

Approved: February 14, 2019

Posted: February 15, 2019



Town Council Meeting Minutes

Thursday January 24, 2019 at 7:00 PM, in the Matthew Thornton Room



Chairman Rothhaus called the meeting of the Town Council to order at 7:00 p.m. Present at the meeting were Vice Chairman Koenig, Councilor Boyd, Councilor Harrington, Councilor Healey, Councilor Thornton, Town Manager, Eileen Cabanel, and Assistant Town Manager/Finance Director Paul Micali. Councilor Albert was excused.

Pledge of Allegiance

Chairman Rothhaus led in the Pledge of Allegiance.

Announcements

On behalf of the Town Council, Chairman Rothhaus offered condolences to the family and friends of Don Botsch who passed away on Saturday, January 13th at the age of 85. Don was an English teacher at Merrimack High School. After retiring, he wrote for the Village Crier. He served as a Selectman for the Town for seven years.

Merrimack's oldest resident and holder of the Boston Post Cane, Nellie Granger, passed away on December 17th at 97 years of age. Nellie held the Boston Post Cane for 4 months. Thoughts go out to Nellie's family and friends.

A press release for the search for Merrimack's oldest resident will go out some time soon.

The last day to file petition bonds over \$100,000 is Friday, February 8th. The last date to file a petition warrant article is Tuesday, February 12th.

Regular meetings of the Town Council will be conducted on Thursday, February 14th and 28th at 7:00 p.m. in the Matthew Thornton Room.

The Ice-Skating Rink at Watson Park is now open for the season. To kick off the opening, the Parks & Recreation Department will be holding a free Skate with a Date night on Saturday, January 26th from 5:00 - 8:00 p.m. with music and hot chocolate available.

Town Manager Cabanel noted the need to schedule a special meeting. Not all contracts have been finalized; one will be discussed this evening, two will come before the Council later, and one has gone to arbitration. There is the need to schedule a special meeting prior to February 14th to address two of the contracts.

The consensus of the Council was to schedule the meeting for Tuesday, February 12, 2019 at 7:00 p.m. in the Matthew Thornton Room.

Highway Garage Project Update

Assistant Town Manager/Finance Director Micali stated the move-in process began last Friday. Minor punch list items are being addressed. For this past storm every piece of equipment was preloaded and

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in a garage. The new gas pumps will be in in the next week or so. Re-siding of the old garage is intended to begin in the next week or two.

Comments from the Press and Public – None

Recognitions, Resignations and Retirements - None

Appointments

1. Merrimack Police Department Special Investigation Unit (SIU) Update

Submitted by Police Chief Denise Roy

The Town Council will receive an update on the activity of the Special Investigation Unit (SIU) of the Merrimack Police Department

Denise Roy, Police Chief, Merrimack Police Department, spoke of the creation (a year ago) of the Special Investigation Unit (SIU).

She shared with the Council that as one of only a few females on a department sometimes you are responsible for searching female prisoners. As the only female on during the day, she was called to perform that function. Not being involved with any of the cases, and not discussing anything pertaining to the ongoing investigation, she can speak with individuals about their lives making sure they understand they do not have to talk to her.

A female was called upon to search had just been arrested at one of the local hotels for drug activity. She wasn't someone that was on their radar, it was just a happenstance. While searching her, she asked how she got to the point she was at. She said she has a few kids that are also addicted to drugs, and she was trying to help them. She is involved in everything that is going on in their lives plus her life of drug activity, and she simply said I just can't get out of it.

Chief Roy commented she was not suggesting the SIU arresting her would solve her problems, but she talked with her and let her know they could point her in the right direction. This is everyday life. People don't know what is going on. Your neighbors, loved ones, everyone has issues they are facing, and it is here in Town. It is not going away.

Chief Roy spoke of the work the two officers are doing. She noted Sergeant Cassell has been assigned to the SIU from the start, and spoke of the dedication he has put forward. He is combatting the problem in a way where he shows compassion for people; tries to get them help, while trying to keep our drug activity and crime at bay.

