council Meeting Minutes

Thursday October 13, 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 Rothhaus, Councilor Boyd, Councilor Flood, Councilor Koenig, Councilor Mahon, and Assistant Town Manager/Finance Director Paul Micali. Councilor Dwyer and Town Manager Eileen Cabanel were excused.

### Pledge of Allegiance

Chairman Harrington led in the Pledge of Allegiance.

### Announcements

The General Election will be held on Tuesday, November 8<sup>th</sup> from 7:00 a.m. to 7:00 p.m. The three polling locations are the James Mastricola Upper Elementary School, the Merrimack Middle School, and Saint Neumann Church. Please contact the Town Clerk's Office at 424-3651 or visit the New Hampshire Secretary of State [website](#) to find your specific polling location.

Regular meetings of the Town Council will be conducted on Thursday October 27<sup>th</sup>, November 3<sup>rd</sup>, and November 17<sup>th</sup> at 7:00 p.m. in the Matthew Thornton Room.

The Merrimack Senior Fair is Wednesday, October 19<sup>th</sup> from 9:00-11:30 a.m. at the John O'Leary Adult Community Center. Organizations that offer services to seniors will be available to answer questions and provide information, such as Elderly Services of Greater Nashua, NH Fuel Assistance, Living at Home Senior Care, Affordable Hearing, St. Joseph Community Services / Meals on Wheels, Merrimack Library, and Nashua Eye Associates to name a few.

The annual Drug Take Back day is Saturday, October 22<sup>nd</sup> from 10:00 a.m. - 2:00 p.m. at the Police Station. Bring in your unwanted, unused prescription medications for safe and proper disposal in the drug drop-off box in the lobby. The take back initiative is strictly anonymous.

The Parks & Recreation Department is gearing up for the 24<sup>th</sup> Annual Halloween Party, which will take place on Friday, October 28<sup>th</sup> from 5:00 - 8:00 p.m. at Wasserman Park.

Absentee ballots for the November 8<sup>th</sup> General Election are now available. The Supervisors of the Checklist will be holding voter registration sessions on the following dates and times:

- Saturday, October 15<sup>th</sup> from 9:00 a.m. - 1:00 p.m. at the Library
- Wednesday, October 19<sup>th</sup> from 7:00 - 9:00 p.m. at the Library
- Tuesday, October 25<sup>th</sup> from 7:00 - 9:00 p.m. at the Library
- Tuesday, November 1<sup>st</sup> from 7:00 - 9:00 p.m. at Town Hall

If weather conditions permit, Eversource's transmission vendor will utilize a helicopter between the hours of 8:00 a.m. - 4:00 p.m. on Monday, October 17<sup>th</sup> or Tuesday, October 18<sup>th</sup> to perform storm hardening maintenance on the transmission system. A helicopter is being used due to the remote location of this transmission line, which is not easily accessed by transmission line crews. The

transmission system maintenance location is between Mallard Point Road and Buck Meadow Lane. This work is expected to take one day to complete.

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

##### **1. Presentation and Discussion by the New Hampshire Department of Environmental Services Regarding Historical Perspective of Air Quality Testing at St. Gobain / Chemfab Site**

Submitted by NHDES Asst. Commissioner Clark Freise, Air Permit Programs Mgr. Cathy Beahm and Sr. Compliance Assessment Engineer Edward F. Peduto, Jr.

Town Council to be presented with historical details of air quality testing at the Saint-Gobain / Chemfab site.

Councilor Mahon stated his memo to the Council explained the rationale for gathering the information around air quality issues involved in the discharges from the Saint-Gobain property in prior years. He questioned the responsibilities of the New Hampshire Department of Environmental Services (NHDES) in this regard, and spoke of an agreement the NHDES entered into with Saint-Gobain in the 2004 or 2006 timeframe relative to the reduction of the use of PFOAs, and what has transpired since.

Mr. Clark Freise, Assistant Commissioner, NHDES, stated PFOA as APFO, which is its salt version, has been used at the Saint-Gobain facility dating back to at least 2001. Chemfab operated towers since at least 1988, and they probably used APFO at that time. However, that is not known for sure. In 2001, Saint-Gobain Performance Plastics installed 9 additional towers, effectively doubling the capacity of the facility. At that point, it is known they were using APFO.

APFO is regulated by NHDES as an air toxic pollutant, which means they measure how much goes into the air, and at the fence line there is a limit of what can be put into the air by concentration. In 2001 when Saint-Gobain obtained their permit for the expanded operations, they applied using information from testing that was done at their New York facility, which showed no detected level of APFO coming out of the chimneys.

In 2004, more modern methodologies were invented and they retested. At that point they did detect that APFO was coming out of the smokestacks. They reported that to NHDES, and in 2005 following some follow-on emissions testing in Merrimack at the plant, it was determined that there was a potential if all of the chimneys were run at the same time that they would exceed the ambient air limits that are set for PFOA APFO.

In 2006, an Administrative Order by Consent (AOC) was signed requiring the phase-out of APFO use at the facility. During the phase-out period, Saint-Gobain was limited to an APFO dispersion content of 75 parts per million (ppm), which was a reduction by at least a factor of 2, and they also made commitments to reduce the total amount they were using. The last APFO containing dispersion was used December 2014.

In 2007 reports from Saint-Gobain, they were able to show that substantial reductions had been achieved in line with their commitments. May 2<sup>nd</sup> or 3<sup>rd</sup> of this year a new stack test was conducted. The results were received around July 21<sup>st</sup>, and showed there are still very low levels of PFOA coming out of the stack. The NHDES went to the suppliers of all of the chemicals that they use (they provided their proprietary information), all of which have provided written statements that none of the chemicals

1 contain any PFOA any longer, which means there is a residue left in the Saint-Gobain plant, and that is  
2 where the PFOA is coming from. Saint-Gobain has gone through and stripped out one line, put in all  
3 new stacks, sandblasted all of the internal ductwork, and last week air tests were conducted on that  
4 stack. Those results will be available in 2-3 weeks. If it is found it is just the residue that is in the  
5 ducting that is providing this low level APFO PFOA, they will go through and strip the rest of the  
6 facilities down.

7  
8 Councilor Mahon questioned if the stack test was conducted by the NHDES. Assistant Commissioner  
9 Freise responded in 2004, Saint-Gobain did the testing at their New York facility, and identified that  
10 they were now seeing it through advanced technology. In 2005, air testing was conducted at the  
11 Merrimack facility. That is when they found, through calculation, that they could exceed the ambient  
12 air limits. The NHDES either hires a firm or requires the company to hire a firm approved by NHDES  
13 to conduct the testing. In the instance of the testing conducted this year, Saint-Gobain hired the firm  
14 and NHDES did the Statement of Work and was present for the testing.

15  
16 Chairman Harrington commented what was being discussed was C8. Being used now is C6. She  
17 questioned if that is analyzed. Assistant Commissioner Freise responded C6 was part of the air tests  
18 that were done. The lab that is used, ALS Global, has created a test for C6, the C6 that they use. That  
19 has been tested in the water samples in the area (random sample), and to date, that has not been seen.  
20 The C6s that are used now are designed to break down in the environment, and part of the proprietary  
21 information is exactly what that break point is and exactly how it is designed. They do know what the  
22 break point for the C6 that is used in Merrimack is. In tests which are for the whole C6 unit, not the  
23 breakdown, that has not been detected. It appears to be breaking down as designed.

