

Approved: December 4, 2014

Posted: December 8, 2014



Town Council Meeting Minutes

Thursday November 6, 2014, 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, and Acting Town Manager/Finance Director Paul Micali. Councilor Woods was excused.

Pledge of Allegiance

Councilor Dwyer lead in the Pledge of Allegiance.

Announcements

Town Offices and Transfer Station will be closed on Tuesday, November 11, 2014 in observation of Veterans Day.

Regular meetings of the Town Council will be held on Thursday November 20, 2014, December 4, 2014, and December 18, 2014 at 7:00 .m. in the Matthew Thornton Room.

The Annual Holiday Parade & Tree Lighting Ceremony is coming up on Saturday, December 6th. The parade will begin at 3:00 p.m. from The Commons Shopping Plaza at 515 Daniel Webster Highway. The parade travels down Daniel Webster Highway to Baboosic Lake Road and ends at Town Hall. Immediately following the parade will be the tree lighting ceremony with Santa Claus at Abbie Griffin Park, which will begin at approximately 3:45 p.m. This event is organized by the Parks & Recreation Department and the Merrimack Chamber of Commerce. For more information contact Parks & Recreation at 882-1046.

The Annual Badges vs. Hardhats Community Food Drive is underway. Drop off donated non-perishable items at the Police Department or Public Works Department now through January 1st. All donations are delivered to local food pantries to help families in need this holiday season.

The Merrimack Police Department's Citizen's Police Academy (CPA) is accepting applications for the next session beginning in January. The CPA meets once per week on Wednesday evenings. For more information visit our website at www.merrimacknh.gov/police, or contact Community Services Officer Rob Kelleher at 424-3774.

Comments from the Press and Public

Steven Tomasso, 146 Baboosic Lake Road

Requested a status report on the noise issue. Chairman Harrington stated the Town Manager has begun addressing the issue. She is on vacation, and expected to return shortly. When asked about a timeframe, Acting Town Manager Paul Micali stated the issue is on the agenda of the Town Manager who is in the process of gathering information. He noted work is also underway on the Town's Capital Improvement Program (CIP) and FY16 Budget. He suggested it is likely an update could be provided within the next week or two.

Councilor Dwyer commented in order for Mr. Tomasso to get relief, a member of the Council would have to initiate and champion the establishment of a noise ordinance. He stated he is not willing to cross that line, and remarked it is the type of ordinance that is rare in New Hampshire. He spoke of the varying components involved, e.g., enforcement, etc. The Town Manager may respond by providing the Council a report; however, it is only by the action of a member of the Council that such an ordinance would come to fruition. Another possible recourse would be through the court system. It was noted the Police Chief has looked into the issue and taken all action he could.

Mr. Tomasso responded he will continue to come before the Council. Councilor Dwyer welcomed him, and commented he did not want to leave him feeling he was being left hanging.

Councilor Rothhaus stated his belief the Town Manager will be in touch with Mr. Tomasso when information is available. He spoke of the opportunity to collect signatures on a petition and place the issue on the ballot. Acting Town Manager Micali stated the Council, as the legislative branch of government, is responsible for such issues. He added, in accordance with the Charter, non-money issues are not moved to the ballot.

Councilor Rothhaus stated his belief, a citizen obtaining 500 signatures, can bring an issue to the ballot. Councilor Mahon stated the ability exists with a sufficient number of signatures. It could either be brought before the Council to be addressed or placed on the ballot. Chairman Harrington remarked that is the type of information the Council is waiting for the Town Manager to bring forth. Councilor Dwyer stated his support of any issue being placed on the ballot if the required number of signatures is obtained. Chairman Harrington stated her agreement.

Mr. Tomasso spoke of the drastic impact to quality of life and value of his property. He noted there are other residents in town experiencing similar issues. Those individuals are afraid to speak up in fear of repercussions. He stated the problem is an easy one to fix; just say the word and the Police Department will address the issue. Councilor Harrington noted there is a process by which the Police Department would have to be given the authority.

Mr. Tomasso stated he is looking forward to a discussion with the Town Manager, and thanked the Council for the opportunity.

Recognitions, Resignations and Retirements - None

There being no objections, the Council went out of the regular order of business to take up Item #1 under New Business.

1. Martel Field Concession Building Re-Naming Request

Submitted by Suzanne Mailhiot

Town Council to consider a request to re-name the concession building at Martel Field after Officer Ed Pane.

Mr. Ryan Mailhiot introduced himself by stating he lived in Merrimack for 30 years, his Mother continues to reside in Merrimack, he was a police officer in Merrimack from 1998 - 2000. He

continues to work in law enforcement, and is currently a State Director for a softball association that has the privilege of using Martel Field during the summer months.

Before the Council was a proposal to rename the concession building at Martel Field after Officer Ed Pane. Officer Pane was a well-known and respected member of the Merrimack community and a dedicated officer of the Merrimack Police Department.

Officer Pane enjoyed playing software on the Merrimack Men's League where he also served as a board member. He had an ability to bring people together and make lasting friendships. As his illness progressed he was unable to physically play softball, but continued to be involved with the team and softball community.

Mr. Mailhiot requested, in considering the proposal, the Council remember Officer Pane's long-time, selfless, dedicated service to the Merrimack community and his love for softball. He thanked the Council for its consideration to make a permanent memorial site in honor of a man deserving of special remembrance.

Chairman Harrington clarified the concession building is not yet named. Mr. Mailhiot stated the field itself is named Martel Field; however, the concession building is not currently named.

Councilor Boyd noted a Resolution adopted by the Council in 2011, which created a policy and procedures for naming/renaming Town parks and facilities. Under Section 1C of that Resolution, it states in part "If the Town Council determines, or a request has been made that a Town park or other facility should be named or renamed, the Town shall solicit suggestions for names." It insinuates that there needs to be a process for naming the building.

