

Approved: June 11, 2020

Posted: June 23, 2020



Town Council Meeting Minutes

Thursday, May 28, 2020 at 7:00 PM



Chairman Koenig called the meeting of the Town Council to order at 7:00 p.m.

Due to the COVID-19/Coronavirus crisis, and in accordance with Governor Sununu's [Emergency Order #12](#) pursuant to Executive Order 2020-04, this Council is authorized to meet electronically.

As stated on the agenda, the meeting was aired live on Merrimack TV and the Merrimack TV Facebook Live page (<http://www.facebook.com/merrimacktv>). Telephone access was available for members of the public wishing to speak during the Public Hearing or provide public comment; (929) 205 6099 US (301) 715 8592 US - Meeting ID: 971 9744 6449. Also identified on the agenda was the opportunity for general public comment to be submitted leading up to the start of the meeting via email to TCPublicComments@MerrimackNH.Gov.

Members of the Town Council and Administration were participating via Zoom. In accordance with [RSA 91-A:2 III](#), each member of the Council was asked to state, for the record, where they were, why their attendance in person was not reasonably practical, who, if anyone, was with them, and whether or not they were able to hear the proceedings.

Chairman Koenig

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was with family, but alone in the room he was in, and could hear the proceedings.

Councilor Woods

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was alone in the room he was in, and could hear the proceedings.

Councilor Harrington

Stated she was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, she was at home with her husband although alone in the room she was in, and could hear the proceedings.

Councilor Healey

Stated she was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, she was alone in the room she was in, and could hear the proceedings.

Councilor Albert

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was at home with family members, and could hear the proceedings.

Vice Chairman Boyd

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was at home with his family, and could hear the proceedings.

Councilor Rothhaus was excused.

Town Manager Eileen Cabanel and Assistant Town Manager/Finance Director Paul Micali were in attendance.

It was acknowledged all members participating electronically could be heard. The Council was reminded all votes would be taken by Roll Call.

Pledge of Allegiance

Chairman Koenig led in the Pledge of Allegiance.

Announcements

Regular meetings of the Town Council will be conducted on Thursday June 11th and 25th at 7:00 p.m. The expectation is that the meetings will be conducted virtually.

The official ballot vote will be held on Tuesday, June 23, 2020. Absentee ballots are available. Contact the Town Clerk's Office at 424-3651 or see the Elections and Voting section of the Town Clerk's website for an application and information regarding absentee ballots. All voters are advised that in light of the current public health state of emergency, Emergency Orders #16 and #26, and current public health guidance on social distancing and avoiding being in public in groups of 10 or more, all voters have a reasonable ground to conclude that a "physical disability" exists within the meaning of RSA 657:1. Therefore, all voters may request an absentee ballot on that basis. A mailing has been sent out to all registered voters providing the request form for an absentee ballot.

Due to COVID, all persons not registered to vote are eligible for absentee voter registration. Persons needing to register to vote should contact the Town Clerk's office for an absentee voter registration package (424-3651).

The deadline for voters to change party affiliation prior to the September 8th State Primary Election is Tuesday, June 2, 2020. Voters who are registered for a political party may only vote on that party's ballot at the Primary election. Voters wishing to change their party affiliation prior to the Primary are urged to download a change form found on the Town website. Voters without internet access should contact the Town Clerk's office at 424-3651 for a form. In addition, the Supervisors of the Checklist will be set up outside at the town hall complex from 7:00 to 7:30 p.m. on Tuesday, June 2nd.

The filing period for State Representatives will be held from Wednesday, June 3rd to Friday, June 12th. Due to COVID-19, filing forms have been placed on the NH Secretary of State's website. Filing forms can be completed and mailed or left in the drop box at Town Hall. In person filing will only occur on Friday, June 12th, outside at the Town Hall complex, from 3:00 - 5:00 p.m.

Tax bills will be mailed by June 5th, and will be due by July 6th.

Comments from the Press and Public

Jeffrey LeCours, 42 Marty Drive

Spoke of a prior discussion around the possible re-opening of some of the park areas for activities such as beach volleyball. The discussion included the skate park, which he did not view as fair as he does not see it as comparable (not as close quarters). He encouraged the Council to reconsider opening the skate park, and suggested signage could be erected requesting users follow current safety recommendations.

Recognitions, Resignations and Retirements - None

Appointments - None

Public Hearing

1. Public Hearing – Acceptance of New Hampshire’s Governor’s Office of Emergency Relief and Economic Recovery for Coronavirus Relief Fund

Submitted by Town Manager Eileen Cabanel and Finance Director Paul T. Micali

The Town Council will hold a public hearing to authorize the acceptance and expenditure of unanticipated revenue in the amount of but not to exceed \$607,480 from New Hampshire’s Governor’s Office of Emergency Relief and Economic Recovery for Coronavirus Relief Fund Payments to local governments, pursuant to RSA 31:95-b and Charter Article 8-15.

The Town is eligible to apply for up to \$607,000 for COVID-19 related expenses that fall within a very specific category. Funding would not cover costs associated with public safety personnel, which are covered under FEMA, but would cover expenses such as those associated with alterations to Town facilities and polling locations required to ensure safety/social distancing, legal assistance, and PPE.

Councilor Albert noted the examples of allowable expenditures included wages and benefits required by the Families First Coronavirus Response Act for non-first responders, and asked for clarification of the meaning. Through the Families First Act, employees are allowed 80 hours of additional sick time related to COVID-19 as well as an additional 10 weeks for circumstances such as the inability to get childcare. Under that scenario, an employee would be able to obtain 2/3 of their wages.