24  
25 Chairman Harrington asked for clarification if the most recent testing included C6, and was informed it  
26 did not. Assistant Commissioner Freise reiterated ALS Global invented the test for the one C6. It is  
27 brand new. Chairman Harrington noted concern has been expressed that at some point in the future  
28 there may be additional information available to indicate there should have been concern with C6.

29  
30 Assistant Commissioner Freise commented with the small amount of research they have been able to  
31 find on the C6s, they understand they do not have nearly the half-life in the body, and are less toxic  
32 than the C8s. The risk to the human being is how long it stays in your body and how toxic it is while  
33 there. If both of those are significantly lower the multiplier is much lower; instead of hanging in for  
34 3.8 years as PFOA does, it apparently hangs in for a couple of days. There are a series of C6s and the  
35 ones they have been able to find any data on, they are apparently less toxic too.

36  
37 Chairman Harrington spoke of the sampling of blood tests the Department of Health & Human  
38 Services (DHHS) will be conducting, and questioned if the number of letters sent out and the type of  
39 response received was known. Assistant Commissioner Freise stated his belief letters were intended to  
40 be sent to 200 households, randomly selected with a goal of getting 200 individuals to participate.  
41 They worked with the NHDES and the bottled water list, which is being used as a standard in the State.  
42 The DHHS worked with the NHDES through its GIS system to get a good random distribution  
43 throughout (Merrimack and Bedford). He stated his belief the letters have been sent out, but the  
44 households have not been selected as of yet based on responses.

45  
46 Chairman Harrington noted there was concern expressed by individuals who rent that if notice was  
47 sent to the owner of an apartment complex for example, the 40 some odd residents may not be aware.

1 Assistant Commissioner Freise remarked he had not heard that concern expressed previously.  
2 However, noted that is a situation that they ran into in the Town of Litchfield where the homeowner is  
3 not as responsive as those residing in the property in wanting to get bottled water. He reiterated the  
4 desire is to obtain a random sampling through the system, and there is the need for a family. If that  
5 random nature is filled in with a family, whether they reside in an apartment or a house is irrelevant.  
6 Councilor Koenig requested confirmation the DHHS is utilizing the bottled water list of NHDES, but  
7 is not sending the letter to people receiving bottled water, they are sending those letters to people that  
8 are on MVD water. Assistant Commissioner Freise stated the DHHS had wanted the list because it  
9 contains good contact information, by individual. They are doing the random sample, but where they  
10 had them and they overlap with the list they are using that because of the contact information, which  
11 would address the apartment issue. Councilor Koenig stated the letter should be going out to residents  
12 that are on MVD water not people that are on wells, and receiving bottled water. Assistant  
13 Commissioner Freise noted the NHDES gets a lot of people who have sent in information expressing  
14 concern. That contact information is available and is shared with DHHS.

15  
16 Councilor Koenig questioned if air quality sampling occurred between 2006 and 2016. Assistant  
17 Commissioner Freise responded it did not. Councilor Koenig asked for clarification for ten years  
18 while they were phasing it out there was no testing. Assistant Commissioner Freise stated there was  
19 testing in 2007.

20  
21 Edward F. Peduto, Jr., Senior Compliance Assessment Engineer stated that was the confirmatory test  
22 that they did after NHDES issued the Administrative Concept Order where they were restricted to 75  
23 ppm. After that they were required to test to demonstrate that they were in compliance with the  
24 ambient air limits for APFO. Since then, no tests were completed until May 2, 2016. During that time  
25 they were phasing down from the 75 ppm, and the raw material manufacturers, through a Consent  
26 Agreement with the Environmental Protection Agency (EPA), went through and modified the  
27 materials over an 8 year period with total phase down to occur by 2015. By 2010 they pretty much  
28 reduced the amount of APFO on those materials by about 90%. Entering the first half of the next  
29 decade (2010-2015) they were at about 15 ppm. The phase out from the industry that actually  
30 manufacturers it was targeted for 2015.

31  
32 Councilor Koenig remarked in 2004, 2005, or 2006 you had an agreement to reduce, and questioned if  
33 there was a time when the NHDES stated that could no longer be used.

34  
35 When asked, Cathy Beahm, Air Permit Programs Manager, stated the air standards, the ambient air  
36 limit, was demonstrated to be in compliance in 2007 based on a certain concentration of APFO in the  
37 product at that time. That standard has stayed the same for air. Since then they have reduced the  
38 concentration of APFO in their raw materials, but they were already, at that point, in compliance with  
39 the ambient air limits. They were continuing to reduce, but it wasn't necessary to show compliance  
40 with ambient air limit.

41  
42 Councilor Koenig commented that still leaves 8 or 9 years of having no idea of what was going on as  
43 no testing was being done. Assistant Commissioner Freise responded they didn't directly test the air,  
44 but Saint-Gobain, at the end of every year, for any controlled chemical, have to state how much they  
45 put out. They did give annual reports. It was measured in 2007, they said they had come down, that  
46 could be seen, and then each year they reported, and they showed a very consistent trend of using less  
47 and less of the material, which would end up with how much was emitted. In 2007, they got within the

1 ambient air limits, but under the AOC, they continued to bring it down, and then also in line their  
2 suppliers, with their commitment to the EPA, were bringing it down in the materials. They were both  
3 using a material that had less of it in it, and they were committed to using less, which they followed  
4 through on.

5  
6 Chairman Harrington commented an assumption was being made based upon the products being used.  
7 Ms. Beahm stated they reported actual usage and material balance information/concentrations.

8  
9 Councilor Koenig stated eventually it showed up in our water supply, and we don't know when it  
10 started showing up in the water supply. It obviously took a while, and something was happening  
11 during that duration. Assistant Commissioner Freise stated they believe Chemfab was using it. They  
12 don't know for a fact, but believe they were using AFPO, and it was at a much higher concentration  
13 than what they went down to in 2006/2007. He stated his suspicion the PFOA that is being found in  
14 the drinking water now was emitted in the '80s, '90s, '00s and '10s. It is an accumulation of all of  
15 that.

16  
17 Councilor Mahon questioned what responsibility the NHDES had at that point for monitoring what  
18 Chemfab was emitting. Assistant Commissioner Freise responded it is an air toxic. They do have to  
19 report how much they are using. The tests of the time showed no emission because they couldn't  
20 detect it. Once there was detection and they knew it was actually coming out, is when the AOC was  
21 put in place, and they started bringing it down. Ms. Beahm noted the concentrations in the raw  
22 materials is parts per million (ppm), and the concentration being discovered in the water is parts per  
23 trillion (ppt). Yes they were emitting it at a period of time that was not measurable. When it became  
24 measurable they dealt with it and brought it into standards for ambient air limits, but now have  
25 discovered that it is getting into the water, and they are working on that part of it.

26  
27 Councilor Boyd questioned if it is a fair assumption that from 2007-2016 the NHDES relied upon the  
28 information provided by Chemfab/Saint-Gobain, but did not physically validate the information that  
29 was being communicated. Assistant Commissioner Freise responded they checked the information  
30 Saint-Gobain provided, which was how much they used. They did not go up and actually measure it at  
31 the stack because in 2007 when they reported less use and NHDES measured at the stack, they  
32 matched. The NHDES did not year-after-year, when they reported less, go up to make sure it was 1/3  
33 less coming out of the stack. He added that is how they regulate contaminants around the State.