MOTION made by Councilor Mahon and seconded by Councilor Dwyer that the rules be so far suspended as to waive the requirements of the Resolution governing the naming/renaming of Town parks and facilities. MOTION CARRIED 6-0-0

MOTION made by Councilor Boyd and seconded by Councilor Dwyer that the softball concession building at Martel Field be named the Sergeant Edward Pane Concession Stand, and that the Highway Department be tasked with erecting a suitable sign that is befitting for Sergeant Pane in the concession stand

ON THE QUESTION

Councilor Boyd remarked, in her letter, Ms. Mailhiot talked about how well-known Sergeant Pane was. He is aware Sgt. Pane mentored a good many police officers, and this was his way of being able to kick back and socialize. He stated his opinion the naming of the building is a befitting tribute.

When asked, Mr. Mailhiot stated he would enjoy the opportunity to work alongside the Highway Department, and that the league is willing to fundraise to help with the cost of the sign. Councilor Mahon commented the Council generally hasn't tasked the Public Works Department with such signage, and remarked there is likely a formal format that would be preferred. However, it is typically left to the individual groups to put together a proposal. Mr. Mailhiot questioned if the league should present a proposal. Chairman Harrington suggested he coordinate with the Town Manager.

MOTION CARRIED 6-0-0

The Council returned to the regular order of business.

Appointments

1. Fluvial Erosion Update

Submitted by NRPC Senior Environmental Planner Jill Longval

Share results of Fluvial Erosion study and provide the Town Council with an update on hazard mitigation plan

Ms. Jill Longval, Senior Environmental Planner, Nashua Regional Planning Commission (NRPC), spoke of the draft Hazard Mitigation Plan included with the agenda. The Town's last plan was updated in 2010. FEMA requires municipalities update plans every 5 years in order to maintain eligibility for Federal mitigation grants.

Ms. Longval spoke of having worked, over the past year, with a Hazard Mitigation Team, to update the plan. The team consists of representatives from Fire, Police, Public works, and Community Development departments as well as the Merrimack Village District.

The primary differences between the current plan and the update; no longer include manmade hazards (FEMA desires the plan exclusively address natural hazards), no longer including preparedness actions, e.g., generators (another directive from FEMA), and a grant that came down through the New Hampshire Department of Environmental Services (NHDES) to include a fluvial erosion hazard study. That is simply erosion that is caused by the wearing away from rivers.

Ms. Sara Siskavich, GIS Manager, NRPC, noted the NRPC came before the Council in August of 2013 to announce the start of the fluvial erosion hazard project, and the hazard mitigation plan update. Fluvial erosion is essentially the wearing away of the riverbank by flowing water. It is a natural process and most powerful during flood events. The project is funded by NHDES through a FEMA pre-disaster mitigation grant. The data was delivered in September 2014 after a very wet field season in 2013. Some field work was suspended during that summer because of unsafe working conditions, e.g., high water.

In our region, the study analyzed river reaches in the Souhegan and Piscataquag Watersheds. There was a field component as well as background research utilizing topographic materials, aerial photos, and historic archives. One of the main deliverables of the study is depicted on the map provided; shaded zones which characterize lands most vulnerable to erosion. The zones are relative measures that range from very extreme, which characterizes areas that are already experiencing considerable erosion and the likelihood of further erosion in those areas to the opposite end of the spectrum where there is very low sensitivity; rivers or streams are not likely to change at all.

Another portion of the project was the assessment of culverts. In Merrimack three (3) were assessed. Culverts associated with bridges or through wetlands were not part of the assessment. Culverts were rated on a scale of fully compatible, which meant there was a low risk of failure and replacement was not expected over the lifetime of the culvert to the opposite extreme, which would be fully incompatible; high risk of failure, undersized or poorly aligned with the stream and, when replaced, a

larger or redesigned structure is recommended. The access road over Baboosic Brook was rated mostly compatible. Bean Road over Baboosic Brook culvert was partially compatible, and the Bedford Road over Baboosic Brook culvert was mostly incompatible.

Ms. Longval requested Councilors review the plan and provide input prior to December 1, 2014. The plan has been provided to the Hazard Mitigation Team, which is currently reviewing it. FEMA requires inclusion of mitigation actions along with the associated estimated cost and an implementation table. FEMA does not require the Town to actually implement the mitigation actions as a condition for approval.

Ms. Longval stated input received would be incorporated into the plan and submitted to FEMA on December 1, 2014. FEMA will conduct a review and determine whether the plan has met all criteria. When they decide it has they will send what is called an approval pending adoption. At that point, it will come back to the Council, which can adopt it at a regular meeting. The signed adopted letter would be sent back to FEMA who would then issue a formal approval. At that point, the plan is current for the next 5 years.

Councilor Dwyer spoke of the amount of work that went into the 98 page report. Ms. Longval noted a draft version of the plan is located on NRPC's website.

Councilor Boyd noted language on page 58, which states "Since 1940, there have been 14 earthquakes centered in NH with a magnitude of 3.0 or greater and only two earthquakes with a magnitude of 5.0 or greater. There have been no recorded earthquakes to-date centered in Merrimack, however, one could occur." He questioned whether the statement indicated there are specific faults within Merrimack that are consistent where there could be a seismic shift where an earthquake could be centered in Merrimack. Ms. Longval responded "No; there aren't any identified faults, but it is not out of the question. FEMA likes you to cover your bases. Any time that there is even the possibility that mitigation action could occur you have to include language such as that."

Councilor Mahon stated his belief the Wildcat Falls area was considered to be a fault zone. Ms. Longval responded she has not seen anything about that in her research, and hadn't included it in previous plans. She stated it to be something she could look into. Chairman Harrington noted the library now has a seismic graph reader.

Councilor Boyd offered the following edits: 1) Page 4, David Deane is the President of the Board of Aldermen in Nashua and 2) Page 5; should read Thomas More College not Thomas Moore College.

Councilor Boyd spoke of work having been done on the culvert on Bedford Road after the 500-year flood event and questioned whether addressing the culvert failure was temporary in nature. Acting Town Manager Micali remarked when dealing with FEMA they will only allow for replacement of what is in the ground (nothing larger). What was in the ground was replaced. The Public Works Department went through and did the Wire Road Bridge, and, as the water flows to the Merrimack River, Bedford Road, McGaw Bridge, and Route 3. The three culverts are all on the State's Bridge Aid Plan over the next 3-5 years. All of those culverts will be upsized so that they are compliant.

