

Approved: August 15, 2019

Posted: August 16, 2019



Town Council Meeting Minutes

Thursday July 18, 2019 at 7:00 PM, in the Matthew Thornton Room

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

Pledge of Allegiance

Chairman Koenig led in the Pledge of Allegiance.

Announcements

Chairman Koenig made the following announcements:

The FEMA (Federal Emergency Management Agency) and the U.S. Geological Survey (USGS), who is serving as FEMA's mapping partner, scheduled three Flood Risk Review meetings (also known as workmap meetings) for communities to review their workmaps due to flood map improvements.

These meetings were scheduled for the following locations and times:

- Tuesday, July 16th at 1:30 PM, Haverhill Library in Haverhill, MA
- Wednesday, July 17th at 9:00 AM, Manchester Department of Public Works in Manchester, NH
- Wednesday, July 17th at 1:00 PM, New Hampshire Fire Academy in Concord, NH

The Merrimack Town Council would like to express our deepest sympathy to the family and friends of Scott Bourgoïn, who passed away on Sunday, July 14th. Scott was an employee of the Town since 2015 as a Mechanic II in the Equipment Maintenance Division of the Public Works Department. He was a talented mechanic and a wonderful person that will be sorely missed.

Regular meetings of the Town Council will be conducted on Thursday August 15th, September 12th and September 26th at 7:00 pm in the Matthew Thornton Room.

Town Manager Eileen Cabanel made the following announcements:

The Parks & Recreation Department will be holding their second free movie night in the Park of the summer on Sunday, July 21st at Abbie Griffin Park. The movie Mary Poppins Returns will be shown which will begin at dusk. In recognition of National Ice Cream Day; free ice cream will be given out at the movie. In the event of inclement weather, the movie will be rescheduled to a later date. For details, contact the Parks & Recreation Dept.

The National Night Out event will be held on Tuesday, August 6th at the American Legion. This event is a partnership between the Police Department and the Parks and Recreation Department. Activities are from 6:30 – 8:00 PM followed by a free movie "Incredibles 2". The Police Department will open their doors at 5 pm for tours and static displays

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Comments from the Press and Public - None

Recognitions, Resignations and Retirements

Recognition of Town Committee Member

Submitted by Town Council Chairman Thomas P. Koenig and Vice Chair Bill Boyd

The Town Council to present a certificate to the following individual for his volunteer service to the Town of Merrimack: ➤ Corey Davenport – Parks and Recreation Committee

MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to accept with regret the resignation of Corey Davenport from the Parks and Recreation Committee.

MOTION CARRIED 7-0-0

Recognition of Town Committee Member

Submitted by Town Council Chairman Thomas P. Koenig and Vice Chair Bill Boyd

The Town Council to present a certificate to the following individual for his volunteer service to the Town of Merrimack: ➤ Curtis Conrad – Technology Committee

MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to accept with regret the resignation of Curtis Conrad from the Technology Committee.

MOTION CARRIED 7-0-0

Appointments

Annual Review with the Heritage Commission

Submitted by Heritage Commission Chair Anita Creager

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

The Heritage Commission held 5 meetings in 2018. Chair Anita Creager stated that so far in 2019 they have held 4 meetings and another meeting will be held soon.

Gigi Jennings is newest member. She stated that they are still in search of alternate members.

Chair Creager explained that the historic tour brochures are going faster than she can print them because they are extremely popular with residents. The brochure will be updated this summer.

Chair Creager spoke about the Welcome to Merrimack signs. She explained why there are different established dates. South Merrimack was established by charter in 1746 and the north end of town was attached in 1750. The slate shingles from the old Town Hall have been decoupage with the town seal and are available for purchase for \$10.

Chair Creager advised the Town Council that the committee is working on tracking the exact locations of the Class VI roads (Olde King's Highway, Old Grater Road and Old Blood Road). The committee hopes to eventually have signs where the Class VI roads intersect with current roads.

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Chair Creager explained the current situation regarding the Sklara Park situation. She stated that there is a sub-committee and she is one of three members. Plans for the future are to work with the Historical Society of Litchfield and having a park on both sides of the river at Thornton's Ferry. She expressed a desire to have a ferry run between the two parks when they open.