34  
35 Councilor Boyd spoke of the comments made that they don't do a lot of air sampling; use water  
36 sampling as a surrogate. He questioned what information could be gleaned from sampling water that  
37 might not be through air sampling, and what the value is of using water as a surrogate as opposed to  
38 sampling at the source. Assistant Commissioner Freise stated it is surrogate in this area. The reason  
39 they are doing that is because that is where the health risk is. Everything they have seen; the amount  
40 that is emitted out of the stacks, the inhalation, is not the risk factor, it is the ingestion of the water.  
41 They have concentrated their efforts on testing the water because that is where the risk is and that is  
42 where the direct contact is.

43  
44 Councilor Boyd questioned were he to stick his head over one of the chimneys while it was emitting  
45 toxics into the air and he were to breathe that in the potential of him developing something as a  
46 consequence of doing that would be far less as opposed to drinking water that would be absorbing  
47 what was being emitted out of the smoke stack. Assistant Commissioner Freise responded "yes".

1  
2 Vice Chairman Rothhaus questioned when the NHDES began testing the water. The response was  
3 there are two runs of testing; one a few years ago (2014) called the Unregulated Contaminate  
4 Monitoring Rules (UCMR). Of the samples that were taken in the Merrimack area most tested no-  
5 detect. One tested around 32. When they retested it, it came back as no-detect. At that point they  
6 really could only detect at about 20-25 ppt. At that time the only advice they had was called the  
7 Divisional Health Advisory, and it said that 400 ppt is the worry line. Saint-Gobain, because of what  
8 was occurring at their other facilities in New York and Vermont, tested their water. They came back at  
9 30 ppt from the MVD water. The difference is the NHDES was reading the same news out of New  
10 York and Vermont, and had started plans to go out and do their own testing to see what they would  
11 find. They had the team ready to go once they got their results. Although far below the provisional  
12 health advisory they have learned a lot in the past few years, and testing can now detect very  
13 consistently down to 2 or 3 ppt.

14  
15 Vice Chairman Rothhaus questioned if there is the potential this will continue to increase as everything  
16 percolates down through to the well source. Assistant Commissioner Freise stated the hope is that it  
17 will not. This has been consistently cut out of everyone's process stream since the agreement with the  
18 EPA (2005-2008). Everybody has been getting less and less of it into their process stream, and a  
19 number of companies have been putting controls on. TCI, Amherst, put secondary treatment on their  
20 stacks, and that clearly is having a bigger impact. Between having the total levels come down, people  
21 being more and more careful, the amount that has been getting into the air has been coming down. It  
22 should be that we see this eventually start to just remediate from natural wear and tear on the  
23 chemicals. This stuff doesn't tend to stick in the soils it tends to go through fairly efficiently. If it  
24 came out 5 years ago, with regular rain, it is down in the water table. If it was out a year ago, it is  
25 probably down in the water table. Since they haven't been using the materials in the last year or so, he  
26 believes what was going to get down there is down there. Some of this has been out there for 30+  
27 years and it should be breaking down.

28  
29 Councilor Boyd used the scenario of the recent drought and a heavy winter where the groundwater  
30 would refresh itself, and questioned if there is any belief that number might increase/decrease as a  
31 result of the aquifers recharging. He also questioned if the expectation would be dramatic or subtle  
32 changes. Assistant Commissioner Freise commented they have had philosophical discussions about  
33 this because they don't know. The belief is they really won't see much of a swing at all. When  
34 measuring in ppt, the actual amount of contaminant down there is relatively low and is already diluted  
35 by a large mass of water. They have been looking at results from MVD and others, and have not seen  
36 huge swings.

37  
38 There was one issue where one lab consistently showed significantly lower numbers (30-40% lower).  
39 They worked with the EPA and found that there was an interpretation of the 537 test done and certified  
40 by the EPA that some people were reading that you should do something and others were reading you  
41 shouldn't. It is that PFOA comes in two isomers; one is linear and one is branched. The instructions  
42 were mute as to whether or not you should add them together whereas for other chemicals it says you  
43 must add them together. The one lab read that as you shouldn't and were only reporting linear. The  
44 EPA really didn't expect to see any branched PFOA in nature. When they were asked for samples to  
45 use as a laboratory standard it was only linear, which is how the situation was found out. They have  
46 now changed the instructions based on what was discovered. Now the results are right on top of each

other. NHDES set performance evaluation standards so they know exactly how much of everything is in there. All three labs they use came back within a few ppt of each other.

As we have gone through this drought, they have not seen sudden spiking concentrations because there is less water and the same PFOA. The belief is when we do recharge we won't see it suddenly drop away to nothing either.

Councilor Mahon questioned if they would have been able to detect it at the time even if they knew what Chemfab was doing, and was told back in the '80s they couldn't have tested at the levels that would have detected this. In 2005 when they brought in their test results was the first time anybody had ever seen it come out of the stack. Assistant Commissioner Freise stated PFOA costs them money; not a cheap chemical to build or get. It serves a purpose in their process, and their belief was they were recycling it. At very low levels, it was going up the stacks, and technology of the time couldn't detect it.

Chairman Harrington commented NHDES jumped on this situation immediately and has been responsive to requests of the Council. She thanked the representatives that came before the Council to provide additional information. Assistant Commissioner Freise spoke of ongoing work to get construction contracts in place. Digging started earlier in the day in Manchester, and they hope to get Litchfield building quickly. A number of the houses that have been identified as being on private wells in Merrimack have been put on MVD water. A few more were spotted in some of the recent results and MVD immediately added them to the list. They have the commitment in place to bring in the temporary treatment next summer, and have paid for the design work for permanent treatment (wells 4 and 5). That will only provide about half the capacity of those two wells back for next summer, but it is ½ million gal./day. If they agree to do permanent treatment the design would be done. The goal is to get ½ million gal./day of filtered water next summer, and then have full capacity in place two summers from now.

Chairman Harrington noted the MVD has approved the building of the booster with Pennichuck, which will be done before winter.

**Comments from the Press and Public** - None

**Recognitions, Resignations and Retirements** - None

**Appointments**

**1. Annual Review with the Town Center Committee**

Submitted by Town Center Committee Chairman Nelson Disco

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

Nelson Disco, Chairman, Town Center Committee, remarked in 2009, the charge of the Town Center Committee (Committee) was to implement the results of an iTRaC study that had been previously done under the auspices of the Town Council. The Committee was tasked to work with Town officials,

1 residences, the Conservation Commission, Watson Park Committee, and the Economic Development  
2 citizen Advisory Committee (EDCAC) to develop a safe and inviting Town Center. The efforts were  
3 to be focused on what was defined as the Town Center in the Town Master Plan, which is the area of  
4 Town north of Frasier Square and south of Front Street along Route 3 and east of the F.E. Everett  
5 Turnpike to the river.

6  
7 To date, the Committee has focused on certain aspects of that. There were 9 recommendations made  
8 by the iTRaC Committee when they put together the plan for the Town Center; various segments of  
9 sidewalk along Route 3, Baboosic Lake Road, and leading into the schools, and connecting the schools  
10 to the Town Center, the Library, and other features of the Town Center. In addition to that, there were  
11 some trails identified that would link Watson Park to Wildcat Falls, make a passage under Route 3  
12 using the old sluiceway and connecting Twin Bridge Park with Watson Park. It is the intent of the  
13 Committee to follow through with all of the recommendations included in the Master Plan.

14  
15 Chairman Disco identified the Committee membership noting there remains a vacancy on the  
16 Committee.