2. Bedford-Merrimack Open Road Toll Project / Transportation Improvement Plan Update

Submitted by NRPC Assistant Director/MPO Coordinator Tim Roache

To provide the Town Council with an update on the Bedford-Merrimack ORT project and the TIP.

Mr. Tim Roache, NRPC Assistant Director/MPO Coordinator, informed the Council the Ten Year Plan was signed by the Governor on August 1, 2014. As is typical, the New Hampshire Department of Transportation (NHDOT) focuses on the first four years that make up the Transportation Improvement Program (TIP). The NRPC has worked with the NHDOT to make up a regional version of that to ensure NRPC communities are aware of what is in there and that their desires and needs are being met. In the September/October timeframe a review was being conducted on project information proposed for the TIP. The toll project was not pushed down from NHDOT, which prompted questions. After additional research the NHDOT responded it is not funded with Federal dollars, and questioned whether it is believed to be a regionally significant project. If not funded with Federal dollars and not regionally significant it does not have to go into the regional TIP.

Mr. Roache stated his reaction to have been it is regionally significant. At that time, he was not sure if they were talking about moving the project or keeping it in Bedford. He elevated the conversation to include Federal Highway within the past few weeks. They came back and concurred they believe it to be a regionally significant project by their definition. They define regionally significant as a transportation project that is on a facility which serves the regional transportation network and would normally be included in the modeling of the metropolitan transportation area's road network.

Mr. Roache stated his opinion there is good agreement it is regionally significant, which means it will go into the TIP. He has been assured, via e-mail that the project is not moving from its current location. They plan to take the Bedford toll plaza as it is today and convert it into a facility that is similar to what is seen in Hooksett. Timing looks to be 2016-2018 for construction years. Merrimack is included in the discussion because as you put the open road tolling in and the road tapers back down to meet the existing alignment it comes into Merrimack.

Councilor Dwyer remarked, had it moved, there was the possibility another toll booth could have been taken down. Mr. Roache commented those were conversations that were happening in the ten-year process that were related to that idea. Councilor Mahon stated it is in the Ten-Year Plan that it is moved from Bedford to Exit 10; Merrimack would be given Continental Boulevard, as is, and will take away the tolls on Exit 11. Councilors Dwyer and Boyd stated their impression that had been removed from the plan. Mr. Roache stated his belief it was taken out, in the signed version. Councilor Mahon stated the last time he looked was prior to August 1st; however, he had not noted a change. He stated he would appreciate receiving copies of the e-mails from NHDOT that state it will not be moved. Mr. Roache agreed to provide copies.

Councilor Dwyer commented if they don't move it and they do the open tolling in Bedford, then it is pretty much set in stone that it is done. Councilor Mahon stated it is turnpike money that finances it, and that is contingent upon a toll increase at some point. That some point may be a ways off given the mood of some who were elected in the last election towards the gas tax, etc. even though the tolling is solely in the hands of the Executive Council. When asked, Mr. Roache stated it is included in the plan for 2016-2018. The notes in the plan say using existing toll revenue.

Councilor Rothhaus questioned the associated cost. Mr. Roache stated the Ten-Year Plan identifies \$18 million. E-mails he has received from the NHDOT suggest updated estimates that could bring the project down to as low as \$10 million and even lower in some cases.

Councilor Rothhaus commented within the past five years the Hooksett tolls have been renovated, the airport access road remodeled, etc. One would have thought that someone had that figured out at some point. He stated his frustration and his opposition to the move and in general as he believes it to be a colossal waste of money.

Mr. Roache remarked the fact we now have it in the TIP gives all of the communities in the region a chance to have a voice in the project. Councilor Mahon remarked when NHDOT came before the Council to discuss the removal of Exit 12, they pointedly raised the issue of moving the toll plaza down from Bedford to Merrimack. He remarked there are other things going on, and the real issue is keeping in mind the existing tolls. This means that exit 11 stays.

Mr. Roache stated some of the other communities belonging to the NRPC have said, in their opinion, they believe the widening should go first. That has been the position of the Policy Committee for NRPC; prefer to see the widening happen before any new toll plaza or reconfiguration. They recognize they really don't hit congestion at the toll, it is just south of the toll. That is the message he believes they will convey to NHDOT.

Councilor Koenig questioned if there will be a time for discussion about the need of the building. He questioned how the \$10-25 million expense will be regained noting additional traffic will not be gained as a result of modifying the toll. He stated agreement the widening of the road has to happen before they spend anything on expanding the toll booth that was just expanded a few years earlier. If there is any opportunity to discuss that or ask the question of how the expense will be recaptured, he would like to be made aware.

Mr. Roache stated the NRPC has invited Turnpikes to come to the Executive Committee meeting at NRPC on November 19th. He has not yet received a response. In general terms, the NRPC will be releasing its TIP for a thirty-day commented period on November 14th followed by a public hearing on December 17th.

Councilor Dwyer questioned whether the NRPC would be advocating for that position, and if the belief is the widening should take place before open road tolling in Bedford. Mr. Roache stated the NRPC could provide an opinion. He stated his personal opinion the issue is that of the backup to the south of the toll plaza. In terms of the process and his professional opinion, he is a technical service to the communities and provides them with information. If asked for his opinion he can give it, but ultimately it is their decision; the voice of the communities is what the NRPC is looking to ensure is heard. He provides the data and information to the communities to make their decision, and the last time it was discussed they had that opinion. Those at the policy level within the NRPC say widening is more important.

Chairman Harrington questioned whether the Council wished to express its opinion in a formal manner. Councilor Mahon stated two representatives of Merrimack will participate in the process; Tim Thompson, Director, Community Development and Kyle Fox, Deputy Director, Public Works

Approved: December 4, 2014
Posted: December 8, 2014

Department. The Council could convey its interest to them and allow them to officially represent the Council's position.