Chairman Koenig declared the Public Hearing open at 7:24 p.m.

No public comment was offered.

Chairman Koenig declared the Public Hearing closed at 7:25 p.m.

When asked, Town Manager Cabanel stated her belief, to date, costs eligible for reimbursement total approximately \$100,000 - \$150,000. Materials such as masks, hand sanitizer and infrared thermometers have been ordered/received. Noted were anticipated expenses related to the election.

Approved: June 11, 2020

Posted: June 23, 2020

Councilor Albert questioned if infrastructure improvements in terms of air filtering systems or the like are envisioned for areas where employees and/or the public interact.

Town Manager Cabanel commented on the HVAC system that was put in last winter, and that the Administration is open to ideas. There has been discussion of touchless toilets and sinks. Through a variety of sources, including the New Hampshire Municipal Association, the Town has received information on various suggestions/ideas, and has been able to obtain responses to questions.

Chairman Koenig suggested the possibility of changing the air filters on a more frequent schedule if there is concern with the air circulation in the building. Town Manager Cabanel commented on the costs associated with the mailings for absentee ballots to all 20,000 registered voters in Town (approx. \$16,000), mailing license plates to residents registering new vehicles, etc. Department heads have been asked to track expenses associated with activities being done differently now as a direct result of COVID-19.

Councilor Healey commented on the filtration system noting there are available filters that are not quite HEPA, but close to that, which might be worth looking into.

Vice Chairman Boyd commented on welfare costs such as food, shelter, and utilities being allowable for reimbursement, and questioned if the department has seen an increase in costs related to COVID-19. Town Manager Cabanel stated that total, to date, to be \$500.00.

MOTION made by Vice Chairman Boyd and seconded by Councilor Albert to authorize the acceptance and expenditure of unanticipated revenue in the amount of, but not to exceed, Six Hundred Seven Thousand Four Hundred Eighty Dollars (\$607,480) from New Hampshire's Governor's Office of Emergency Relief and Economic Recovery for Coronavirus Relief Fund Payments to local governments, pursuant to RSA 31:95-b and Charter Article 8-15, and furthermore, that the Town Manager or her proxy be authorized to sign the necessary paperwork required to accept and expend.

A Roll Call vote was taken, which resulted as follows:

Yea: Councilor Woods, Chairman Koenig, Councilor Harrington, Councilor Albert,
Vice Chairman Boyd, Councilor Healey

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Nay:

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MOTION CARRIED

Legislative Updates from State Representatives - None

Town Manager's Report - None

Consent Agenda - None

Old Business

1. MYA Follow-up Discussion

Submitted by MYA President Brian Harris

The Town Council to be presented with an update from the Merrimack Youth Association.

Brian Harris, President, Merrimack Youth Association (MYA), spoke of a letter and financial statement forwarded to the Council from the firm hired to conduct the audit. The MYA has been working diligently for the past 10 months towards getting their books and accounts in check, and are pleased to notify the Council that has been achieved. They have done everything asked of them and more. As an example, they reached out to SCORE, a non-profit, and have hired Merrimack Tax to do their bookkeeping entries to ensure it is done correctly. They established a financial committee and conducted an internal audit in advance of submitting their paperwork for the external audit.

When there is turnover in the position of Treasurer within a program, being sought is a replacement having a background in bookkeeping. Six of the 7 programs now have individuals in place having such a background.

Mr. Harris stated the audit has come back with an opinion, which states: "In our opinion, the financial statements referred to above presented fairly and in all material respects, the assets, liabilities, and net of Merrimack Youth Association of June 30, 2019."

The MYA is before the Council with a request that the allotment, in the amount of \$72,000, be released. Mr. Harris reiterated all of the requests made by the Council have been met and controls have been put in place. They continue with the finance committee and to work towards continued improvements, e.g., creation of procedure manual.

Assistant Town Manager/Finance Director Micali stated the audit report was what is referred to as a clean audit. There were some items noted in the Management Letter; however, with the hiring of a bookkeeper and bringing on board the individual from SCORE, he is of the belief next year's audit will be even cleaner and completed sooner as they will have had the bookkeeper on board for the entire year.

The MYA has made leaps and bounds in their forward movement. The financial committee was a great success and has implemented a number of policies for the programs to follow. The internal audit they conducted ensured the information they were providing the auditors was accurate and complete. The MYA has completed the audit, as required. Another requirement was the hiring of a bookkeeper, which they have also completed. They have put in place the financial controls required. As with any organization, internal controls are ever changing. With the financial committee in place, it is believed they will be able to adapt.

Chairman Koenig spoke of his appreciation for the amount of work that has gone into complying with the requirements put forward, and thanked Mr. Harris for coming before the Council to continue the discussion.

Councilor Harrington commented on her involvement with the MYA noting it has been pretty evident they have done a really good job of responding to the concerns of the Council. She stated the intent to put forward a motion for the release of the funding, and the desire to participate in a discussion around the contract for the coming year (current contract expires June 30, 2020). She would like the contract

to reflect an encouragement and an expectation that they continue with the procedures/practices put in place. She suggested there may be language in the next contract that would indicate if the audit were able to be completed by December 31st, the entire amount could be released, and a decreasing amount over time.