Last year the department, in total, had almost 500 arrests. One hundred and one of those were by the two officers in the SIU and just based on drug activity. The activity is not limited to hotels, there are other areas of Town and residences. Calls last year increased at all the hotels. One Hundred and one arrests is substantial for two people over the course of a year. They are just out there every single day doing what they must do.

They have produced 17 cooperating individuals; person willing to give up information for consideration. Those could range from having been stopped for having a warrant or operating after

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suspension. To date this year, there have been 10 arrests, which might be lower than last year, but they also coincide with three of the Town residents. Three town residents died of an overdose in one weekend. The department went back and forth on whether to publicize that. She is a firm believer there is the need to tell people what is going on. If one person knew someone who passed away and they were getting the same batch of drugs that might have been bad, and the department could save them, she is willing to take the heat for whatever someone has to say. Last year there were 28 overdoses and 7 deaths.

The officers are getting out there and doing what is asked of them. Chief Roy restated we are not going to fix this problem, but she believes it can be kept at bay. Right now it is at a level they are managing, but that could change with a moment's notice.

Town Manager Cabanel asked, and Chief Roy responded, the word is out. It's not that they don't care, it is that they can't stop themselves. When the people they are trying to catch, who are dealing the drugs, haven't been caught, then they keep coming back because that is what they know.

Chief Roy spoke of a couple staying at one of the residences for an extended period (were living there) who were dealing heroin right in front of their children on a daily basis. The department knew about it. They had informants go in and were lucky enough to catch them doing it. They were able to arrest them as they were going to a buy with the kids in the car. For the first time in quite a long time, both parents were sentenced to 2-4 years in State prison. It doesn't sound like a lot for selling drugs in front of your children, but it is better than what has been seen. At least there are some consequences.

Councilor Boyd questioned the number of convictions resulting from the 101 arrests. Brian Levesque, Deputy Chief, Merrimack Police Department, responded that is something that must be checked with the County Attorney. A lot of the minor offenses are diverted to healthcare issues, wellness programs, or substance abuse programs. If it is a simple possession case, and a first-time offender, they will divert it to that program or mental health court. Those numbers would be hard to come by, but he can look into that.

Councilor Boyd questioned if the diversion program is the drug court. Chief Roy commented you would think drug court would be for the first-time offender, but it is for the continuous offender. They have a high rate of recidivism and are living at the rock bottom. Those are the people they target in drug court.

What is referred to as diversion is more like you must go to a safe station. She spoke of an instance where someone who allegedly sold the drug to somebody who was just dumped in our Town like a piece of trash and who passed away and then ended up selling to other people. The proper authorities were informed, and when the individual got to court for charges unrelated to that death (another possession charge), they just set them free and sent them to a safe station, which is very frustrating. She stated her understanding it is a disease and people need help, but they have to want the help. This person did not want the help, and has since passed away from an overdose. Those safe stations or counseling are what is referred to.

Councilor Boyd questioned if it is fair to say the Merrimack Police Department has transported an individual to a safe station in Nashua. Chief Roy stated the safe stations are in Nashua, and to her knowledge, Merrimack has not transported anyone to a safe station. Deputy Chief Levesque

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commented if we are fortunate enough to hold them on cash bail or if they get an arraignment at a later date, at the county level (Superior Court), they will order an individual released on personal recognizance bail if he/she reports to a safe station within 24 hours. That is where they usually have the contact with a safe station.

Councilor Boyd asked if the department has looked at data of any other communities having a SIU unit (excluding Nashua, Manchester and Concord), and if any comparisons have been done in relation to our unit and whether we are having more or less success in that regard. Chief Roy responded most departments in the southern Hillsborough area, other than Nashua and Manchester, do not have a specialized SIU that target drug activity and other things. It would be hard to compare because that is what the Hillsborough County Task Force is for. It is not a comparison the department has made. It would be easy enough to contact different agencies as she is confident some detective divisions handle the crimes, and it would be easy enough to find out what their numbers were throughout 2018.