17  
18 Major projects the Committee has focused on this past year include the Souhegan River Trail, public  
19 outreach, have applied for additional Transportation Alternative Program (TAP) grant funds, which  
20 would allow the Committee to construct sidewalk along Woodbury Street and north of the Library, and  
21 done work with what was previously known as Safe Routes to School. The Committee is working  
22 with the School District on improving certain pathways/sidewalks along O’Gara Drive and Woodbury  
23 Street to create safer routes to school for pedestrians.

24  
25 The Souhegan River Trail is the jewel in their crown. A grant was received last year (\$436,000) to  
26 construct the trail along the Souhegan River starting at Watson Park, going under Route 3, and  
27 continuing on up to the Merrill’s Marauders Bridge at the Turnpike, and then connecting in and  
28 continuing into the trail network on the 80 acres in Wildcat Falls. One of the key elements of  
29 obtaining this funding was the fact that the Town already had, in its Capital Improvement Program  
30 (CIP), monies set aside for improvements to the sidewalk on the east side of Route 3 adjacent to the  
31 Chamberlain Bridge.

32  
33 The contract has been awarded to Quantum Consultants for the design and construction of the trail.  
34 This year they held one public hearing to consider alternatives, which is part of the Federal process.  
35 They presented an alternative, which was not well received by those in attendance at the Public  
36 Hearing. The alternative basically avoided the passage under the sluiceway, and would have  
37 pedestrians walk from Watson Park up to the lights at the shopping plaza and then come back down the  
38 opposite side of the street to connect by the fire station. The Committee was not supportive of the  
39 alternative. Another Public Hearing will be scheduled. Construction is expected to complete in 2018.

40  
41 The Committee worked on a sign that has been placed at the footbridge that goes over the Souhegan  
42 River, which would identify and elaborate Merrill’s Marauders Bridge. The sign honors Brigadier  
43 General Frank Merrill who led a group of soldiers in the Burma Campaign of World War II. He  
44 returned to New Hampshire to become the head of the PWD, and as such was responsible for the  
45 design of that bridge. A \$1,000 grant was received from the National Park Service to put up the sign.  
46 Joe Herlihey, Lettering Design Company, worked with the Committee to make a sign that was able to  
47 be mounted on the bridge.



1  
2 A trail map of the Souhegan River Trail was created by the Committee and generated by the NRPC.  
3 The map has been used to inform the public of what exists and what will be in place when the trail is  
4 completed.

5  
6 Public outreach activities have included manning a booth at several public events such as the Business  
7 Expo., Farmers' Market. During those events, maps were handed out to the public. There is now a  
8 map mounted on the wall outside of the Merrimack Memorial Conference Room in Town Hall. The  
9 Committee has made presentations on its projects to the Highway Safety Committee, the Merrimack  
10 School Board, and the Merrimack Rotary Club. Efforts will continue to develop connections with the  
11 Merrimack Chamber of Commerce and the EDCAC in the future.

12  
13 This year both the Art in the Park project with the Manchester Art Association and Merrimack Rocks  
14 were conducted in Watson Park. Both events are attractions to the Town Center.

15  
16 Mr. Disco commented Safe Routes to School was the result of a study survey conducted in 2013.  
17 There was a good deal of public support to develop a Safe Routes to School, which, as a project, has  
18 kind of gone by. That was a buzz word for a while, and has sort of faded. The Committee continues to  
19 work on providing means for people to walk to the schools. This endeavor has a great deal of public  
20 support. Originally the Committee had formed a separate committee to follow through and seek  
21 funding through the school. That did not work out. This year the Committee made a special effort to  
22 reorganize its interface with the SAU. They briefed the School Board, which stated agreement with  
23 the importance of doing this. They have appointed Matt Shevenell, Business Administrator, to be the  
24 official Liaison to the Committee.

25  
26 The School Board has agreed to put the O'Gara Drive sidewalk in the CIP as part of a resurfacing of  
27 that road.

28  
29 Plans for 2017 include implementation of the Souhegan River Trail, continued outreach, and pursuit of  
30 TAP funding for other elements of the Town Center Plan, e.g., adding Woodbury Street and a section  
31 of the sidewalk north of the Library up to the connections with the new bridge and the Wire Road  
32 intersection.

33  
34 In addition, the Committee has arranged for a group called HEAL NH, which has been working on  
35 complete streets development in the State, to provide a presentation. They have an interesting  
36 approach, and are encouraging the building of sidewalks throughout the State. Several cities and  
37 towns in the State have signed onto this. There is a study program to include what is called "complete  
38 streets" in the ten-year plan projects. That study committee was established by the Legislature at the  
39 end of their last session. It is expected a recommendation will be forwarded before the end of this year  
40 hopefully to include complete streets thinking. It is basically a way of thinking about designing of a  
41 street to do more than carry cars.

42  
43 The Committee will continue to seek other school safety improvements. There are some things that  
44 need to be done that require detailed planning in the area of School Street; where the pavement ends  
45 and where pedestrians can go can be confusing at certain times of the day. They will look at that issue  
46 with the School District to see if something can be done there.

1 The Committee requests the Council establish a capital reserve fund for the Town Center to address the  
2 iTRaC recommendations; specifically limiting it to what is within the iTRaC plan. If those projects  
3 could be put into the CIP it would be helpful in obtaining grant funding in the future. Mr. Disco noted  
4 most every outside source looks to the community to see what they have in the game.

5  
6 Councilor Boyd questioned the amount the Committee would look to the Council to invest into a  
7 capital reserve fund. Mr. Disco stated the Committee has not yet costed out the Projects. Kyle Fox,  
8 Director, Public Works Department, has costed out the Woodbury Street project. That street has some  
9 challenges, and came in at around \$200,000. There would be the need for the Committee to identify  
10 real numbers for the projects. When asked why the Woodbury Street project was looked at prior to  
11 creating the connectivity of the trail from the west to the east especially where there is the need to  
12 construct a bridge to go over the bog, improvements to the sluiceway, etc. Mr. Disco responded that  
13 project is funded, and would not need to be included in the CIP. The reason Woodbury Street was  
14 moved up in the priority was because of the large number of pedestrians using Woodbury Street as a  
15 pedestrian road. If you go there when the High School lets out in the afternoon you have to drive very  
16 carefully because of the number of people in the road. He noted Town Manager Cabanel had  
17 requested the PWD obtain that estimate.

18  
19 Vice Chairman Rothhaus commented the Committee had been talking about the Safe Routes to School  
20 and shovel ready projects. That conversation led to the request of the PWD to provide an idea of what  
21 the cost would be. The estimate received surprised him, but is related to a drainage problem with that  
22 road.

23  
24 Councilor Flood remarked it is a holistic approach to the Town Center area that all of these projects are  
25 being considered. The desire is for walkability and easy access to businesses in Town. The trail can  
26 be walked now. Councilor Flood noted there is no longer a Watson Park Committee.

27  
28 Councilor Mahon stated HEAL NH would be providing a presentation to the EDCAC on November  
29 9<sup>th</sup>. Councilor Mahon commented on the number of people walking around Town and bicycling on the  
30 trails at the Horse Hill Nature Preserve. He commented there is a quality of life, health issue involved  
31 in the opportunity for people to engage in activities that not only give them better connectivity to the  
32 businesses in Town, but also provide them with the opportunity to improve their physical wellbeing.  
33 He stated the need for costs to be identified when seeking the creation of a capital reserve fund. Mr.  
34 Disco stated he would be happy to do that. Chairman Harrington suggested the costs be broken down  
35 by project, and that projects be prioritized.