Vice Chairman Boyd commented with regard to governance, the auditors reported that the MYA was favorable as it relates to no difficulties encountered in performing the audit, which means they cooperated. If there were any uncorrected or corrected misstatements, they were not material to the audit, but in the aggregate that benefits the bottom line, which is a really good thing. They had no disagreements; they did not seek a second opinion. He concurs with Councilor Harrington that the MYA has listened to what the Council has had to say about their practices, and based on the letter from the auditors, they are to be commended for following the lead of the auditors and working to get to this point.

The document that states communication with those charged with governance at the conclusion of the audit; the first paragraph under significant audit matters as it relates to qualitative aspects of accounting practices, the second sentence reads: "No new accounting policies were adopted, and the application of existing policies was not changed during 2019. We noted no transactions entered into by the Association during the year for which there is a lack of authoritative guidance or consensus." He questioned how that statement material impacts the letter.

Town Manager Cabanel responded what is being discussed is accounting terms. Most of the year is a material weakness, which means that there is a material weakness to the point where you really cannot give them a clean opinion. A material weakness is when one or more of a company's internal financial and/or operational controls is found to be ineffective. Then there is another term called significant deficiencies, which mostly deals with internal controls. A significant deficiency is less severe than a material weakness in that it is unlikely to have a material impact on financial statements, but it is, "important enough to merit attention by those responsible for oversight of the company's financial reporting." One of the things listed was that some checks were unaccounted for; most likely voided or unused. Their response was to better track actual physical checks. Cash reconciliation; stated cash accounts did not reconcile to the general ledger, and there was a significant amount of old outstanding checks. The MYA had not reconciled their cash accounts to the extent the auditors wanted them to, but it was able to be reconciled.

Town Manager Cabanel remarked the auditors were saying you are supposed to reconcile your accounts, give us the financial statements, and we are supposed to test them and give you an opinion on them. It basically says the books were not completely closed. This stems back to early on in that on occasion the checks were being recorded when they were cashed and not when they were written. She stated her belief that has been corrected, and that most of those things, through the internal control practices, will be taken care of if they have not been already.

While we were in discussion of this, it was the middle of that fiscal year. We knew going in that there would be some issues as they were trying to put things together. A certain part of the year had transpired before they were told what the weaknesses were.

Holly Golden, Treasurer, MYA, stated her belief it was July 1st when she took over all check writing for the MYA. With one individual now handling the writing of checks, missing checks will not be

Approved: June 11, 2020

Posted: June 23, 2020

seen unless voided. Everything that has to do with check writing now goes through the Executive Board. The finance committee has created an additional policy, since COVID-19, that the Treasurer and Director of every program email the MYA Treasurer indicating approval for payment of bills, and the MYA Treasurer processes payment through online bill pay.

Vice Chairman Boyd spoke of the request made of the MYA several years ago for an audit, which could not be completed due to material weaknesses, and questioned if his understanding is correct that the MYA has made significant improvements since that time. Town Manager Cabanel responded what they had before was a material weakness to the point where no one could be sure of the numbers. Where they are now is light years ahead of where they were at that time. Back then the auditors simply walked away saying they would not participate. She congratulated the MYA on the great work they have done.

Assistant Town Manager/Finance Director Micali commented on the communication at the conclusion of the audit noting a lot of the language is boilerplate required by the AICPA. The input from the auditors is indented and in italics where it states “disclosure of modified cash basis Note 2.” They have some deficiencies they have to work on, but compared to this time last year, the results are night and day. It is the same firm that last year walked away and this time is happy to put their name on the audit.

MOTION made by Councilor Harrington and seconded by Councilor Woods to release the Seventy Two Thousand Ninety Six Dollars (\$72,096) to the Merrimack Youth Association for the Fiscal Year 2019-2020 budget

ON THE QUESTION

When asked, Ms. Golden indicated the funding would be utilized for losses resulting from the pandemic; lacrosse, baseball, and she believes softball as well, have cancelled their seasons. They were unable to do any fundraising. There are uniform costs as well as fees that have already been incurred.

A Roll Call vote was taken, which resulted as follows:

Yea: Councilor Woods, Chairman Koenig, Councilor Harrington, Councilor Albert,
Councilor Healey, Vice Chairman Boyd

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Nay:

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MOTION CARRIED

Councilor Harrington suggested the contract for the next fiscal year identify December 31st as the date by which an audit is to be completed. Once the deadline has been met, 100% of the allocation could be released. If the deadline is not met, the allocation could be released in a proportional amount when the audit is completed; if completed in the January - March timeframe, 75% of the allocation could be released, April - May, 65%, and if submitted later than May 20th, 50%. In the event an audit is not submitted, the allocation would not be released.

Approved: June 11, 2020

Posted: June 23, 2020

With the established practices/procedures in place, the hope is that completion of an audit in the December timeframe will not be burdensome.

Councilor Healey stated her belief there remain some policies and procedures that are needed per the auditors. She would expect the deficiencies listed in the current audit will be addressed prior to the next.

Chairman Koenig commented on past practice of quarterly distributions (July 1, October 1, January 1, and April 1). If that schedule were to continue, the first 2 payments would have been made prior to the December 31st deadline.

Town Manager Cabanel commented she and Councilor Harrington had talked briefly about the December 31st deadline, which is why she had wished to have the discussion and go over the logistics of the possible language. She questioned the will of the Council relative to incorporating into the contract language some financial mechanism for addressing the timing of audit submissions whether favorable or unfavorable.