Councilor Boyd questioned how cross-jurisdictional relationships with the DEA and FBI assisted the SIU unit to work and function in 2018. Chief Roy remarked, in large part because of Sergeant Cassell, the department has a tremendous working relationship with all federal agencies that assist with drug activity. There was a fairly significant drug raid at a residence in Town, and they were instrumental in helping ensure the department had what was needed. The Hillsborough Taskforce has been a great deal of help as they can work closely with them. Anytime the federal agencies have been called for assistance they have been there to help.

Councilor Boyd questioned if it is fair to say the majority of what the SIU has targeted has been the extended stay locations in Town. Chief Roy stated a large part of the things they concentrate on have to do with the extended stay hotels, but it is not the only ones. The SIU was also tasked to help investigate the three overdose deaths along with the other 28 overdoses last year that resulted in seven deaths. Those are very time consuming between search warrants and talking to people. As you can imagine, nobody is really cooperative; family members, which is understandable or their friends. It is very difficult. Some may say this year the SIU has only had 10 arrests in 3 weeks, but she knows ten arrest in addition to what the unit has been tasked to do is pretty incredible.

Asked if the Hillsborough County Task Force has produced any kind of report, Deputy Chief Levesque noted a final report is due at the end of their grant period. He is aware their funding was cut a little this year. The cooperation has still been very strong. Often, during investigations, it is about information sharing. They make an arrest and it might be away from the hotel, but it might lead them back there or it might lead them to another person in Town that might be dealing. It is a constant cat and mouse game trying to figure out where it will go. Some of the targets are selling to people in Town, but reside elsewhere. People might be traveling up to Manchester or Nashua to make pickups. That is when the taskforce really comes in and allows the investigation to continue in those other towns. Sergeant Cassell is deputized and serves on the taskforce.

Councilor Boyd questioned if that report would be public. Chief Roy stated she could look into the availability. It was noted the State Police have their own unit as well.

Public Hearing - None

Legislative Updates from State Representative

Representative Rosemarie Rung spoke of having consulted with Lynn Christensen, Moderator, about two bills that went before the Election Law Committee; HB431 would allow residents, despite the area of Town they reside in, to work as an Assistant Moderator or Assistant Clerk at any polling place within a voting district, and Merrimack is one voting district. Diane Trippett, Town Clerk/Tax Collector, also submitted a letter in support of the bill. Representative Rung spoke of having helped the Moderator by scheduling ballot inspectors and many times they find one polling place doesn't have enough people. It is difficult to swap out because you need to keep them in the polling place area. This bill will pertain to Assistant Clerks and Assistant Moderators. Another bill that will cover Ballot Inspectors.

House Bill 408 would give the Moderator authority to postpone Town Meeting if dangerous conditions present themselves. She provided the example of towns that hold town meetings in February when we have had very severe snow storms. There is conflicting information from the Attorney General, the Governor, and Secretary of State. The bill includes other situations, flood, bomb threat, etc. The bill does spell out that the Moderator would have to consult with local Police, Fire, and emergency personnel to be able to make that call. The bill only pertains to local elections.

Although she is uncertain why, Representative Dick Hinch documented his opposition to the bill. It had widespread positive testimony from town moderators across the State. She is confident both bills will pass.

House Bill 352 appropriates funds to the Department of Environmental Services (DES) for the purpose of funding eligible wastewater projects under the State Aid Grant Program. Sarita Croce, Assistant Director Public Works/Wastewater, wrote a letter to the committee in support. Representative Rung documented her support of it during the hearing. Representative Nancy Murphy testified in support of it. State Senator Shannon Chandley also documented her support.

Representative Rung spoke of testifying on HB237 on behalf of a constituent who reached out to her in favor of a bill to establish a New Hampshire rare disease advisory council. This constituent suffers from two rare diseases. An advisory council can expand understanding and solutions for the unique challenges faced.

The bill she submitted this year, HB614, has not yet had a public hearing. It has been assigned to the Science, Technology & Energy Committee. It is to increase fines/penalties for air permit violations. It is important that the fines are high enough to serve as a deterrent and punishment for violations. They were last updated 23 years ago.