The consensus of the Council was that Merrimack's representatives be made aware of the Council's position and tasked with presenting it.

Councilor Mahon requested attention be paid to the number of vehicle miles traveled and number of vehicles that utilize the road. As they go down so does toll revenue.

Public Hearing – None

Legislative Updates from State Representatives

State Representative - Elect Chris Christensen stated a willingness to be available to the Council. He commented committee assignments are not yet known; however, he does not believe there will be representation on the Municipal and County Committee. He stated a willingness to watch their bills and bring them to the attention of the Council.

Town Manager's Report

The Annual Halloween Party was held on Friday, October 24th and was a tremendous success with more than 600 people in attendance.

The Merrimack Police Department wants to remind citizens that the winter parking ban goes into effect November 15th. Between the hours of 1:00 a.m. and 6:00 a.m. there is no parking on Town streets. Let's all do our part to keep the roadways cleared in the event of bad weather so that Public Works can properly clear and treat road surfaces.

Tax Bills are in the process of being mailed out and are due on Monday December 8th. Our tax rate is \$24.09; up \$0.19 compared to last year. Residents with questions related to their tax bill should contact the Assessing Department at (603) 424-5136 in regards to assessments, exemptions, credits, billing addresses, or abatements. For tax payment questions, please call the Town Clerk/Tax Collector's office at (603) 424-3651.

Acting Town Manager Micali clarified comments made earlier in the evening relative to a Petition Article by stating a citizen could do a Petition Article, but as it relates to a non-money issue, it has to come through the Town Council to be placed on the Warrant. It is not a direct placement with a particular number of signatures. The Town Council would determine whether to address the issue at a meeting or put it before the voters.

Consent Agenda - None

Old Business

1. 5 John Lane Tree Removal Request – Follow Up from the 9/25/14 Town Council Meeting
Submitted by Finance Director Paul T. Micali

The Town Council to be presented with the findings and recommendation received from the Town's forestry consultant resulting from a site walk-through of Town owned parcel 4C/255 with response to the tree removal request previously discussed during the September 25, 2014 Town Council meeting.

Acting Town Manager Micali stated, as requested, he contacted the Town Forester, and the property was walked. A question that arose during the last meeting was why the property was retained. He located a note that stated potential athletic field usage. The property sits across the street from the Martel softball field and Tim Gibson baseball and soccer fields.

Councilor Mahon stated Tim Tenhave, Chairman, Conservation Commission, reminded him that property was designated in the Athletic Fields Needs Committee Study Report as an appropriate place for a softball field at some point in time. ***Please see attached addendum for clarification*** The property is approximately 6.5 acres in size. The Forester has stated it is a small project for commercial loggers. The potential is great because there are some pretty nice growth trees of 100-125'. He did a quick review of the property and believes the Town could gain \$1,000 - \$3,000 through a selective cut/harvesting. It is late in the season to go out to bid. The Forester has stated his belief the ground could handle an early spring cleanup. He believes going out to bid at that time of year would result in a greater response.

The Forester also made mention because of the way the property is situated it would not be unusual for residents in the area to approach the contractor with a request to remove additional trees. The Forester has stated a desire for direction with regard to whether the contractor would be instructed to remove only those trees that are marked or that requests for additional trees could be honored up to an identified area leading up to but not on private property.

Acting Town Manager Micali stated the property owner has had his property surveyed. It appears all of the trees desired to be removed are on Town property (roughly 30-50). Chairman Harrington remarked she had questioned whether such a project would be beneficial for the health of the forest, and asked if that was discussed with the Forester. Acting Town Manager Micali stated there was discussion about that; however, the area is not a dense forest. It was noted with the removal of a 100-125' foot trees undergrowth will start growing up again.

Councilor Koenig questioned whether the harvesting project would consist of the entire 6 acres, and was told it would. It would be a selective harvest. Councilor Koenig questioned whether it would include the removal of all of the trees requested by the property owner at 5 John Lane. Acting Town Manager Micali stated the Forester looked at the trees and noted there are a few in that group that he would have normally left in a selective cut; perhaps 10 in total. If the Council desires, he would remove all of the requested trees.

Acting Town Manager Micali noted when coming off of Atherton Road onto John Lane there is a bit of a dip in the property. Although not shown on the maps as wet, during the site walk it was noted the area is wet. The Forester was told to avoid that area.

MOTION made by Councilor Mahon and seconded by Councilor Dwyer to authorize the timber project

ON THE QUESTION

Councilor Dwyer remarked the request was simple, the property was reviewed by the Town Forester, and enough information has been provided by the management team to indicate the project is feasible. He stated his support of the motion.

Councilor Mahon noted the other opportunity this presents is the possibility of an additional athletic field. He noted Tim Tenhave also made him aware the area has sandy soil, which may be of use. He commented there may be the need to come up with an alternative to what is on O’Gara Drive, and this property may be a potential location to develop another recreation facility to stay within the parameters of the grant the Town received in the ‘70s.

Councilor Rothhaus asked for clarification of how the area will be left at the conclusion of the project. Acting Town Manager Micali stated he cannot guarantee 100% of the brush would be removed. It would be cleaned to the best of the ability of the equipment utilized. Councilor Rothhaus commented in the long term, such projects work out well; however, in the short term the appearance is not always the most desirable.

Chairman Harrington stated her opposition to the motion. She stated her reasons to be that the property owner at 5 John Lane purchased the property knowing the trees were present, and a concern with setting precedent.

Councilor Koenig spoke of the Forester visiting the site and recommending a selective cut. He is supportive of the Town capturing what little revenue it can while, at no cost to the Town, ensuring the property is maintained and managed well. If necessary to utilize the site for an athletic field or something similar, there would be that much less work that would need to be done on the site. He stated his opinion it is a good idea to have a selective cut done and advantageous that, in the process, it will be of assistance to a resident.