36  
37 Councilor Koenig remarked, from a Town Center Committee perspective, he hears a lot about trails,  
38 and questioned if there is any effort, interest or thought being put into how to either reorganize, rezone,  
39 or revitalize the Town Center to encourage any particular development to make it a Town Center or to  
40 increase parking or availability for those who will walk the trails. Mr. Disco responded that was one of  
41 the key reasons to connect into Watson Park, e.g., available parking to begin the trail. There is some  
42 parking at the other end of Currier Road or the area of trail access. The Committee has not looked at  
43 the zoning issue in Town. He stated his belief the suggestion may be one of the recommendations in  
44 the Master Plan, but he does not believe the Planning Board has done anything with that yet. When  
45 asked if the Committee would have an opportunity to push that, he stated the Committee could  
46 recommend it to the Planning Board.

**Public Hearing**

**1. Public Hearing - NH Highway Safety Agency Grant Acceptance for Merrimack Police Department**

Submitted by Lt. Brian Levesque

Town Council will hold a public hearing to consider the acceptance and expenditure of a grant in the amount of \$19,158 from the New Hampshire Highway Safety Agency for the Merrimack Police Department to operate the Seat Belt Convincer, pursuant to RSA 31:95-b and Charter Article 8-15.

Assistant Town Manager/Finance Director Micali stated RSA 31:95-b addresses unanticipated money. Approx. 2 years ago it was determined the Convincer Grant was not going to be unexpected every year. He stated his understanding Merrimack has the Convincer Grant and the Convincer as long as wishes to. It is not unanticipated money. It has been budgeted for within the budget, and there is offsetting revenue and an appropriation line for the Convincer Grants.

Councilor Koenig suggested, given a Public Hearing was advertised, the Council should conduct the Public Hearing although a vote of the Council would not be required.

***Chairman Harrington declared the Public Hearing open at 8:15 p.m.***

*No public comment was offered.*

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

Lt. Brian Levesque stated the Seat Belt Convincer is an educational tool that started at the Dover Police Department about 20 years ago. It is a simulator of a car accident at a speed of about 5-7 mph. It is basically intended to convince people, particularly those kids that are at an age for driver education, to wear their seat belt. Dover had it for about 18-20 years. They gave it up at which point the Merrimack Police Department picked it up. The department has had it for the past 7 or 8 years. They travel throughout the State with it. They receive calls probably on a weekly basis to set up shop at local hospitals, nursing homes, schools, etc.

**2. Public Hearing – Proposed Zoning Ordinance Amendments**

Submitted by Community Development Director Tim Thompson

Town Council will hold a public hearing to consider the proposed Zoning Ordinance amendments regarding accessory dwelling units and signs (Sections 2.02.1 and 17), as supported and recommended by the Planning Board, pursuant to RSA 675:2 and Charter Article V.

Timothy Thompson, Director, Community Development, stated the two sections of the Ordinance where amendments are proposed are Section 2.02.1, Accessory Dwelling Units (ADUs) and Section 17, Signs. The proposed amendments were recommended unanimously by the Planning Board on August 16<sup>th</sup>.

New Hampshire SB146 was introduced in January of 2015. Issues surrounding the Bill were resolved in early 2016, and the Bill was signed by the Governor in March with an effective date of June 1, 2017.

1 The Town had been working on this particular project going back not only to the Master Plan in 2011  
2 and 2012, but in a discussion conducted during a joint meeting of the Planning Board and Zoning  
3 Board of Adjustment (ZBA) held in December of 2014. With the introduction of the Bill, the decision  
4 was reached to wait for the outcome.

5  
6 The Master Plan has a specific recommendation regarding ADUs; it calls for the Town to consider  
7 revisions to the Ordinance to allow them to be a more viable housing option, and not restrict them to  
8 family members. However, the Town and the State law that was just passed require owner occupancy  
9 of either the principle unit or ADU to avoid the possibility of absentee landlords.

10  
11 The proposed amendments would address the Master Plan and State law goals of assisting with  
12 meeting the needs of a diversified housing stock. It also helps, in a limited way, to address the  
13 workforce housing law the State passed several years ago, without having to do significant wholesale  
14 change to the Town's ordinances. The proposed language also addresses the ZBA's issue of trying to  
15 fix the process that was required for special exceptions. The ZBA was concerned with the number of  
16 requests they were seeing for ADUs; the requests were so simple they did not believe it necessary to  
17 individually approve each one through a public hearing process.

18  
19 What is proposed is that there be two separate processes; one for the traditional ADU that is attached  
20 inside the house; they would no longer have to go to the ZBA to get a special exception for those.  
21 They would be approved administratively by the Community Development Department and the  
22 Building Department as long as they meet certain criteria.

23  
24 The other would be a conditional use permit process, which would go to the Planning Board rather  
25 than the ZBA. Those would be for any detached ADUs.

26  
27 With regard to existing ADUs, they no longer can and will not enforce any previously recorded  
28 restrictive covenants that regard family occupancy. Based on the advice of legal counsel, those are no  
29 longer enforceable under the new State law.

30  
31 Director Thompson stated the proposed amendments to be:

32  
33 Section 2.02.1.A; insert a new sub-section with the criteria for attached ADUs to be permitted, and re-  
34 number the remainder of that section.

35  
36 Section 2.02.1.B, which is the current language that requires the special exception process of the ZBA  
37 would be deleted in its entirety, and the remaining sections would be re-numbered.

38  
39 Section 2.02.1, under residential permitted uses, a new sub-section would be added regarding  
40 Conditional Use Permits for these new detached ADUs, and the process for the Planning Board.

41  
42 With regard to the sign Ordinance, the proposed language came as a recommendation from legal  
43 counsel following a U.S. Supreme Court case, Reed vs. Town of Gilbert, AZ, where the U.S. Supreme  
44 Court invalidated a municipal ordinance that gave favorable treatment to signs that advertised church  
45 services rather than signs promoting another message.

**Approved: October 27, 2016**

**Posted: October 31, 2016**

1 The existing ordinance makes distinctions based on the message of the speech, is content based, and  
2 will not meet the scrutiny of legal standard for judicial review of an Ordinance. Locally what that  
3 means for Merrimack is the Ordinance has to be amended in all sections where there is content bias,  
4 particularly under what was Section 17.05, which is the permit not required section.

5  
6 This section of the Ordinance and the proposed revisions were primarily developed by the Planning &  
7 Zoning Administrator, Jillian, who worked closely with legal counsel to review that section and put  
8 together amendments that would remove the content bias and simplify the temporary sign process.  
9 The intent is not to change fundamentally how we handle signs in Town, but just to ensure we have a  
10 legally defensible ordinance regarding content neutrality.

11  
12 A new Section 17.02 is proposed to be inserted, which is a severability clause. Should an individual  
13 seek action by the courts to invalidate a section of this sign ordinance. It allows the Town to say if a  
14 court finds something to be invalid that section is invalid, but the remainder is not. It protects the  
15 Town by avoiding the possibility of being without a sign ordinance altogether.

16  
17 The new re-numbered Section 17.03 would include “flags” in the title and would specify that flags of  
18 national, state, and historical significance are not regulated by the Ordinance. That is one of those gray  
19 areas where we could have had difficulty because there was a section indicating where the flags were  
20 and were not allowed.

21  
22 Re-numbered Section 17.04 would add language clarifying that signs containing non-commercial  
23 speech are permitted anywhere that advertising or business signs are permitted. That would ensure the  
24 Town is treating different types of speech equally.

25  
26 New Section 17.06.1 would allow for one (1) sign per residential property meeting the criteria without  
27 regard to content.

28  
29 Section 17.05 (2-3) would be removed in its entirety based on content bias.