House Bill 204 had a public hearing last week. Sponsored by Representative Jeanine Notter, the bill would establish a committee to review penalties for groundwater and drinking water contamination. All comments and questions were referred to former Representative Chris Christensen who spoke to the bill and provided written testimony. He suggested, in lieu of a committee, which would delay any proposed legislation by at least a year, that HB614 be amended to include increases to water penalties and fines as well. A request was put to Legislative Research to look at specific RSAs that would be impacted, to determine the feasibility of that amendment.

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Councilor Boyd stated agreement utilizing the CPI to determine the level of increase for fines/penalties associated with HB614 is an appropriate methodology, and questioned if places like Maine, Vermont, and Massachusetts were looked at to see what they have done. Representative Rung responded she has not done a thorough research on them, but from her experience in industry, New Hampshire is low.

She noted, before filing the bill, she met with the Commissioner, Deputy Commissioner, and Directors from the DES. They made a request to add language to the bill. Administrative fines are issued by the department by violation event where penalties are sometimes adjudicated through Superior Court. The language states with violations where a penalty is applied, the penalty is applied per day that the owner of the permit remains in violation.

Representative Wendy Thomas spoke of having testified for 3 therapeutic cannabis bills. She was interviewed by NHPR regarding her testimony. She is uncertain what will occur with the bills.

She and Representative Stack submitted written support of HB352.

The toll booth hearing has not yet been scheduled.

The bill she submitted relative to blood testing for communities affected by the PFOS, PFAs chemicals has not been scheduled yet. She is setting up a meeting with Dr. Chan, State Epidemiologist, to get information before that hearing.

Recently she and Representative Murphy met with Chief Roy, and heard much of what was said this evening. She is uncertain what they can do, but has some ideas, and will work with Chief Roy.

She indicated they would meet with Fire Chief Currier the following day to discuss the Opioid situation from the Fire/Rescue point of view.

Prior to this meeting, they were in Concord meeting with U.S. Representatives Chris Pappas and Annie Kuster pounding the PFAS gavel. They are very much aware of the situation.

This weekend she spoke with U.S. Senator Maggie Hassan about PFAS. She stated she is interested in giving a statement for allowing people to get the PFAS blood testing when the bill comes up for a hearing.

There is interest in setting up ongoing regular meetings to discuss this. It is a top priority. The Democratic Caucus is going to be meeting next week, have asked for the major topics of focus, and PFAS keeps coming up.

She noted the Hillsborough Executive Committee would have its first meeting the following day.

Representative Nancy Murphy stated she has co-sponsored 11 bills and is the primary sponsor of 3. Two of those are environmental health protection bills, which have received a lot of support. One of the bills is specific to Merrimack, Bedford, and Litchfield. It is a Legislative Service Request (LSR) now (no bill #), and is intended to establish a commission to investigate and analyze the environmental and public health impacts relating to releases of Perfluorinated chemicals in the air, soil, and groundwater in Merrimack, Bedford, and Litchfield. She stated her belief it is a 7 year commission,

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which will involve 5 members of the House of Representatives, 2 members of the Senate, the Commissioner of the Public Health & Human Services, the Commissioner of DES, Director of UNH Institute for Health Policy and Practice, a representative from the NH Medical Society, Program Manager for the Department of Health & Human Services Environmental Public Health Tracking Program, 2 citizens with backgrounds in environmental science and public health, a representative from each of the effected towns appointed by the governing body of each town, Hydrogeologist appointed by the NH Chapter of the United States Geological Survey, a Toxicologist, Epidemiologist or environmental health professor from UNH appointed by that institution, and legislative members.

The study should include obtaining all information to determine the extent of the contamination.

Councilor Healey questioned if it is believed this will tie in with the Governor's announcement that he is setting up a commission to look at the high pediatric cancer rate. Representative Murphy stated her belief that has a lot to do with Mindi Messner's work on the Seacoast. She spoke of HB813, which is re-establishing the commission to study environmentally triggered chronic illness. She is the sponsor, but it is Mindi Messner's old commission that is looking to be re-established.

Representative Murphy stated appreciation for information sent regarding HB352; DES grants for wastewater. It was a good opportunity to get on record and be sure information could be provided. With the information in hand, she was able to speak to the bill.