Chair Creager discussed future plans for historic landmark, Simonds Rock which is located on land owned by Pennichuck. Simonds Rock is on the national register of historic places. It is the center of all surveys done before 1750 in southern New Hampshire and northern Massachusetts. The rock is covered with graffiti. The legal counsel for the Town of Merrimack is working with legal counsel for Pennichuck to resolve any liability issues. Once they are resolved Chair Creager hopes an Eagle Scout project will focus on the clean-up of Simonds Rock. In the future a fence and signage will be installed explaining the significance of this land mark.

Chair Creager spoke about the need for an old home to serve as headquarters for the Historical Society. So far those attempts have been unsuccessful.

Chair Creager informed the Town Council of the events leading to the return of the portrait of Mr. Wheeler. She explained how the portrait went missing in the 1930's when it was sent to Boston for repair. The portrait was recently located for sale on E-Bay for \$899. The price was negotiated and lowered to \$400 and the Heritage Commission purchased the portrait which hangs in the hallway.

Chair Creager informed the Town Council that it is her intention to step down as chair in the next year but she will remain a member.

Chairman Koenig thanked Anita Creager for her dedication. Councilor Rothhaus praised her for her hard work. Vice Chairman Boyd thanked Anita Creager for her service and he expressed his hope that the Wheeler Portrait could hang in the Matthew Thornton Room. Councilor Woods thanked Anita Creager for service.

Chairman Koenig without objection moved New Business item #1 - Committee Appointments up to be addressed next on the agenda.

Committee Appointments

Submitted by Town Council Chairman Tom Koenig and Vice Chair Bill Boyd

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

- **Tracy McGraw** – Parks and Recreation Committee (*Full member*)
- **Nelson Disco** – Planning Board (*Alternate member*)
- **Patrick Dwyer** – Zoning Board of Adjustment (*Full member*)
- **Ben Niles** – Zoning Board of Adjustment (*Alternate member*)

MOTION by Councilor Woods seconded by Vice Chair Boyd to appoint Tracy McGraw – Parks and Recreation Committee (Full member), Nelson Disco – Planning Board (Alternate member), Patrick Dwyer – Zoning Board of Adjustment (Full member), and Ben Niles – Zoning Board of Adjustment (Alternate member).

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ON THE QUESTION

Vice Chair Boyd expressed his appreciation for appointees' willingness to serve. He appreciates the unique background that Mr. Ben Niles will bring to the Zoning Board of Adjustment.

MOTION CARRIED 7-0-0

Chairman Koenig swore in Tracy McGraw and Ben Niles.

Public Hearing – None

Legislative Updates from State Representatives

State Representative Nancy Murphy of 20 Brenda Lane recently attended the Drinking Water and Groundwater Trust Fund meeting (DWGTF) at which the Merrimack Village District (MVD) requested funding for PFOA's filtration system for all of their wells. She indicated that Merrimack was well represented and she hopes MVD will be successful in their funding requests.

Representative Murphy attended the recent MVD meeting at which the filtration system was discussed. It is her understanding that the installation of the filtration system is at least 24 months out.

Representative Murphy explained that today she attended the Joint Legislative Committee on Administrative Rules (JLCAR) meeting where Department of Environmental Services (DES) proposed the lower PFOA's MCL's which range between 11-18 for those four PFOA substances that they are attempting to regulate. Representative Murphy said we are very fortunate that rulemaking was approved and we now have some of the strictest PFOA MCL's in the nation even stricter than the federal guidelines. She asked the Council to consider requesting that DES come to Merrimack and hold an informational meeting for the residents. Representative Murphy suggested that Sarita Croce from the Wastewater department could answer any questions on bio solids.

Vice Chair Boyd expressed his hesitation in asking DES to hold a meeting. He stated that the voters of the Village District have voted for filtration of their wells which will bring them down to non-detect. He does support addressing the bio-solid issue and asking Sarita Croce to attend would be beneficial.

Representative Murphy clarified that the filtration system is at least 24 months down the road and until then the MVD could exceed the new limits. She would like the DES to clarify what that would mean and discuss future testing. She believes that it makes the most sense to have the most appropriate players provide the answers and information.