She is of the belief, with the practices in place, completing the audit in the December timeframe is achievable (6 months following the close of the year). Assistant Town Manager/Finance Director Micali commented December 31st is significant as auditors switch gears from audit to tax season beginning in January. If the audit is not complete by December 31st, it will not be completed prior to April 15th.

Town Manager Cabanel reiterated the belief, with a bookkeeper in place, the books should be able to undergo an audit at the end of any given month. If the year ends on June 30th, it is a reasonable expectation for an audit to be completed within a 6 month period.

Chairman Koenig commented assuming the first payment is made in good faith, the second payment may be contingent upon the audit materials having been delivered to the auditor, and the third would be looking for the audit report to have come back. Perhaps that quarterly payment is forfeited if the report is not back, if not back by the end of December, perhaps at that time at best they will receive 75% of the allocation, and if not back by the next payment date then the most they could expect is the 50% they had already received. Payments are made on a quarterly basis as the MYA needs to put up front the funding for their books, bookkeeper, etc.

Councilor Harrington clarified her suggestion had been that no payments be made until the audit is completed, and that the percentage of the allocation released was dependent upon the completion date.

Asked for input, Ms. Golden stated a preference for partial payments. The current situation has put a strain on all of the programs. Without the partnership with the Town they cannot run their programs. Now that there is a bookkeeper on board, there is an added expense. There will be a lot of prep work for the audit. Perhaps with meeting of identified milestones payments could be made.

Councilor Woods expressed his comfort that draft language can be discussed and approved over the course of the next two meetings.

Vice Chairman Boyd agreed he would like to view a draft contract and engage in additional discussion over the course of the next month.

Chairman Koenig stated the intent to draft language for consideration by the Council.

Councilor Healey spoke of the Council's fiduciary responsibility to ensure the funding goes to a viable organization. The MYA has worked a miracle in the past 6-7 months, but this is still new behavior, and the Council needs to be certain that those policies and procedures are in place from a bookkeeping standpoint, that they are solid, and you can get through an audit again.

Councilor Albert stated agreement with the direction of incentivizing incremental payments.

Ms. Golden stated the MYA submitted their budgets for 2020-2021, and because of all that came up last year they do not know where those are. If talking about a contract, that would probably be part of that discussion. Town Manager Cabanel stated the Council has approved the budget in the requested amount. However, residents will not be voting on it until the 23rd of June. Everything is up in the air right now. If the budget does not pass, resulting in a default budget, the Town will be short \$1.6 million. In that instance, all proposed allocations would be looked at.

Chairman Koenig remarked the requested funds have been included in the proposed budget, which has not yet been approved. Should it be approved, the contract language would be modified to include language identifying deadlines for completion of an audit, after which, if not completed, a percentage of the amount would be forfeited. Asked if that direction sounded reasonable to them, Ms. Golden and Mr. Harris indicated it did.

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

New Business

1. Consideration for Eagle Scout Project at Wasserman Park

Submitted by Life Scout David Roy

The Town Council to consider Life Scout David Roy's proposed Eagle Scout Project to install a barrier fence on the lower side of the upper basketball court at Wasserman Park.

David Roy, Life Scout, spoke of being an avid basketball player and a camper at the O'Leary Hoop Camp. The proposed project would install a barrier fence on the lower side of the upper basketball court at Wasserman Park. In addition to the safety aspects it would provide, is the ability to limit the distance basketballs travel from the court.

A diagram was displayed showing the location and design of the fence. After considering aesthetics, cost, lifespan, sturdiness, and maintenance, the decision was reached to go with a sports netting fence with chain link posts. This is believed the best option as it fits with the character of the park, does not require maintenance like a wooden fence would, is the best option to withstand being hit repeatedly by heavy basketballs (netting is vinyl coated (weather resistant) and of a thickness for this purpose), and the can be removed in the off-season, if desired. The height of the fence would be 5'.

Approved: June 11, 2020

Posted: June 23, 2020

Projected cost is \$1,369. Although not the least expensive option, it is believed to be the one that would provide the Town the best value. To fund the project, Life Scout Roy will donate funds from his personal power washing business as well as fundraise through scouting events such as a car wash.

A workplan was provided, which detailed a three-day schedule for project completion. The hope is to have the fence installed in time for use during this summer's camp.

Asked how deep the poles would be set (in concrete), Life Scout Roy stated they would be 2' in the ground (1/3 of total post length should be in the ground). Matt Casparius, Director, Parks and Recreation Department, has indicated that the Public Works Department could do the digging for the project.

Councilor Albert questioned how the 5' height was derived. Life Scout Roy commented on picturing when a player shoots and the height of the ball when reaching the area of the fence. He does not believe a ball would often go over a 5' fence.

Life Scout Roy spoke of an option presented to him by the PWD for a fence that is completely removable to allow for other uses of the space. With the approach proposed in the project plan, the nets would be removable, but the posts would be permanent. This would provide for long-term stability. The example provided by the PWD was of the fence at Bishop Field, which leans quite a bit and has some decent sized holes on the bottom, which could allow balls to travel through defeating the purpose. He requested feedback from the Council.

Councilor Woods questioned, and was told the fence suggested by the PWD was at a cost approx. \$200-\$300 less than that which is included in the proposal. Councilor Woods recommended continued discussions with the PWD on their fencing recommendation.

Assistant Town Manager/Finance Director Micali noted in the area where the fencing is proposed is ledge, which is why he believes the suggestion to be a breakaway fence. With the breakaway fence, the Town can dig down X number of inches for the sleeves the poles go into. During the winter, when the fencing is not in use, the holes can be capped for safety purposes.