30  
31 Sections 17.06.2, 17.06.4, 17.06.6, 17.06.9, and 17.10.2 would be reworded to remove content bias.

32  
33 Sections 17.06.3, 17.06.5, and 17.06.7 would include the language “In order to maintain public safety”.

34  
35 Under Section 17.05, the amendments would delete sub-sections 5, 6, 7, 8, 9, 13, 14, 15, 17, 19, 20, 21,  
36 23, and 24 because there was content bias in all of those sections.

37  
38 Section 17.08, holiday and special event signs language is now gone because it is content bias.

39  
40 Section 17.09.1 adds the language “For public safety”.

41  
42 Section 17.10.2 removes language regarding sign content.

43  
44 Section 17.10.3(e) would be removed in its entirety due to content bias, and the remaining subsections  
45 re-numbered.

1 Section 17.10.7 would be removed in its entirety due to content bias and the remaining subsections  
2 would be re-numbered.

3  
4 Section 17.11 would remove “Advertising” from the title and language due to content bias.

5  
6 Throughout the entire section, the previous drafter of the Ordinance used the word premises, which  
7 doesn’t reflect current terminology. The word parcel was substituted for the word premises throughout  
8 the Ordinance.

9  
10 Councilor Mahon noted on page 2-9, paragraph 3(g) is old language; it allows for only 2 deliveries per  
11 day. He suggested it is too restrictive. Director Thompson stated that would be noted for a future  
12 revision.

13  
14 On page 2-10, section (C) reads in part: “...shall not have provisions for separate utilities, garages,  
15 driveways, and other similar amenities.” Councilor Mahon stated the last ADU request before the  
16 ZBA included a variance request for a second driveway because of the paratransit issue. Director  
17 Thompson stated that would remain an issue that would be required to go before the ZBA. That was  
18 not part of the special exception for that ADU; it was a specific variance request because that language  
19 remains the same as it was in the previous ADU language. The desire is to ensure an ADU does not, in  
20 appearance, look like anything other than a single-family home, the provision of the second driveway  
21 was considered what would make it obvious that it is more than a single-family residence.

22  
23 When asked, Director Thompson stated the process would be that an individual coming to the  
24 Building Department with a request for an ADU would be sent to his office, the criteria would be  
25 reviewed to ensure it is met, assuming the criteria is met, the individual would be asked to put together  
26 a brief letter explaining what it is they wish to do, and the department would respond with an  
27 administrative approval that would say you are hereby permitted to pursue your building permit  
28 provided you meet X, Y, and Z, which are the criteria for the Ordinance. Once that happens the  
29 individual is sent to the Building Department where they could be issued their permitting.

30  
31 The one item the department has worked out a few kinks on is the recording of the Covenant regarding  
32 ensuring the property does not change into a condominium form of ownership. The way the language  
33 is written in the ordinance is that that has to be done prior to the issuance of a Certificate of  
34 Occupancy. In the instance of an existing home that is doing an ADU there really isn’t a new  
35 Certificate for those particular units because they already have it for the single-family home. What  
36 they have done in the forms and formatting with the Building Department is if it is for an existing  
37 single-family home the language in the letter is revised to state “prior to final inspection by the  
38 Building Department.”

39  
40 When asked, Director Thompson stated the language related to temporary signage remains unchanged.  
41 Temporary signage is permitted for a period not longer than 30 days in any consecutive 90-day period.  
42 After that 90 days is up another request could be made. Temporary signs are still subject to permitting  
43 requirements. The section titled Permitting Not Required identifies signs that can be put up without  
44 any permitting.

Approved: October 27, 2016

Posted: October 31, 2016

Councilor Boyd asked for clarification were he to display a sign for a candidate for U.S. Senate, Governor, Congress, and 6 State Representative candidates there is nothing that prevents him from doing so. Director Thompson responded there is nothing that would prevent that.

Councilor Boyd questioned how the Town would enforce absentee landlords as it relates to ADUs. Director Thompson stated the only thing they can do is have the property owner sign the restrictive covenant when going through the application process, which confirms the property owner will reside in one of the two units and will not change the form of ownership. If the department were made aware of a violation, it would investigate, but outside of that there is not much that can be done.

Councilor Boyd questioned if the restrictive covenant would be signed under the pains and penalties of perjury. Director Thompson stated his belief the language is set up in such a way that it makes the Town a party to and gives the Town the ability to enforce. It is recorded in the Registry of Deeds.

With regard to detached ADUs, Director Thompson stated the State does not allow the Town to require additional lot size for attached ADUs, but for detached they do. The language of the Ordinance basically states if you do a detached ADU you need 1½ times the lot size that would typically be required for a single-family.

***Chairman Harrington declared the Public Hearing open at 8:47 p.m.***

*No public comment was offered.*

***Chairman Harrington declared the Public Hearing closed at 8:48 p.m.***

**MOTION made by Councilor Boyd and seconded by Councilor Koenig to move the proposed Zoning Ordinance amendments to the October 27<sup>th</sup> Consent Agenda.**

**MOTION CARRIED 6-0-0**

**Legislative Updates from State Representatives** - None

**Town Manager's Report**

Merrimack Girl Scout Troop 10916 recently completed work on a video, "How to use the Merrimack Transfer Station". The girls did a wonderful job on the project. The video can be seen on the community cable channel and the Public Works Facebook page.

**Consent Agenda** - None

**Old Business** - None

**New Business**

**1. Committee Appointments**

Submitted by Town Council Chairman Nancy Harrington and Vice Chair Finlay Rothhaus

The Town Council to consider appointing the following individuals to Town committees, pursuant to Charter Article 4-8:

Sean Sylvester – Heritage Commission (Full member)

Chairman Harrington remarked Mr. Sylvester is the student who recently provided the Council with a flag presentation. The Council referred him to the Heritage Commission. He discovered the Commission has a great deal that interests him, and has requested to become a full member.

When asked if there are any age requirements, Chairman Harrington stated to her knowledge there are none. However, Mr. Sylvester turns 18 next month.

**MOTION made by Councilor Boyd and seconded by Councilor Mahon to appoint Sean Sylvester as a full member of the Heritage Commission. MOTION CARRIED 6-0-0**

**2. Donation Acceptance for Merrimack Police Department**

Submitted by Captain Dudash

Town Council to consider the acceptance and expenditure of a donation in the amount of \$100 from Ms. Helene Baum to the Merrimack Police Department to be used to off-set expenses for the PACT Program, pursuant to RSA 31:95-b and Charter Article 8-15.

Captain Michael Dudash, Merrimack Police Department, stated the department received the \$100 donation through the mail from Ms. Baum with a nice card stating that she really appreciates everything the Merrimack Police Department does. The hope is to put the funds towards the PACT Program, which is the hybrid of the former DARE Program.

**MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to approve the acceptance and expenditure of a donation in the amount of One Hundred Dollars (\$100) from Ms. Helene Baum to the Merrimack Police Department to be used to offset expenses for the PACT Program, pursuant to RSA 31:95-b and Charter Article 8-15, and furthermore that the Town Manager or her proxy be authorized to do what is necessary to accept the donation.**

**MOTION CARRIED 6-0-0**

**3. Donation Acceptance for Merrimack Police Department**

Submitted by Captain Dudash

Town Council to consider the acceptance and expenditure of a donation in the amount of \$3,500 from DCU (Digital Federal Credit Union) to the Merrimack Police Department to be used to off-set expenses for the PACT Program, pursuant to RSA 31:95-b and Charter Article 8-15.