Councilor Albert agrees that having Sarita Croce attend to discuss the bio-solid issue and how that will impact the taxpayers and the wastewater infrastructure.

Representative Murphy stated that she will continue to push for legislation that will address the root of this issue. She stressed that the Town of Merrimack did not create this problem, Merrimack is a victim. Merrimack is paying to clean up a problem that we did not create. She will continue to fight for legislation that will address industrial pollution. She believes that the state and town need to sue those corporations who continue to pollute and cause harm and Merrimack can stop footing the bill for their business practices.

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Town Manager Eileen Cabanel urged everyone to review the consent decree as it relates to the State's ability to sue. She stated that the State of NH has already settled with St. Gobain and the State has promised not sue them any further expect under certain conditions. She explained that this agreement absolves St. Gobain. She will forward the consent to Representative Murphy to review.

Councilor Healey spoke about the need to give Sarita Croce and the Wastewater staff time to review and assess the extent of what that bill mandates.

Councilor Albert requested to move items #4 and #5 under New Business to be heard next on the agenda. There was no objection to the request.

Donation Acceptance for the Merrimack Police Department

Submitted by Deputy Chief Brian Levesque

The Town Council to consider the acceptance and expenditure of a donation from Merrimack Crimeline raised from the Merrimack Crimeline Magic Show in amount of \$1,375.75 to the Merrimack Police Department to be used towards the K-9 Program, pursuant to RSA 31:95-b and Charter Article 8-15.

Lieutenant Michael Marcotte advised the Council that the Magic Show was held on April 13th and the money raised is used to care for the Merrimack Police K9. He stated that since 2009 the Crimeline has raised over \$27,000 for the Merrimack K9 program. Lieutenant Marcotte stressed that the Merrimack Police Department is very fortunate to have the support of the Crimeline and the partnership they have built.

MOTION by Vice Chair Boyd and seconded by Councilor Rothhaus to accept the donation from Merrimack Crimeline raised from the Merrimack Crimeline Magic Show in amount of \$1,375.75 to the Merrimack Police Department to be used towards the K-9 Program. MOTION CARRIED 7-0-0

Donation Acceptance for the Merrimack Police Department

Submitted by Deputy Chief Brian Levesque

The Town Council to consider the acceptance and expenditure of a donation in the amount of \$924.00 from the Rotary Club of Merrimack to the Merrimack Police Department to be used towards the purchase of 12 lithium polymer batteries to replace the aging batteries in the secondary portable radios, pursuant to RSA 31:95-b and RSA 8-15.

Lieutenant Marcotte explained that the portable radios are distributed to various town buildings such as the court house, schools, town hall. The portable radios are used to communicate in the event of an emergency. He explained that the current batteries are no longer holding an adequate charge.

MOTION by Vice Chair Boyd and seconded by Councilor Albert to accept the donation in the amount of \$924.00 from the Rotary Club of Merrimack to the Merrimack Police Department to be used towards the purchase of 12 lithium polymer batteries to replace the aging batteries in the secondary portable radios. MOTION CARRIED 7-0-0

Town Manager's Report

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In an effort to bridge the gap between police and children in foster care, the Merrimack Police Department will begin the Foster Friends initiative. This will consist of meetings in the function area of the police station. These meetings will allow foster parents to connect, network and build a strong community. During these meetings the children will be given the opportunity to connect and build relationships with officers through various activities. Children in foster care typically have negative interactions with police; this will hopefully create positive relationships and memories. The first meeting is scheduled for August 10th at 3:00 pm at the Merrimack Police Station. Any questions or to express interest in attending please contact Officer Hart at Dhart@merrimacknh.gov or Officer Manuele at Kmanuele@merrimacknh.gov

Police Chief Denise Roy and Officer Amanda Groves played an important role in this year's FBI National Academy Associates, New England Chapter's Youth Leadership Training Program that was held in Franklin, MA during the week of June 24-28th. This is a week-long training event for 30 kids from throughout New England that provides a unique leadership experience.