Councilor Healey questioned the anticipated start date. Life Scout Roy indicated a desire to begin as soon as possible. Councilor Healey noted the park is currently closed. Town Manager Cabanel stated the park itself is not closed. Certain aspects of the park are closed. Asked how many people would be helping him with the project, Life Scout Roy indicated it could be limited to 9, if necessary.

Chairman Koenig commented on the variety of uses of the field and suggested careful consideration be given to the best fencing option for the area.

Vice Chairman Boyd stated appreciation for the presentation and the hard work that went into it. He questioned the distance from the edge of the basketball court to the location of the netting, and was told it would be 9'. He questioned the concern with the poles given the distance from the court, and if there are other uses of that particular area/court.

Chairman Koenig noted there to be various events that take place in the park that attract large crowds such as the Easter Egg Hunt. Councilor Albert commented on the Halloween Fun Day event. He

Approved: June 11, 2020

Posted: June 23, 2020

remarked he was initially in favor of the solid posts; however, given the events that take place he could see a concern with someone running into a post after dark. Life Scout Roy questioned the events that would occur in the park after the fencing would come down for the winter months. Chairman Koenig stated that to be a better question for Director Casparius to address. He is pleased with the presentation and can understand the need for the project. Were it closer to the court, it would be more associated with the court. Being 9' away puts it more in the middle of a field, which could potentially be used for other things or at other times.

Life Scout Roy disagreed. He displayed a photo depicting the area of the court and proposed location for the fencing. The area of the 9' distance is marked by a tree and thicket (brush), and would not really be in the way of a field. Chairman Koenig noted the 9' distance is about 20% of the distance between the court and the arts and crafts building.

Life Scout Roy spoke of the process moving forward; troop approval, Arrowhead District approval, finalize fence details.

MOTION made by Councilor Harrington and seconded by Councilor Healey to approve the installation of a fence alongside the upper basketball court by Life Scout David Roy with the stipulation that he continue to discuss with the Parks and Recreation Director, Matthew Casparius, and the Public Works Department Operations Manager, Lori Barrett, the type and location of the fence

ON THE QUESTION

Chairman Koenig commented, with the approval of Director Casparius and Operations Manager Barrett, and hopefully in conjunction with the Parks and Recreation Committee, Life Scout Roy can move forward with this project as soon as possible.

Life Scout Roy questioned the cost associated with the PWD digging the holes. Chairman Koenig commented it would be an in-kind service, and he may want to include a cost factor in the accounting indicating X number of dollars was donated as an in-kind service.

A Roll Call vote was taken, which resulted as follows:

Yea: Councilor Woods, Chairman Koenig, Councilor Harrington, Councilor Albert,
Vice Chairman Boyd, Councilor Healey

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Nay:

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MOTION CARRIED

2. Donation Acceptance for the Merrimack Fire Rescue Department

Submitted by Interim Fire Chief Matthew Duke

The Town Council to consider the acceptance and expenditure of a check in the amount of \$5,000 from DCU (Digital Federal Credit Union) for the Merrimack Fire Rescue Department for the purchase of the following equipment: one (1) Stihl TS 420 gas powered rotary saw with accessories, one (1) Stihl MS 391 gas powered chain saw with accessories, three (3) Elkhart Chief

Approved: June 11, 2020

Posted: June 23, 2020

1 ½” nozzles, (2) two Elkhart XD 2 ½” nozzles, (1) one Elkhart XD 1 ½” nozzles and one (1) Elkhart gated wye 2 ½”, pursuant to RSA 31:95-b and Charter Article 8-15.

Matthew Duke, Interim Fire Chief, stated DCU has generously offered to donate to the Town \$5,000 for projects the Fire Department would like to undertake; purchase a new chainsaw and rotary saw, set of nozzles and gated wye that will help outfit the new fire engine. The gated wye is a device that turns one outlet (water) into 2.

Asked if the saws come with any kind of warranty, Interim Chief Duke stated his belief as soon as they are placed on the fire truck it voids the warranty. The department does have a good relationship with the dealer. The salesman they deal with is a firefighter himself. Historically, when having an issue, they have had good luck receiving support.

MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to approve the acceptance and expenditure of a check in the amount of Five Thousand Dollars (\$5,000) from the Digital Federal Credit Union for the Merrimack Fire Rescue Department for the purchase of the following equipment: one (1) Stihl TS 420 gas powered rotary saw with accessories, one (1) Stihl MS 391 gas powered chain saw with accessories, three (3) Elkhart Chief 1 ½” nozzles, (2) two Elkhart XD 2 ½” nozzles, (1) one Elkhart XD 1 ½” nozzles and one (1) Elkhart gated wye 2 ½”, pursuant to RSA 31:95-b and Charter Article 8-15 and furthermore that the Town Manager or her proxy be authorized to sign any paperwork necessary to accept and expend and that a letter of gratitude and thanks be sent to DCU for their continued collaboration and partnership with the Town of Merrimack

A Roll Call vote was taken, which resulted as follows:

Yea: Councilor Woods, Chairman Koenig, Councilor Harrington, Councilor Albert,
Vice Chairman Boyd, Councilor Healey

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Nay:

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MOTION CARRIED

*There being no objection, the Council took a five minute recess at 9:07 p.m.
The Council reconvened at 9:12 p.m.*

3. Souhegan River Local Advisory Committee (SoRLAC) Nomination

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

The Town Council to consider the nomination to reappoint Nelson Disco as a member on the Souhegan River Local Advisory Committee.