Chairman Harrington responded the motivation was not to determine the benefit of selective cutting. It was a request to look to see what would be involved in considering the request made for removal of trees. Councilor Koenig remarked he believed when the Council sent the Forester to view the site it was for the purpose of reviewing the health of the property and determining if a selective cut would be appropriate. He thought the intent was to review the area to see how it could be handled and if it didn’t make sense to do selective cutting in there the Council would not recommend any cutting. From the report, it appears the Forester believes selective cutting to be an appropriate direction to take at this point, that there are sufficiently grown trees to have value whereby the project could pay for itself and would help maintain the property at the same time. The fact that it helps an individual out, he views as sort of a bonus.

With regard to setting precedent, Councilor Dwyer commented the property is located near the Highway Department and existing athletic fields. It is Town owned land. The next person that may come before the Council would have a completely different circumstance. He stated his opinion it is

okay to look at each parcel individually. He does not believe this action would bind the Council in the future.

Councilor Koenig suggested the project wait until spring, which would also give neighbors a chance to respond should they care to.

Councilor Boyd stated he is not concerned with setting precedent, but with optics as he believes the cutting will result in a blight the neighbors will have to look at. Councilor Dwyer stated his opinion blight is not a good characterization of what the appearance of the area would be after a selective cut. Councilor Boyd rephrased his comment by saying the area will go from something that is aesthetically pleasing to something that is not. Councilor Dwyer spoke of a major selective cut that involved sixty acres, which can be viewed on Woodward Road. He commented that is the street he lives on, and he believes it looks fine.

Councilor Rothhaus commented he is pleased the project will not take place immediately as he believes neighbors should understand this will occur.

When asked if a notification requirement would have to be added to the motion, Acting Town Manager Micali stated that could occur by consensus of the Council. Councilor Mahon questioned, if formal notification were made, would it indicate the action would take place unless objections are made known. Councilor Dwyer stated the desire to notify abutters and allow the opportunity for input to be provided.

MOTION CARRIED 4-2-0

Councilors Boyd and Harrington voted in opposition

Acting Town Manager Micali requested clarification on the desire to formally notify abutters via a letter from the Town Manager, and the direction from the Council with regard to any requests that may be received, during the project, for additional trees (on Town property) to be included within the project.

The consensus stated was that requests for cutting of trees in addition to those the Forester has identified would have to come before the Council. With regard to notification, the will of the Council was for a notification to be mailed to abutters informing of a selective cut that will occur and identifying a timeframe.

Don Turner, 5 John Lane

Requested the abutter notification be carefully worded to identify what will occur as a selective cut.

2. Highway Garage Discussion

Submitted by Town Council Chairman Nancy Harrington

Town Council to discuss the options for the proposed Highway Garage.

Chairman Harrington stated a request was made at the Council's last meeting, for the item to be placed on a future agenda. Discussion began on September 11th when a motion was made and carried to proceed with the intent to place the issuance of bond for the Highway Garage on the ballot in April. At

the October 23rd meeting, during discussion of the budget, the possibility of establishing a Capital Reserve Fund was raised. The item was placed on the agenda for additional discussion/clarification.

There being no objection the Council recessed at 8:21 p.m.

The Council reconvened at 8:27 p.m.

It was noted any action/motion for bonding would have to take place at the January 26, 2015 meeting.

Acting Town Manager Micali stated one (1) member of the public has stated an interest in participating on a committee. He provided a handout, which identified an approach where the Town would have an Architect, Construction Manager, and volunteer committee. It identified the committee's involvement in the pre-design phase, pre-bond phase, bond campaign phase, and eventually ribbon cutting. He noted the handout was provided to him by a construction manager who has done several bonded projects throughout the State. It was presented as a good document to review.

Acting Town Manager Micali stated there to be two (2) outstanding bonds; one with an annual cost of approximately \$300,000 and a final payment due in 2018 (Greens Pond land acquisition) and the other with an annual cost of approximately \$150,000 and a final payment due in 2023 (drainage).

There has been discussion of establishing a capital reserve fund for the \$3.3 million rather than bonding the cost of the project. If the Town were to appropriate \$500,000 into a capital reserve fund for a period of six years, the remainder to be bonded would be \$1.2 million based upon an inflation factor (cost of construction) of 5% per year for a total of \$4.2 million. If taking this direction, in three years the Greens Pond bond would be paid off and six years out from 2015 there would be three payments remaining on the drainage bond (roughly \$475,000). Bond payments would be doubled during those three years.

Comparing bonding versus funding; if you appropriate \$500,000 over six years the total would be \$3 million and a breakeven would be putting \$250,000 into the capital reserve fund for those six years. Acting Town Manager Micali commented if the Town was to go out to bond the following day, based on numbers received and a 20 year bond, costs would be about \$5.4 million inclusive of interest. If \$500,000/year were appropriated over a 6-year period and \$1.2 million bonded, the total cost would be approximately \$5 million.

Councilor Koenig stated his opposition to the establishment of a capital reserve fund. He questioned what the annual payment would be for the first few years if the project were bonded (20-year bond). Acting Town Manager Micali responded it would be in the area of \$300,000. Councilor Koenig commented by appropriating funds into a capital reserve fund, for the first six years, the taxpayers would be charged almost twice as much and would not have the benefit of the new highway garage. If the project were bonded the cost would be \$300,000 in the first few years and would decrease over time. Councilor Koenig stated his understanding bonding the project would be at a greater cost overall.

Acting Town Manager Micali noted the impact on the tax rate for bonding would be \$0.10 (years 2-5), and in the scenario of appropriating funds to a capital reserve account, the impact for the first 6 years would be \$0.17.

Councilor Dwyer stated his agreement with comments made by Councilor Koenig noting he would not be willing to allocate \$500,000/year into a capital reserve fund. He stated a desire to persuade the Council to place the bond issue on the ballot once again. He stated his opinion it is in the best interest of the Town to know the direction to be taken as quickly as possible. If the support of a super majority cannot be achieved the second time around, the Council has an automatic green light for plan B. That means the gas canopy is coming up, a wall is taken down and new locker rooms installed, cruisers are sent elsewhere for repair, the building is made safer, etc. He remarked members are all aware of the need and the importance of doing the right thing as fast as possible. It should not wait six years and should not depend on what other entities may be placing on the ballot.