Consent Agenda - None

Old Business

John O'Leary Adult Community Center Agreement [Tabled during the June 13 & June 27, 2019, Town Council meetings]

Submitted by Town Manager Eileen Cabanel

The Town Council to consider renewing the lease agreement with the John O'Leary Adult Community Center.

MOTION made by Vice Chair Boyd and seconded Councilor Healey to take this item off the table. MOTION CARRIED 7-0-0

Town Manager Eileen Cabanel explained that this agreement has previously been discussed and reviewed by the Town Council. The agreement has been revised to include services as requested. She recommended the Council to approve this 3 year agreement.

Councilor Harrington appreciated the follow through by the Adult Community Center who has already reached out to the Garden Club and the Girl Scouts and the Boy Scouts.

MOTION by Vice Chair Boyd and seconded by Councilor Woods the lease agreement with the John O'Leary Adult Community Center effective for a 3 year period beginning July 1, 2019 through June 30, 2022. Furthermore authorize the Town Manager or her authorized representative to be authorized to sign the agreement. MOTION CARRIED 7-0-0

Cable Television Franchise Agreement Follow-up Discussion

Submitted by Media Services Coordinator Nicholas Lavallee

The Town Council to discuss and consider the renewal of the proposed Cable Television Franchise Agreement. Mr. Nick Lavallee explained that discussions regarding this agreement began 11 months ago. There were two discussions with the Town Council, a public hearing and an adhoc committee was formed to explore additional possibilities. Mr. Lavallee advised the Town Council that the proposed agreement has been reviewed by both legal counsel and by Comcast.

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Mr. Lavallee outlined a few positive changes that were suggested by the Town Council, the Media Department and by residents that are included in the proposed agreement.

- 1- Extension of service availability
- 2- Retain a customer service office in a neighboring community
- 3- A side letter for a senior citizen discount
- 4- Town channel in High Definition

Mr. Lavallee stated that the agreement is for 10 years, it is TV only and it is not exclusive.

Councilor Healey questioned the process for senior citizens to receive the discount. Mr. Lavallee explained that there are qualifications that would have to be met, residents would speak directly to Comcast. Councilor Albert suggested posting the criteria on the Town's website. Chairman Koenig outlined the qualifications being age, head of household and receiving Social Security benefits. Councilor Rothhaus inquired about the length of the contract. Mr. Lavallee explained that if there are changes on a Federal level having a 10 year contract protects Merrimack. Town Manager Eileen Cabanel asked how much money is received annually from the cable franchise fees. Assistant Town Manager/Finance Director Paul Micali stated the Town receives \$396,000 at 3.75%.

Vice Chair Boyd stated that he previously suggested changing from quarterly to monthly payments. He asked why that is not included in the proposed agreement. Mr. Lavallee apologized but does not have answer for the question. He does not recall if that question came up during the contract discussions. Chairman Koenig inquired if the question regarding quarterly verses monthly could be explored. Mr. Lavallee agreed to ask legal counsel to look into it. Councilor Rothhaus feels that it is a valid request.

Vice Chair Boyd expressed his disappointment because he was emphatic eleven months ago when he raised this issue. He feels that it was ignored. Councilor Rothhaus believes it was forgotten not ignored. Mr. Lavallee clarified that there very well could have been discussed but he does not have that in front of him tonight. Vice Chair Boyd stressed that \$400,000 is a lot of money and having a monthly revenue source allows the finance director to plan revenues. Councilor Healey assured Vice Chair Boyd that his request was not ignored. She explained that she reviewed the document prior to it being sent to legal counsel. She compared the proposed agreement to her detailed notes. She stressed that it was not intentionally ignored. Councilor Healey stated that there are two options, accept the agreement as it is written or open discussions with Comcast relating to monthly billing. Vice Chair Boyd explained that is what he is struggling with. Town Manager Eileen Cabanel does not believe this is an unreasonable request, there is no harm in asking.

Councilor Albert questioned what the difference in payment amounts would be. Assistant Town Manager/Finance Director Paul Micali advised the Town Council that it would be a monthly payment of \$33,000 which equates to a difference of \$825 per month. Councilor Albert questioned how problematic this change would be if we went from quarterly to monthly payments. He feels that for \$825 compared to the labor cost of town staff this would be a wash. He would like to move forward with the proposed agreement.