MOTION made by Vice Chairman Boyd and seconded by Councilor Albert to reappoint Nelson Disco as a member on the Souhegan River Local Advisory Committee

ON THE QUESTION

Vice Chairman Boyd expressed his gratitude to Mr. Disco for his continued service to the Town of Merrimack.

A Roll Call vote was taken, which resulted as follows:

Yea: Councilor Woods, Chairman Koenig, Councilor Harrington, Councilor Albert,
Vice Chairman Boyd, Councilor Healey

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Nay:

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MOTION CARRIED

The Council returned to the regular order of business.

Old Business (Cont'd)

2. Discussion of Town Emergency Order

Submitted by Town Manager Eileen Cabanel

Town Council to discuss the Town Emergency Order that is currently in place.

Town Manager Cabanel commented on the desire to have continued discussions of the Order that is in place, particularly as the Governor starts loosening up the restrictions we are currently under.

The first item she wished to discuss was the opening of Town Hall facilities to the public. Employees have been in the facility working, but the building has been closed to the public. An earlier opening date had been considered; however, supplies such as plexiglass petitions/protections were not readily available to put in place. We are now told that material will be available, and the modifications will be able to be made by June 15th.

Chairman Koenig noted the Council has a meeting scheduled for June 11th at which point a decision could be made regarding re-opening on the 15th.

Town Manager Cabanel commented the thought is that in addition to the partitions, there would be temporary markers delineating the 6' distances (indoors and outdoors) as well as hiring someone (utilizing monies from the relief fund) or utilizing a volunteer as a greeter of sorts to manage the number of people entering the people at any given time. That individual would be equipped with a mask and would ask individuals entering the building to wear a mask and would provide one if needed. The Town has been able to obtain other PPE such as gloves and hand sanitizer. That same scenario would be followed with the opening of the Police Station.

Councilor Healey noted the Governor stated earlier in the day that the stay at home order would be in place for another 2 or perhaps 3 weeks, and that the State of Emergency would likely stay in place for as long as new cases are seen in the State. She suggested not utilizing gloves as they are more of a hazard than a help. She questioned if the intent is that anyone who enters Town Hall would be required to wear a mask. Town Manager Cabanel responded with uncertainty stating, in an instance where an individual did not wish to wear a mask, they would offer, to the best of their ability, to complete the individual's transaction outdoors.

Chairman Koenig commented there is general agreement to go forward with those procedures, and it would probably be at the earliest June 15th. It will be reviewed at the Council meeting on June 11th.

Approved: June 11, 2020

Posted: June 23, 2020

Town Manager Cabanel commented on information gained through the New Hampshire Municipal Association. Because the Town does not have a Mayor, it is not included in the Mayors' meetings with the Governor. The New Hampshire Municipal Association has provided a briefing about some of the things discussed. One of the items was that the Stay at Home Order will stay in place for the next couple of weeks and will look the same as it does now. The Governor is taking things each week at a time and learning from other states' mistakes. The 10 or more person gathering prohibition will remain in effect for the foreseeable future.

With regard to the skate park, Director Casparius was asked to provide information on surrounding area parks. In our area, Milford is open. Others that are open are in Exeter and New Market. The Nashua skatepark is currently closed. Merrimack is on the Town Managers Listserv; there is a lot of ongoing discussion about these recreational type issues. Most people are saying we are talking about it, planning for it, but we do not feel comfortable doing anything without direct guidance from the Governor. He has not provided that yet. Town Manager Cabanel sent a text message to Representative Dick Hinch asking if the Governor was planning on making announcements related to summer camps and related issues at his press conference tomorrow. The response was that there is a possible announcement tomorrow, but more likely next week.

Discussions have been had around summer camp and all possible options. Waivers were discussed, and the advice of the property and liability insurance carrier was that you cannot be immune from people suing you and they cannot sign a waiver for something like that. They indicated the Town needs to have guidance that comes from an authoritative source. Town Manager Cabanel recommended the Town wait for guidance from the Governor relative to all of these issues. There is draft guidance relative to certain matters like summer/day camps, but it is merely a draft that has not been formally authorized.

Vice Chairman Boyd asked if the Town of Milford was contacted to determine the level of use of their skateboard park facility, e.g., whether they have seen an uptick in traffic. Town Manager Cabanel responded it was Director Casparius who spoke with the Town of Milford. One of the concerns for Merrimack would be that our small skateboard park might be inundated by people from out of town because their parks are closed. Councilor Albert agreed with the concern stated.

Town Manager Cabanel stated her belief the Town should receive a response from the Governor by the end of next week. The Council could choose to schedule another meeting or could authorize her to move forward with certain aspects in relation to the Governor's recommended guidelines.

Councilor Harrington suggested that approach to be reasonable, and that she would be comfortable providing the authority to the Town Manager to move forward in coordination with the Governor's recommended guidelines with notice to the Council.

Councilor Healey stated agreement. The Governor has the science behind him and those individuals working on this. As long as the Governor and the Task Force come out with that as part of the re-opening strategy and we can go with whatever their recommendations are, she would think that to be fine.

Chairman Koenig stated his belief the Council could make reasonable decisions and judgments based on the knowledge we have in our community, but it sounds like several are in line with the idea

Approved: June 11, 2020

Posted: June 23, 2020

presented that we wait and hear from the Governor and allow the Town Manager to make a management decision to move forward based on being able to accept and understand what the guidance of the Governor and/or his task force would be.