Councilor Mahon questioned the rationale for \$500,000/year. Acting Town Manager Micali responded anything less than \$250,000/year would not be worthwhile and would result in prolonging the project more. The cost of not doing a bond and building the facility is between \$165,000 and \$200,000 per year because of inflation on the construction.

Councilor Rothhaus stated his agreement with remarks made about a capital reserve fund. He is of the opinion capital reserve funds should be saved for maintenance costs, e.g., the SCUBA equipment the Fire Department purchases, etc. If desiring to put a small amount of money aside as seed money for studies, etc. he would be supportive of that. He remarked he is uncertain there is sufficient time in advance of the Town Meeting to gather the information needed to provide a clear and concise understanding of the project and associated costs. He stated a willingness to go forward; however, believes in order to present the project in the best light it would have to be the following year. Chairman Harrington commented the committee would be charged with preparing such information. Councilor Koenig stated a few members of the Council met with a potential construction manager and several months ago tried to bring forward a proposal to set aside \$25,000 to be able to pay a construction manager to get this job done. The Council decided not to do that. At that time, the Council discussed moving forward with a committee to do some of this work on our own and try and bring it forward. He had agreed with that, but is agreeing 100% with what is being said now. He believes the opportunity has been lost. There has been too much negativity coming out of the Council, too much indecision, it is too late, and there is no funding for it to try to promote this. There is the need to plan to do it full bore, but he believes it will be necessary to wait a year in order to be able to fully present the proposal and bring it before the voters. Although he agrees there is no time to delay, he does not believe putting \$500,000 into a capital reserve fund is the right way to fund the project. He does believe there is the need to do the necessary work and get the project laid out correctly for the citizenry. He stated concern every year that goes by the costs will only increase.

Councilor Boyd stated his agreement with remarks made by Councilors Dwyer, Koenig, and Rothhaus. The window is not large enough to be able to make the argument to the voters. He is supportive of putting forward a full-throated campaign and place the bond issue on the ballot a year from now.

Councilor Dwyer stated a desire for people not to forget how hard the issue was worked prior to the first vote. Although the issue passed, it was not by a super majority. The bond issue was for \$3.5 million. It will never be that close to that price again. He asked the Council not to be afraid to place it on the ballot again. If it doesn't pass it is not the end of the world; we will take what we have and make it better.

Councilor Boyd spoke of \$600,000 for a new fire station. He noted the City of Keene consolidated their Highway and Public Safety departments into one large building. If really sincere about wanting to improve the highway garage, and we have talked about a fire station, then waiting a year would allow for such conversations to take place. Councilor Dwyer remarked if considering combining the two it would be a \$10 million project and the \$600,000 would be seed money alone. Councilor Boyd responded he does not disagree, but almost feels as though the conversation has to take place. Councilor Dwyer remarked that topic was brought up at a retreat a few years ago, and the Council kind of set it in stone that the Highway Department is never moving; Turkey Hill Road was a long-term decision. The idea of a combined Highway Department/Fire Station doesn't work anymore. The decision was made a few years back to prioritize things and it was said the Highway Department was going to stand alone on Turkey Hill.

Councilor Boyd responded he remembers the conversation, but listening to the remarks made this evening he gets the sense they're looking at 2016, to him it almost begs to have the conversation. Councilor Dwyer commented meanwhile the building is in horrible shape, and there may be the need to make decisions more immediately about sub-contracting work based on what has been discovered.

Councilor Mahon stated the desire to receive a spreadsheet that lays out what the expense is and what the potential expense is over the period of time being discussed. He needs to see the numbers to be able to make the comparisons and ask the questions about what went into coming up with those numbers. He suggested some of the voters may have the same issue; they don't have that information in front of them. Councilor Dwyer remarked you can't get any more visual than showing the costs and the impact on the tax rate. That information was stated. The voters are not looking to be accountants, they don't need it any deeper than that. They want that bottom line number, and they were provided that.

Chairman Harrington remarked what has been said in reflection is that the information could have been made visually clearer. Councilor Dwyer stated he thought they gave it everything they had, and he does not want it to be squandered. The super majority is tough to get. It is a huge threshold, and one he predicts will never be met.

The consensus was not to establish a capital reserve fund.

When asked for his opinion on putting the issue before the voters this year, Councilor Mahon stated making a decision, at this time, would be premature. Part of the responsibility of the Council is to look at everything that has to be addressed within a budget and then make a choice as to what will and will not be proposed to the voters. He suggested the Council wait until January to make a decision. He reiterated his desire to have the financial information in front of him to review.

Councilor Dwyer asked Councilor Mahon, if he had numbers in front of him that he found acceptable, would he want to see the issue back on the ballot. Councilor Mahon responded today he does not know because he does not know what will be seen over the next couple of months in terms of what has to be addressed through the budget and how the budget process will be handled. Although he has a fairly good idea of the choices that will have to be made there is a lot that can change in that period of time.

Chairman Harrington spoke of financial information provided and stated her belief there would not be much of a difference from the previous data provided. Councilor Mahon stated his opinion the Council has not been provided with a longitudinal look that considers construction cost inflation over the period of time being discussed and how that balances out against what we're looking at in terms of continuing debt service between now and the expiration of the bonds and what that impact is on the tax rate. Chairman Harrington remarked that information was provided the first time the issue was placed on the ballot. Councilor Mahon stated that level of detail was not provided; the Council had information on what the bond would cost over its life, but there was no comparison to what it would be if the project were postponed, etc.

Acting Town Manager Micali stated he understands what Councilor Mahon desires for detail, and can provide that to the Council. He remarked the decision does not have to be made at this time, it is pretty clear some want to push it off a year because of the matrix and others want to go back at it with additional information. He spoke of the Town Manager's budget being presented in December, which will lay everything out. He stated he could have the requested information available during the presentation of the Capital Improvement Plan. For tonight's meeting he was asked to provide detail on the impact of utilizing a capital reserve fund versus bonding the project outright. The decision has been made that such a direction is not desirable.