MOTION was made by Vice Chair Boyd and seconded by Councilor Albert to approve the Cable Television Franchise Agreement for a period of 10 years commencing on August 1, 2019 through July 31, 2029. Furthermore, that the Town Manager or her proxy to be authorized to sign the agreement to perfect the transaction.

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ON THE QUESTION

Vice Chair Boyd stated that he does not want his comments to be misconstrued or denigrate the work that has been done on this agreement. He recognizes that 11 months is a long time and a lot of hard work went into this. He publicly apologized to his colleagues and staff if his emotions were inflammatory in any way.

MOTION CARRIED 7-0-0

New Business

Donation Acceptance for the Parks and Recreation Department

Submitted by Parks and Recreation Director Matthew Casparius

The Town Council to consider the acceptance and expenditure of a donation in the amount of \$209.43 from Boy Scout Ethan Burns which is surplus funds from the completion of his Eagle Scout project for the Parks and Recreation for Wasserman Park, pursuant to RSA 31:95-b and Charter Article 8-15.

MOTION made by Councilor Woods and seconded by Councilor Albert to accept the donation in the amount of \$209.43 from Boy Scout Ethan Burns which is surplus funds from the completion of his Eagle Scout project for the Parks and Recreation for Wasserman Park, pursuant to RSA 31:95-b and Charter Article 8-15. MOTION CARRIED 7-0-0

Donation Acceptance for the Parks and Recreation Department

Submitted by Parks and Recreation Director Matthew Casparius

The Town Council to consider the acceptance and expenditure of a donation in the amount of \$1,350 from Merrimack Friends and Families to the Parks and Recreation Department to be used towards the Naticook Day Camp Scholarship Fund, pursuant to RSA 31:95-b and Charter Article 8-15.

MOTION made by Councilor Woods and seconded by Councilor Harrington to accept the donation in the amount of \$1,350 from Merrimack Friends and Families to the Parks and Recreation Department to be used towards the Naticook Day Camp Scholarship Fund, pursuant to RSA 31:95-b and Charter Article 8-15.

ON THE QUESTION

Councilor Albert stated that the Friends and Families is another wonderful organization and thanked them for the donation. Chairman Koenig appreciates their continued support.

MOTION CARRIES 7-0-0

Investment Policy

Submitted by Finance Director Paul T. Micali

The Town Council to review and consider the approval of the Town's Investment Policy, for the investment of public funds held by the Town Treasurer, in accordance with RSA 35:9 and RSA 41:29 for FY 2019-20.

Finance Director Paul Micali advised the Town Council that item is a house keeping item that requires the Town Council's approval annually. He explained that this policy gives the Town Treasurer direction on how to invest funds for the Town of Merrimack. He stated that state law prohibits investing funds in stocks and bonds. The Town can only invest in money markets or savings accounts.

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Mr. Micali explained that the Town can only invest in a charter bank with the Federal Government, state law prohibits investing in credit unions.

MOTION made by Councilor Rothhaus and seconded by Councilor Albert to approve the Town's Investment Policy, for the investment of public funds held by the Town Treasurer, in accordance with RSA 35:9 and RSA 41:29 for FY 2019-20. MOTION CARRIED 7-0-0

Minutes

Approve the minutes from the following Town Council meeting: June 27, 2019

MOTION made by Vice Chair Boyd and seconded by Councilor Healey to approve the Town Council meeting minutes of June 27, 2019 as amended. MOTION CARRIED 7-0-0

Amendments:

Page 6 add line space between lines 43 and 44

Page 11 add line space between lines 35 and 36

Comments from the Press – None

Comments from the Public - None

Comments from the Council

Councilor Albert commended Chairman Tom "Pancake" Koenig for serving over 500 pancakes at the 4th of July pancake breakfast.

Chairman Koenig said the pancake breakfast was a lot of fun and big success. He said this year's fireworks were amazing.

Adjourn

MOTION made by Vice Chair Boyd and seconded by Councilor Harrington to adjourn the meeting. MOTION CARRIED 7-0-0

The July 18, 2019 meeting of the Town Council was adjourned at 8:41 p.m.

Submitted by Tracy Doherty