Representative Thomas echoed the remarks and commented it is a tremendously effective technique for the Representatives to be able to attend the hearings with testimony from the Council or printouts, maps, etc. that can be handed in.

Town Manager Cabanel thanked the Representatives for being as active and responsive as they are regarding issues impacting the community.

Town Manager's Report - None

Consent Agenda - None

Old Business - None

New Business

1. Committee Appointments

Submitted by Town Council Chairman Finlay Rothhaus and Vice Chair Tom Koenig

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

- Michael Swisher – Conservation Commission (Alternate member)

MOTION made by Councilor Boyd and seconded by Councilor Koenig to appoint Michael Swisher as an Alternate Member to the Merrimack Conservation Commission for a three-year term

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ON THE QUESTION

Chairman Rothhaus commented this is one of the easiest appointments he has ever made. Mr. Swisher's credentials are top shelf. He has taken course work, and will be a great asset to the Conservation Commission.

Vice Chairman Koenig remarked Mr. Swisher voluntarily went to a program that trains people on conservation commission type work, and has been to a few of the Commission's meetings. He was raised in Town, moved when he married, and has returned. He is looking for a way he can be involved and helpful to the community.

Chairman Rothhaus commented one course he took was all day on Fridays for 12-weeks put on by the UNH Cooperative Extension.

Vice Chairman Koenig remarked the appointment is for an alternate position as that is what is available at this time.

MOTION CARRIED 6-0-0

2. Wildcat Falls Subcommittee Full Moon Snowshoe Hike – Community Event Proposal

Submitted by Wildcat Falls Subcommittee Members Karen LaBonte and Gina Rosati

The Town Council to consider a request from the Wildcat Falls Subcommittee to hold a Full Moon snowshoe hike on Tuesday, February 19th from 7:30-9:30 PM, which falls outside of the authorized times to remain in any Town conservation area, in accordance with Chapter 111, Conservation Areas, of the Merrimack Town Code.

Karen LaBonte, Member, Wildcat Falls Sub-committee, stated what is sought is permission for an extension to the period permitted to remain in a conservation area for an event planned for February 19th at Wildcat Falls. The Sub-committee would like to hold a full moon snowshoe hike between the hours of 7:30 and 9:30 p.m.

Gina Rosati, Commissioner, Merrimack Conservation Commission, noted Councilor Albert had raised the issue of parking, and suggested utilizing the cul-de-sac at the end of West Chamberlain Road (cul-de-sac). If 10 people participate, that would be a great turnout.

Although the parking lot at the end of Currier Road provides great access, as a courtesy to the neighbors, they are looking at an alternative location. Ms. Rosati commented they would use the trail that goes through and crosses over to Merrill's Marauders Bridge onto the State-owned land and enter Wildcat Falls.

Town Manager Cabanel questioned how residents would be made aware of the event, parking location, etc., and stated the Town would be happy to post it on its website. Ms. Rosati stated, once approved, it would be posted on the MerrimackOutdoors.org website. There is a separate, non-related, Facebook page called Merrimack Outdoors, and she is certain it could be posted there as well. Ms. LaBonte stated it could be posted at the kiosks. Deputy Chief Levesque had mentioned they could obtain a list of residents to make them aware.

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Ms. LaBonte questioned if the Council could provide blanket approval for this and future events or if there is the need to come before the Council for each instance.

Chairman Rothhaus commented it is good for the Council to be made aware of such events. He is uncertain approval of the Council is required. It appears the Conservation Commission itself could have provided approval.

Town Manager Cabanel stated her opinion the Conservation Commission could provide approval for future events. She requested the Commission and/or Sub-committees make her office aware so that information could be passed along to the Council and public through her announcements.

Councilor Boyd suggested consideration be given to parking at the High School as he believes the lighting to be much better. In addition, any neighborhood concerns would be mitigated by parking there.

MOTION made by Councilor Boyd and seconded by Councilor Healey to approve the request from the Wildcat Falls Sub-committee to hold a Full Moon snowshoe hike on Tuesday, February 19th from 7:30-9:30 PM, which falls outside of the authorized times to remain in any Town conservation area, in accordance with Chapter 111, Conservation Areas, of the Merrimack Town Code, and furthermore that they coordinate with the appropriate agents in Town to ensure the success and safety of the event. MOTION CARRIED 5-0-0

Councilor Harrington had stepped out of the room and was not present for the vote.