When asked, Acting Town Manager Micali stated the amount that will be reflected in the budget for debt service for the bond expiring in 2018 is \$303,000 and for the bond expiring in 2023, \$158,000.

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

2. Advisory Fees for Trust Fund Management

Submitted by Trustees of Trust Funds Chairman Chris Christensen

Town Council to consider authorizing the Trustees of Trust Funds to charge any expenses incurred in a contractual arrangement for the management of any capital reserve funds for which they have been granted custody pursuant to RSA 35 against the capital reserve funds involved.

Chris Christensen, Chairman, Trustees of Trust Funds, stated there are three Trustees elected for rotating three-year terms. The Trustees manage capital reserve funds, permanent funds, and annually set the investment policy for the Town (includes capital reserve funds). Last year HB297 passed the Legislature. One of the provisions of the Bill is that the Trustees come before the governing body for authorization to charge management fees against the particular capital reserve funds.

The process started in the early '90s when the State created the Public Deposit Investment Pool, which was a vehicle to invest community funds and earn a certain amount of guaranteed income. That allowed the pool to receive a management fee of 20 basis points. Under that same law management fees were allowed to be paid to a mutual fund company in part because those fees were sort of intertwined in the whole investment process. At that time, the law was silent on what would occur if a bank managed the funds. Because the law was silent, management fees were paid out of income.

Mr. Christensen stated when he came on board the capital reserve funds were being managed by Merrill Lynch. Approximately two years ago Bank of America, which owned Merrill Lynch, decided they were no longer going to be in the municipal funds business. As a result Cambridge Trust is now

the investment advisor for the capital reserve funds. They are paid a management fee of 25 basis points.

Mr. Christensen noted the Council was provided with a Resolution, which would provide the authority to the Trustees of Trust Funds to charge any expenses incurred in a contractual arrangement for the management of any capital reserve funds for which they have been granted. He remarked in some cases bills specify language for certain actions. This bill did not include such language. Acting Town Manager Micali has conducted the necessary research and provided the required language.

Councilor Koenig questioned what would occur if the Council did not to pass the Resolution. Mr. Christensen responded the Town is responsible for the expenses of the Trustees; therefore, the costs would have to be paid out of the general fund. Councilor Koenig questioned what would change from what occurred last year. Mr. Christensen stated instead of paying the costs out of income it would have to come out of the general fund. Costs were paid out of income last year. When asked why that would not simply continue to occur, he stated the law changed and now states the requirement for the governing body to authorize expenses being paid from the capital reserve funds. Councilor Koenig questioned the consequences of expenses being paid out of the capital reserve funds without authorization by the governing body.

Acting Town Manager Micali stated the auditors will be requesting the Resolution. If such a Resolution is not available, the auditors will be looking for the bill paid by the Town. If that cannot be produced it could result in the auditors giving the Town a management letter and make that material a misstatement as has been the case in years past with the trust funds. Another result could be that the Attorney General, who oversees the trust funds, could come after the Town.

Councilor Koenig spoke to specific language within the Resolution that states, if passed, the Council may not rescind it for five years. He questioned the rationale behind such a statement/requirement. Mr. Christensen stated he cannot identify why the requirement is for five years rather than some other period of time; however, understanding how the management company would be paid provides for a better business relationship between the management companies and the Trustees/Town. Councilor Koenig stated his difficulty is with a specific time period being legislated.

Mr. Christensen stated the Bill went through the Municipal and County Government Committee. He was not present for that particular part of the discussion. He cannot speak to why the committee chose a five-year period other than to say there is the need for some stability in the contract. He noted management companies can change at any time, the law is with regard to how a management company is paid. Councilor Koenig questioned why the management company would be concerned with where the funds come from. Mr. Christensen remarked, if expenses were paid out of the general fund and there was no line item in the budget in a particular year and the Trustees were not authorized to pay the cost, the scenarios brought up by the Acting Town Manager would come about as there would be no mechanism in place to pay the cost.

Councilor Dwyer stated his opposition. He stated his opinion the bill itself is sloppy, the prior method was working, and now it is being legislated. Acting Town Manager Micali remarked, technically if the law is silent on an issue you are not allowed. You have to be given permission by the Legislature to do something. The reason for a five-year timeframe is to provide for a consistent method of payment for a period of time. He commented the individual who helped draft the bill is in the municipal arena for

investing of capital reserve funds. His desire was for the language to read indefinitely. The final language was a concession.

Chairman Harrington stated her understanding the Resolution would simply codify current practice. Mr. Christensen stated that to be correct. Mr. Christensen noted the Trustees manage funds for the school district and village district as well as the Town. He stated his uncertainty towns that have been paying fees out of their general fund have charged the cost back to the other entities such as the school district.

When asked for the dollar value, Mr. Christensen stated he would have to sit down and figure that out. Councilor Dwyer stated it to be in the ballpark of \$5,000 - \$7,000/year, all inclusive. When asked, Mr. Christensen stated there to be roughly \$5 million in Town funds, \$3 million in school district funds, and less than that in the MVD. The total is approximately \$10 million.

Councilor Koenig stated his preference to sign the Resolution and have the costs come from the capital reserve funds.

MOTION made by Councilor Mahon and seconded by Councilor Boyd to authorize the Trustees of Trust Funds to charge any expenses incurred in a contractual arrangement for the management of any capital reserve funds for which they have been granted custody pursuant to RSA 35:9-a II against the capital reserve funds involved. Such authority shall remain in effect until rescinded by the Town Council, and no vote by the Town Council to rescind such authority shall occur within five (5) years of the date of this original authorization. MOTION CARRIED 5-1-0

Councilor Dwyer voted in opposition

3. Repurchase of Tax Deeded Property

Submitted by Finance Director Paul T. Micali

Town Council to clarify the vote taken during their October 23, 2014 meeting to approve the repurchase of recently tax deeded property, at tax map parcel 6A-2/161, for \$60,000 for back taxes, interest, penalties and fees as required pursuant to RSA 80:80 III and Article 66-1 of the Merrimack Town Code.