Captain Dudash commented in each of the last 5 years or so the Digital Federal Credit Union has sent a check to the Police Department. The department would like to utilize the funds towards the PACT Program.

**MOTION made by Councilor Boyd and seconded by Councilor Mahon to approve the acceptance and expenditure of a donation in the amount of Three Thousand Five Hundred Dollars (\$3,500) from DCU (Digital Federal Credit Union) to the Merrimack Police Department to be used to offset expenses for the PACT Program, pursuant to RSA 31:95-b and Charter Article 8-15, and furthermore that the Town Manager or her proxy be authorized to sign all documents necessary to accept the donation. MOTION CARRIED 6-0-0**



**4. Grant Application Approval for Merrimack Police Department**

Submitted by Captain Peter Albert

Seeking Town Council approval to apply for a grant in the amount of \$4,000 made available through the NH Department of Homeland Security which would be used to cover the cost of members of the Merrimack Police Department to participate in a regional police training drill and to pay the overtime on the backfill of shifts left vacant for this training, pursuant to RSA 31:95-b and Charter Article 815.

Captain Peter Albert, Merrimack Police Department, informed the Council the containment team is part of the New Hampshire Tactical Officers' Association, and has been involved in the planning of a Homeland Security drill with that organization, which the containment team would participate in at a retail location in southern New Hampshire where they would do basically an anti-terrorism or active shooter type drill.

At last week's meeting it was learned the New Hampshire Department of Homeland Security was going to free up some grant funds to reimburse the towns for their officers taking part and then backfilling any shifts that result in overtime. The estimate provided to them was \$4,000. Captain Albert stated the desire to move forward on that grant.

Councilor Flood commented on the generous nature of the donations, and questioned if these types of grants are solicited. Captain Albert stated the grant in question is from the New Hampshire Department of Homeland Security. They have grants available, and there is the ability to seek them. In situations such as those Captain Dudash discussed, the donations were received from nice, civic minded citizens.

**MOTION by Councilor Boyd and seconded by Councilor Mahon to approve the Merrimack Police Department's request to apply for a grant in the amount of Four Thousand Dollars (\$4,000) made available through the NH Department of Homeland Security, which would be used to cover the cost of members of the Merrimack Police Department to participate in a regional police training drill and to pay the overtime on the backfill of shifts left vacant for this training, pursuant to RSA 31:95-b and Charter Article 8-15, and furthermore that the Town Manager or her proxy be authorized to sign any paperwork necessary to execute the application for the grant. MOTION CARRIED 6-0-0**

**5. Donation Acceptance for Merrimack Fire Department**

Submitted by Assistant Chief Brian Borneman

Town Council to consider the acceptance and expenditure of a donation in the amount of \$2,000 from Safeco Insurance on behalf of their local agent, Advantage Insurance, to the Merrimack Fire Department to be used towards public fire and safety education and community outreach, pursuant to RSA 31:95-b and Charter Article 8-15.

Assistant Chief Brian Borneman, Merrimack Fire Department, remarked in early summer the owners of Advantage Insurance approached the department. They were hosting a Merrimack Chamber of Commerce event, and wanted the department to do a safety lecture during the event. It was well received. One of their companies, Safeco Insurance, has a grant program "Protecting What Matters", which is for that type of education. They submitted it, and it was approved. The department is looking

to accept the \$2,000 grant, and in keeping with their initiative, the department wishes to earmark the funds for community outreach and safety education.

**MOTION made by Councilor Boyd and seconded by Councilor Koenig to approve the acceptance and expenditure of a donation in the amount of Two Thousand Dollars (\$2,000) from Safeco Insurance on behalf of their local agent, Advantage Insurance, to the Merrimack Fire Department to be used towards public fire and safety education and community outreach, pursuant to RSA 31:95-b and Charter Article 8-15, and furthermore that the Town Manager or her proxy be authorized to sign any documents necessary to expend the donation. MOTION CARRIED 6-0-0**

**6. Donation Acceptance for Merrimack Fire Department**

Submitted by Assistant Chief Brian Borneman

Town Council to consider the acceptance and expenditure of a donation in the amount of \$50.00 from Fujifilm Dimatix to the Merrimack Fire Department in memory of David R. Loiselle, pursuant to RSA 31:95-b and Charter Article 8-15.

Assistant Chief Borneman spoke of being before the Council in the early summer and making the Council aware of the crew's involvement in roofing a home after a tragic accident. At that time, the department requested acceptance of donations that had been made in memory of David Loiselle. The donation before the Council at this time was made by the employer of Mr. Loiselle's Daughter.

**MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to approve the acceptance and expenditure of a donation in the amount of Fifty Dollars (\$50) from Fujifilm Dimatix to the Merrimack Fire Department in memory of David R. Loiselle, pursuant to RSA 31:95-b and Charter Article 8-15, and furthermore that the Town Manager or her proxy be authorized to sign any documents necessary to expend the donation. MOTION CARRIED 6-0-0**

**7. Donation Acceptance for Merrimack Fire Department**

Submitted by Assistant Chief Borneman

Town Council to consider the acceptance and expenditure of a donation in the amount of \$100.00 from Thomas Laberge to the Merrimack Fire Department paramedics for "lifesaving help", pursuant to RSA 31:95-b and Charter Article 8-15.

Assistant Chief Borneman commented the background provided with this request was somewhat vague due to HIPAA laws. The donation is in the amount of \$100.00, and was addressed to the attention of the Merrimack Fire Department Paramedics for lifesaving help.

**MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to approve the acceptance and expenditure of a donation in the amount of One Hundred Dollars (\$100) from Thomas Laberge to the Merrimack Fire Department paramedics for "lifesaving help", pursuant to RSA 31:95-b and Charter Article 8-15, and furthermore that the Town Manager or her proxy be authorized to sign any documents necessary to expend the donation. MOTION CARRIED 6-0-0**

*There being no objection, the Council took a five-minute recess at 9:05 p.m.  
The Council reconvened at 9:10 p.m.*

1 **8. Town of Merrimack Tax Bill Insert**

2 Submitted by Finance Director Paul T. Micali

3 Town Council to consider enclosing a breakdown of the 2016 tax rate in the next tax bill mailing.

4  
5 Assistant Town Manager/Finance Director, Paul Micali, spoke of previous discussion by the Council  
6 regarding the possibility of an insert being provided with tax bills. Sample inserts were provided for  
7 consideration. He noted the numbers are not yet finalized. He was contacted by the DRA the previous  
8 day; the Town and County numbers have been finalized, but the School District remains in the review  
9 process. It is hoped that will be completed in the next few days, and a tax rate will be provided.

10  
11 Councilor Flood questioned if the Town still receives monies from the State School share. Assistant  
12 Town Manager/Finance Director Micali stated the Town receives monies, but believes that will change  
13 with the Dover lawsuit.

14  
15 *The consensus of the Council was to utilize a pie chart that breaks down each area, that the written*  
16 *portion of the insert appear at the top, and that the written portion be amended so that it begins*  
17 *with: "The Merrimack tax bill has four (4) components.", that the word "should" be removed after*  
18 *the words "If you have any questions on your tax assessment".*

19  
20 **MOTION made by Councilor Boyd and seconded by Councilor Flood to approve the inclusion of**  
21 **the insert, as amended, with the next tax bill mailing. MOTION CARRIED 6-0-0**

22  
23 **9. Consideration of Right-to-Know Request to NH DES Air Quality Division**

24 Submitted by Town Councilor Tom Mahon

25 To date there is very little information from the Air Quality Division regarding their monitoring of  
26 emissions from the Saint-Gobain site. I am asking for a discussion of the issue and if the Council  
27 desires to generate a formal R-T-K request to fill what I consider to be a glaring gap in information  
28 on the PFOA issue.