3. Bicycle Recycling Discussion

Submitted by Town Council Chairman Finlay Rothhaus

The Town Council to discuss bicycle recycling at the Transfer Station.

Chairman Rothhaus spoke of a couple residing in Dublin, Edie and Jeff Powell, who collect bicycles, new and old (use the parts to build complete bicycles). Working with a group called NuDay Syria, twice a month they send a container to Syria.

They will take bikes of any size and in any condition, collect them, and once they are made whole, send them to a warehouse in Derry where they are loaded into a container. They send two containers a month from Boston Harbor to Idlib Syria.

According to their website, NuDay is a non-profit, non-governmental organization working to secure sustainable aid in a dignified manner for Syrian mothers and children all the while fostering an understanding across perceived differences. Having viewed their website, he was made aware of a few of their projects, e.g., providing shelter for woman-headed households to secure safety for the mothers and children in protecting them from external dangers. Another was a renovation of a large water pump system in northwestern Syria to provide drinkable clean water for 40,000 people.

The Town receives a small revenue from recycling of bicycles brought into the transfer station each year (approx. \$400). In terms of logistics, he would look to the PWD to discuss what might work with the group. No one wishes for such a donation to be an inconvenience to the Town in any way. Because there is revenue involved, he wished to discuss the matter with the Council.

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Councilor Harrington stated her support of the endeavor. Councilor Boyd stated agreement. He would like to understand the logistics involved.

The consensus of the Council was to support the donation.

3. Ratification of Collective Bargaining Agreement(s)

Submitted by Town Manager Eileen Cabanel

Town Council to consider ratification of tentative collective bargaining agreement(s).

Chairman Rothhaus stated the tentative Collective Bargaining Agreement (CBA) to be between the Town of Merrimack and the New England Police Benevolent Association (NEPBA) 112. A one-year contract (July 1, 2019 – June 30, 2020) includes a wage adjustment of 2% effective July 1, 2019, training stipend; any Dispatcher assigned to train new employees shall receive a \$1/hour increase for the hours dedicated and required to train the new employees until such time as the Administration deems the new employee qualified to function without the trainer, and other small benefit and language changes.

Town Manager Cabanel spoke of being pleased with the contract. As NEPBA came to the table late, they were unable to iron out details such as the possibility of schedule changes. As a result, they are looking for a one-year contract.

Town Manager Cabanel noted, in all contracts, the Town has required unions to sign off on protecting the Town against the Cadillac tax fine. Every single union has contract language indicating if they reach the level of Cadillac tax and a penalty is imposed on the Town, they will change their health insurance to one that is most comparable and brings them under that mark.

MOTION made by Councilor Boyd and seconded by Councilor Healey to ratify the tentative Agreement reached with the New England Police Benevolent Association (NEPBA) 112; Police Dispatchers and Office Staff, which includes a net cost of \$11,184 so that the tentative agreement may be put on the Warrant for voter approval at Town Meeting.

ON THE QUESTION

Councilor Boyd questioned the impact to the tax rate. Town Manager Cabanel provided the example of \$34,000 being an impact of \$0.01 on the tax rate.

MOTION CARRIED 6-0-0

Minutes

January 9, 2019

MOTION made by Councilor Boyd and seconded by Councilor Harrington to approve the minutes of the January 9, 2019 meeting, as presented. MOTION CARRIED 6-0-0

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MOTION made by Councilor Boyd and seconded by Councilor Harrington to approve the minutes of the January 10, 2019 meeting, as presented. **MOTION CARRIED** 6-0-0

Comments from the Press - None

Comments from the Public – None

Comments from the Council

Councilor Boyd stated his support for the Patriots!

Adjourn

MOTION made by Councilor Thornton and seconded by Councilor Boyd to adjourn the meeting. **MOTION CARRIED** 5-0-0

The January 24, 2019 meeting of the Town Council was adjourned at 8:12 p.m.

Submitted by Dawn MacMillan