Acting Town Manager Micali noted at its October 23, 2014 meeting, the Council voted to “allow the repurchase of recently tax deeded property tax map parcel 6A-2/161 for the repurchase price of all back taxes, interests and costs, pursuant to RSA 80:80 III and Article 66-1 of the Merrimack Town Code”. To provide clarity, the Town’s Attorney has requested the word “penalty” be added to the motion as well as the dollar amount of \$60,000.

MOTION made by Councilor Koenig and seconded by Councilor Boyd that the Town Council authorize the approval of the resale of tax map parcel 6A-2/161 for \$60,000 for back taxes, interest, penalties and fees as required pursuant to RSA 80:80 III and Article 66-1 of the Merrimack Town Code. MOTION CARRIED 6-0-0

4. Property Tax Deed Re-Conveyance

Submitted by Finance Director Paul T. Micali

The Town Council to consider the approval of deeds for the re-conveyance of tax-deeded property located at 310A Baboosic Lake Road.

Acting Town Manager Micali stated in 2003 the property was taken for taxes.. The owner subsequently paid the tax bill. It was in a trust at that time. When the property was deeded back, it was deeded directly to an individual not the Trust. In order for the property to be sold the requested action has to occur.

MOTION made by Councilor Boyd and seconded by Councilor Mahon to issue a 2003 Corrective Deed, which clarifies that the property is re-conveyed to the Trustee of the Trust on tax deeded property, tax map parcel 6A-2/161. MOTION CARRIED 6-0-0

MOTION made by Councilor Boyd and seconded by Councilor Mahon to issue the current 2014 Reconveyance Deed to the successor Trustee of the Trust on tax deeded property, tax map parcel 6A-2/161. MOTION CARRIED 6-0-0

Minutes

Approve the minutes from the October 23, 2014 Town Council meeting.

The following amendments were offered:

Page 9, Lines 24, 25, and 47; put quotation marks around the words “not to exceed”
Page 10, Lines 7, 12, and 13; in instances where cents are identified proceed the amount with a “0”, e.g., \$0.11.

MOTION made by Councilor Mahon and seconded by Councilor Boyd to approve the minutes of the Town Council meeting conducted on October 23, 2014 as amended. MOTION CARRIED 6-0-0

Comments from the Press - None

Comments from the Public - None

Comments from the Council

Councilor Boyd reminded the viewing audience of Brandon Snell’s annual blood drive taking place on Tuesday November 11, 2014 between the hours of 2:00 - 7:00 p.m. at St. James Methodist Church.

Councilor Boyd commented Chief Currier’s Son, Brandon Currier, is a Senior at New England College in Henniker. The college’s soccer team is in the NCAA playoffs. Brandon Currier was named the Defensive Player of the Year. Councilor Boyd extended congratulations.

Approved: December 4, 2014

Posted: December 8, 2014

Councilor Boyd noted the Merrimack Cardinals Pee Wee Football Team is in the playoffs, and wished them well in their upcoming game. He also spoke of efforts being made by the cheering squad to raise funds for their competition in Florida.

Councilor Boyd gave a shout out to the Lady Tomahawk Girls Volleyball Team; undefeated season on the line this Saturday at Pinkerton Academy. He wished them luck.

Councilor Mahon reminded the viewing audience of the ceremony planned in the center of Town at 11:00 a.m. on Veterans Day. The Veterans organizations organize the event and remembrance.

Councilor Mahon stated he would be unable to be in attendance for the Council's meeting on November 20, 2014. He noted he is the Chairman of the New Hampshire Rail Transit Authority Board. On October 20, 2014, at the Nashua Library, the consultant and the New Hampshire Department of Transportation will be presenting the final draft report of the New Hampshire Capital Corridor Rail & Transit Alternatives Analysis, which is a study that has been ongoing for the past year and a half at a cost of about \$4.2 million. Information will be presented as to the viability of the resumption of commuter service between Boston and Manchester.

Councilor Koenig thanked the voters for coming out on Election Day noting over 10,000 came to the polls. Councilor Dwyer stated his belief a lot of kinks were worked out with regard to utilizing the High School as a polling location. He asked the citizenry to be patient noting things improve over time, and input is welcome.

Chairman Harrington complimented the Town Moderator, Lynn Christensen and all of the volunteers. She noted it has been recognized there need to be adjustments made with regard to handicapped access.

MOTION made by Councilor Mahon and seconded by Councilor Boyd to adjourn the meeting.
MOTION CARRIED 6-0-0

The November 6, 2014 meeting of the Town Council was adjourned at 9:28 p.m.

Submitted by Dawn MacMillan

Date: May 28, 2015

TO: Merrimack Town Council

FROM: Thomas J. Mahon, Vice Chair

Re: Statement Attribution, November 15, 2014 Minutes

I am requesting that this memorandum be placed as an Addendum to our meeting minutes of May 14, 2015 and November 15, 2014.

During New Business #3, Selective Cutting at our May 14, 2015 meeting (Page 23 of 28), the speaker quoted from our Minutes of November 6, 2014, a lengthy statement transcribed as attributed to me. After the meeting, I researched the Minutes and found that the Minutes were accurately quoted.

I, then, went back to the Video of the meeting. After reviewing the complete segment, I did not make the statements attributed to me after the first sentence in the November 15, 2014 Minutes. (Rather than lengthen this memo by doing a verbatim transcript, please refer to the November 15, 2014 meeting video from minutes 52:40 into the meeting.) The remainder of the statements on page 23 of the May, 14 2015 Minutes, originally attributed to me, were actually made by Paul Micali as he reported his findings to the Council. The attribution error was not detected when we approved the November 15, 2014 Minutes.

You may also wish to refresh your memory regarding the full discussion the Council had on the Atherton Road property at our September 25, 2014 meeting beginning at about minute 19:22 and concluding at about minute 43:02 .

Thank you for your attention in this matter.

Respectfully submitted,

Thomas J. Mahon
Vice Chair