Vice Chairman Boyd commented the Town Manager has already put forward the idea that the Town Hall could open on June 15th and that the Council will be afforded the opportunity during the June 11th meeting to have that discussion. He would like the Council to weigh in on the Governor's recommendations at that time as well.

Town Manager Cabanel clarified the only issue she was looking to address at this time is that of the re-opening of the skatepark.

Vice Chairman Boyd commented on the possibility that decisions could be pending relative to the re-opening of summer camp, Kids Kove, etc.

Town Manager Cabanel remarked it is a small decision to make on one particular issue. The Governor always meets at 3:00 p.m. on Friday afternoon. Waiting could result in missing a weekend for the children at the skatepark. It is an issue residents have an interest in, and one she believes could be addressed administratively.

Councilor Woods supports the suggestion of waiting on the Governor's recommendations. He is pleased with the decisions that have been made to date in Merrimack. He is not interested in opening the skatepark now.

Councilor Healey stated understanding the reluctance. She commented on there being 101 new cases in the State, and suggested it may be well worth waiting and reviewing what the data is and what the Governor is doing.

Vice Chairman Boyd commented on things opening up south of Merrimack and the premise that the virus has a 3-14 day latency period. What is happening in Massachusetts will give us an indication of how we should be handling things. Two weeks from now there will be a flattening or an uptick and the question becomes how big of an uptick.

Town Manager Cabanel reiterated what she was discussing was simply the skatepark. She appreciates what the Governor has been saying all along, which is that we can roll this back. This is not we are open, and we are always open. If we end up with a problem with vandalism, etc., then we will have to consider pulling things back. She is not looking for a general policy decision to do everything the Governor recommends she is simply talking about the skatepark.

MOTION made by Councilor Harrington and seconded by Councilor Healey to give the administrative authority to the Town Manager to re-open the skatepark if receiving a positive recommendation from the Governor or his Task Force to do so in advance of the next meeting of the Town Council

ON THE QUESTION

Chairman Koenig remarked he has concern with opening the skatepark on the argument that people will stay far apart. It is an activity that causes people to sweat and fall. There is the potential for people to come into contact with the bodily fluids of others. Having said that, he has no problem opening the park if someone wants to tell him they think it is safe to do so. He is okay with allowing the Town Manager the administrative authority between now and the next meeting.

A Roll Call vote was taken, which resulted as follows:

Yea: Chairman Koenig, Councilor Harrington, Councilor Albert, Vice Chairman Boyd,
Councilor Healey

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Nay:

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MOTION CARRIED

Councilor Woods voted present

Town Manager Cabanel informed the Council of planning taking place around summer camp. There are a lot of frantic parents and camp counselors who are concerned about childcare and the late nature of not having any guidance from the Governor. There are a lot of communities that have decided to remain closed. The YMCA is open. Camp Sargent is planning on opening; waiting on Governor. A great deal of thought and consideration has already been given to protocols. If and when the go ahead comes along, Director Casparius will be ready to make the presentation to the Council.

Councilor Albert stated his concern with the overall risk to the community. Councilor Healey stated her belief the Governor will have some guidance tomorrow concerning camps. Like Councilor Albert, she is concerned with children gathering.

Chairman Koenig stated his support of opening the camp. He understands the concerns expressed; however, noted the tremendous amount of energy and effort that is going into being able to put in place as many safeguards as possible with temperature checking, ensuring people are healthy, social distancing by limiting the size of the groups of children, knowing counselors will be well aware of the situation and how to manage and maintain their group, and their willingness to be involved. He believes we owe it to parents and kids to be responsible more for themselves than us being responsible for them.

If Director Casparius and Councilors are willing and interested in going forward with it, if the YMCA is opening their camp, he does not have a problem with the Town doing the same. He stated his understanding it would be limited to about half the number of the kids normally served, which means the program may lose money, but we are also limiting it to Merrimack residents first. He does not see that we have a tremendous problem if we check to ensure people are healthy, tell people that are not healthy to stay home, and accept that people can be responsible. If we give them waivers to sign, legal counsel may not state that advocates us 100%, but it certainly will go a long way in the court that these individuals asked for this opportunity and said they would be responsible for it, if they have chosen now to not be responsible and take us to court then we just have to give it to the Judge to understand what the best move forward is. He stated his support, if the Governor comes out and says open it with caution and guidance, that the Town do so.

Vice Chairman Boyd stated agreement commenting the one thing he would be looking for from Director Casparius is how a shelter in place situation would be handled if a beautiful hot day suddenly turned into thunder storms. In the past, campers would go to the performance arts facility and be enclosed in a single building. He would want to see consideration given that if the weather report on a given day is 100% rain, that camp not be open.

Town Manager Cabanel remarked the Governors' Office for Emergency Relief and Relief & Recovery (GOFERR) group issued draft guidance. From a social distancing perspective, what they are doing, understanding that kids are kids, is limiting the size of groups. Groups would have a cabin where they would interact on a day where it rains. She spoke of the additional training counselors would receive related to precautions that are necessary to be taken based on the Governor's orders. Before the start of each day, counselors and camp attendees alike would be asked a series of questions such as whether or not they or anyone in their home has a fever. Daily temperatures would be taken of counselors and all participants. These types of measures are more preventative in nature understanding the difficulties related to social distancing with children. Another consideration is the financial feasibility of operating the program(s).