29  
30 **Councilor Mahon stated a willingness to withdraw the item.**

31  
32 Councilor Boyd commented the testimony presented earlier was really no different than what was  
33 provided during the first meeting back in March; particularly as it related to testing that was done in  
34 2005, the confirmation in 2007, and then follow-up testing in 2016. Outside of someone in the  
35 community watching that meeting back in March and this meeting, is it worthwhile to continue with  
36 the Right-to-know request so that documentation could be obtained and placed on the website to  
37 provide additional transparency. He stated the desire for something to be posted to the website  
38 detailing the discussion that occurred for those who may not have seen the meeting.

39  
40 Councilor Mahon suggested the Town Manager be asked to contact Assistant Commissioner Freise,  
41 and request the Town be supplied with some kind of summary that could be added to the website. He  
42 stated agreement with posting the meeting minutes as well.

43  
44 Chairman Harrington stated her opinion there was additional clarifying information provided in terms  
45 of specifics. The presentation provided earlier in the evening was much clearer than the information  
46 presented in March.

Vice Chairman Rothhaus commented he was initially stunned that nothing had occurred over a period of time. However, understanding that they were in receipt of product information with regard to what was being utilized, it was more easily understood.

Assistant Town Manager/Finance Director Micali was asked to communicate the request to the Town Manager.

#### **10. Brenda Lane Landlocked Property Sale Discussion**

Submitted by Town Council Chairman Nancy Harrington

Town Council to consider the sale of a Town-owned landlocked parcel known as tax map parcel 6C/208-1 to a direct abutter of the property, in accordance with RSA 49-D:3 and 47:5.

Chairman Harrington stated the parcel had previously been determined to be excess Town owned land, an auction was conducted, and in June of 2009 the property was auctioned off to an abutter. Since then, the abutter has decided they no longer want the property, conveyed it back to the Town, and a new abutter has expressed the desire to purchase this land-locked parcel. State RSA clarifies the authority of the Council to sell the property. The assessed value is \$2,100.

Chairman Harrington questioned the will of the Council with regard to selling the property, and if the desire is to sell it, whether the Council would like to sell it to the abutter who has expressed the desire to purchase the property or notify the other abutters of the availability.

Assistant Town Manager/Finance Director Micali stated, if the will of the Council were to notify the other abutters, the Finance Department could do a direct bid sale, e.g., each individual is given the opportunity to submit a sealed bid, and the Council determines which bid to accept.

Vice Chairman Rothhaus stated his opinion the property should be sold, and that it be through a direct bid sale. Councilor Mahon questioned if a minimum bid would be identified. Councilor Flood questioned, and was informed the previous sale was for \$5,600 when purchased back in 2010. Vice Chairman Rothhaus stated his desire for there to be a minimum bid, and suggested it be the assessed value.

**MOTION made by Councilor Mahon and seconded by Councilor Boyd to authorize the sale of a Town-owned landlocked parcel known as tax map parcel 6C/208-1 through a sealed bid process with notification to the direct abutters, and a minimum bid identified as Two Thousand One Hundred Dollars (\$2,100), in accordance with RSA 49-D:3 and 47:5**

#### **ON THE QUESTION**

Councilor Flood commented the parcel is nearly half an acre in size. That would enhance the value of an abutter very well. She suggested the possibility of a subdivision, the addition of a structure, e.g., garage, etc. She suggested the value has been established at \$5,600, and it would be worth something more than that. She would like to see the minimum bid price set at \$5,600.

Councilor Mahon suggested the Council recess to provide an opportunity to review information on the surrounding properties.

Approved: October 27, 2016

Posted: October 31, 2016

1 *There being no objection, the Council took a three-minute recess at 9:33 p.m.*

2 *The Council reconvened at 9:36 p.m.*

3  
4 **AMENDED MOTION made by Councilor Mahon and seconded by Councilor Boyd to authorize**  
5 **the sale of a Town-owned landlocked parcel known as tax map parcel 6C/208-1 through a two**  
6 **week sealed bid process with written notification to the direct abutters, and a minimum bid of**  
7 **Five Thousand One Hundred Dollars (\$5,100), in accordance with RSA 49-D:3 and 47:5**  
8 **MOTION CARRIED 6-0-0**

9  
10 **Minutes**

11  
12 Approve the minutes from the Town Council meetings of September 22, 2016.

13  
14 *The following amendments were offered:*

15  
16 Page 5, Line 7; replace “worm” with “worn”

17 Page 9, Line 7; “aesthetics” should not be capitalized

18  
19 **MOTION made by Councilor Boyd and seconded by Councilor Koenig to accept the meeting**  
20 **minutes of the September 22, 2016 Town Council meeting of as amended. MOTION CARRIED**  
21 **6-0-0**

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

24 **Comments from the Public** - None

25  
26 **Comments from the Council**

27  
28 Councilor Boyd stated the EDCAC met the previous evening. The business survey they are  
29 conducting was discussed. The committee was looking at a variety of ways to not only advertise the  
30 survey to the business community but also ensure we are reaching out to all of the businesses to make  
31 them aware that a survey exists and their feedback is sought. One of the avenues discussed was  
32 requesting the Town Manager include mention of the survey in her weekly report.

33  
34 Councilor Boyd commented the Fall Expo. was a quiet event due to unfavorable weather conditions.  
35 However, the event ran successfully.

36  
37 Councilor Mahon stated the Conservation Commission has an arrangement with the Nashua Regional  
38 Planning Commission to map trails. That has been somewhat delayed due to limited staff time as a  
39 result of an extensive regional mapping project they recently completed.

40  
41 A 60' unsupported bridge will be constructed in Grater Woods by members of the Commission.

42  
43 Councilor Flood stated the Art in the Park event was well attended. The area at the front of Watson  
44 Park is a bit bumpy. The Public Works Department is discussing improvements to that lawn area. She  
45 suggested that project include leveling of the area.

Approved: October 27, 2016

Posted: October 31, 2016

1 Councilor Koenig stated the Planning Board met the previous week. The main item that was addressed  
2 is what he believes to be the final piece of the Greenfield Farm section in north Merrimack. The  
3 Planning Board approved a 66-lot cluster sub-division, which had been held up for quite a long time  
4 because of access for sewer. An extension to the sewer line is being put in to reach out to that sub-  
5 division area.

6  
7 They did request two waivers; one to modify slightly the intersection approach to the internal road of  
8 the cluster sub-division, which was granted based on the fact that the amount of fill they would have to  
9 put in to raise the road to level to get the -2% slope away from the main road would have been  
10 counterproductive and not useful. Dropping it from -2% to -1.5% would still allow the water to drain  
11 away from the main road. The second request was to not have to set monuments around major pieces  
12 of the non-developable portion of the cluster development. The Planning Board denied that given the  
13 desire to be able to tell exactly where the right-of-ways and the edges of right-of-ways are on the roads  
14 around the property. The project received final approved.

15  
16 **Adjourn**

17  
18 **MOTION made by Councilor Boyd and seconded by Councilor Mahon to adjourn the meeting.**

19 **MOTION CARRIED 6-0-0**

20  
21 *The October 13, 2016 meeting of the Town Council was adjourned at 9:47 p.m.*

22  
23  
24  
25 Submitted by Dawn MacMillan