Councilor Harrington stated, with the understanding the Governor has guidelines and that they be met, at some point we have to start opening up. There will be some people who will be uncomfortable regardless of how prepared we are, and we understand and respect that. Chairman Koenig echoed her remarks.

Councilor Albert remarked he is not confident or in favor of opening the camp at this time. He agrees we need to re-open at some point, but young kids will be in close contact with each other. This may be the year we just say let us just let this go by.

Councilor Healey commented it is a good thing to take everyone's temperature as they enter, but if they do end up developing a temperature, you are already too late and have already infected half the camp. Councilor Harrington remarked that is always going to be. Councilor Healey agreed commenting you can be in Walmart and that could happen. Councilor Harrington questioned at what point is that not part of the criteria. Councilor Healey commented maybe that might be a question for legal counsel; if you have procedures in place to try to stop it, and it develops, are you more complacent that you would have been if you hadn't taken someone's temperature at all? Councilor Harrington stated you cannot sign your liability away.

Town Manager Cabanel reiterated legal counsel indicated just that; you cannot sign away your liability. The intent is that you base your judgment on a higher level of authority such as the Governor, and you follow the explicit instructions. It is when you are less cautious than the instructions indicate that you would open yourself up to more.

Town Manager Cabanel stated the materials Director Casparius has compiled as well as the draft guidance the Governor has put together would be forwarded to the Council for review.

Chairman Koenig noted the reports on the damage and trash at Watson Park. He questioned if the Council wished to take any action regarding that or look to the police for more directed patrols. Town Manager Cabanel spoke of instances of hypodermic needles and dirty diapers found near the water,

Approved: June 11, 2020

Posted: June 23, 2020

charcoal rings where a fire had been started, people standing in the water smoking, etc. There are activities taking place that require a specific plan of action for addressing. She has requested Chief Roy provide such a plan.

Councilor Healey commented on having had this problem last year on the 4th of July weekend. If anything it has gotten worse because Massachusetts is locked down. People are going to be looking for places to escape, and we are right over the border.

Councilor Albert questioned the possibility of monitors in the parks to ensure park rules are being followed. Asked if the suggestion were for an off-duty policeman, Councilor Albert suggested it could be an employee of the Parks and Recreation Department. If needed, the police could become involved.

Councilor Harrington stated her belief that legally there is no swimming there. Town Manager Cabanel responded she has never received anything in writing that shows that to be the case. It was her understanding, from a liability perspective, that the Town is not supposed to say anything about swimming unless you say no swimming at all. That is because that particular park has such steep slopes. She learned today that the signage states swim at your own risk.

Councilor Albert questioned if monies from the Coronavirus Relief Fund could be utilized to cover the cost of hiring a monitor or offering overtime. Town Manager Cabanel commented on the items that were found in the morning that had not been there during the day, and questioned the hours the park would have to be monitored. Something has to be done, and we need to clearly monitor that more closely. If you Google small swimming holes, Wildcat Falls and Watson Park are the first two that come up in this area. Councilor Harrington remarked if someone were to be put in the area to monitor the behavior her concern would be that action would condone it; unless the monitor would be keeping people out of the area altogether.

Town Manager Cabanel stated the concern to be with swimming in that area where there is such a tremendous slope. She commented on residents who have found it to be a nice place to go. Chairman Koenig stated that to be the case; the Council has not done anything about it in the past because quite a few people have come out said they have always been able to wade and swim there, why would you say we can't do that now. That is presumably why the swim at your own risk signage was erected; the Town is not going to take responsibility but is not going to say it is a good idea either.

Vice Chairman Boyd noted the dawn to dusk policy for the parks stating it to be an enforcement issue that the Police Department needs to address.

Town Manager Cabanel noted Director Casparius has asked about the 4th of July festivities. The thought was that the Town would not have the parade and that the funding would be expended on a larger (higher in sky) firework display. Chairman Koenig suggested the Town continue to move forward with plans for the 4th of July fireworks, which is the only 4th of July activity that remains open for consideration at this time.

Minutes

MOTION made by Vice Chairman Boyd and seconded by Councilor Albert to approve the minutes of the Town Council meeting of May 14, 2020, as presented

Approved: June 11, 2020

Posted: June 23, 2020

A Roll Call vote was taken, which resulted as follows:

Yea: Councilor Woods, Chairman Koenig, Councilor Harrington, Councilor Albert,
Vice Chairman Boyd, Councilor Healey

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Nay:

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MOTION CARRIED

Comments from the Press - None

Comments from the Public - None

Comments from the Council

Vice Chairman Boyd thanked the Merrimack School Board for moving ahead with graduation on June 13th. He thanked Harley Hall, member of the Class of 2020 who presented the idea to the School Board.

Chairman Koenig reminded the viewing audience we are still in the middle of Census 2020. If you have not already done so, please fill out your Census form. If you have not completed the form, you will be contacted at some point in time.

Absentee ballots are encouraged as a means of reducing the number of people that have to come to the polls. If you are concerned about your own health and safety, the answer is to file for an absentee ballot. We want everyone's opinion to be heard.

Adjourn

MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to adjourn the meeting

A Roll Call vote was taken, which resulted as follows:

Yea: Councilor Woods, Chairman Koenig, Councilor Harrington, Councilor Albert,
Vice Chairman Boyd, Councilor Healey

6

Nay:

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MOTION CARRIED

The May 28, 2020 meeting of the Town Council was adjourned at 10:38 p.m.

Submitted by Dawn MacMillan