

Approved: April 17, 2014

Posted: April 21, 2014



Town Council Meeting Minutes

Thursday, March 27, 2014, 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 Yakuboff, Councilor Boyd, Councilor Dwyer (arrived at 8:25 p.m.), Councilor Harrington, Councilor Koenig, Councilor Mahon, and Finance Director Paul Micali.

Pledge of Allegiance

Chairman Rothhaus lead in the Pledge of Allegiance. The Council observed a moment of silence recognizing the passing of Lt. Edward J. Walsh and Firefighter Michael R. Kennedy of the Boston Fire Department and Rita McCray's Father, Robert H. Belanger, Deputy Police Chief of Nashua.

Announcements

Town Election Day is Tuesday April 8, 2014 from 7:00 a.m. - 7:00 p.m. in the All-Purpose room at the James Mastricola Upper Elementary School.

Director Micali informed the Council and viewing audience copies of the Annual Report are available at the Central Fire Station, South Fire Station, Town Hall, Merrimack Public Library, Police Department, and online at <http://www.merrimacknh.gov/Annual+Reports>. They will also be available on Election Day.

April is dog registration month. Dogs can be registered at the Tax Collector's Office. If your dog is spayed or neutered, the cost is \$7.50 (otherwise \$10.00). Senior citizens receive a \$3 discount for the first dog registered. A rabies clinic will be conducted during the month (date TBD). All dogs over the age of 3 months must be registered.

Vice Chairman Yakuboff informed the Council of receipt of \$3,000 in donations for the Fraser Square project. The donations were made by Charles Lucas of Florida in the names of Timothy Gibson and the American Legion Post 98.

Comments from the Press and Public - None

Recognitions, Resignations and Retirements - None

Appointments

1. 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 to raise any concerns the Council should know or could act on.

Ms. Anita Creager, Chairman, Heritage Commission, stated during 2013 membership was at 5 full members and a Liaison. The Commission is actively seeking volunteers to fill alternate positions. The Town Council Meeting Minutes – March 27, 2014

Commission met on 10 occasions during 2013. Work continues on the tour brochures for Reeds Ferry, Souhegan Village, and Thorntons Ferry. Although the report notes the Commission is working with Robyn Goinsalvos, she has informed the Commission she is unable to be of assistance. The Commission is actively seeking an individual who can assist in the creation of the brochures.

The display case at the top of the stairway in the old Town Hall currently has a display provided by the Merrimack Historical Society (Society), which features Merrimack restaurants then and now. In the past year, three displays of various historical buildings have been featured under the title of gone but not forgotten. The next display will go up in the April/May timeframe, and will be on Merrimack's bridges.

A plaque has arrived from Pennichuck Water Works showing the history of the village dam, which was removed in 2008. It will be mounted on a concrete wall in the canal pass-through when the walking trail is completed. This is being arranged with the Town Center Committee and the Public Works Department (PWD).

A plaque has been erected to recognize the site of the Seaverns/Fields Covered Bridge thanks to Adam Jacobs from the PWD who transported the bolder and erected the monument and Dave Brooks who installed the plaque onto the boulder.

The signage for the Chamberlain Bridge will be completed during the time of the upgrades to the sidewalk. Some of the granite blocks on the east side of the bridge will be removed and the words Chamberlain Bridge will be carved into them before they are reinstalled.

The Commission continues to prepare portraits to be framed and mounted on the walls in the Matthew Thornton Room. The Thornton and Gage portraits in the hall will remain in place. Historical signs will be made and presented to owners of homes and business on roads in alphabetical order from E to M. There are homes the Commission would like to recognize; however, they are without sufficient data to guarantee signage would be accurate. Owners will be asked about interest before signs are created.

The Commission manned booths on the 4th of July, at the Merrimack Business Expo., and the Knights of Columbus Craft Fair. These were fundraisers for both the Commission and Society. It is the goal to create more holiday and general cards to have available this year. Photos have been taken for new cards. They have not yet been made; however, the hope is to have them completed in time for the 4th of July sale.

Ms. Creager expressed gratitude to the Town and Chuck Miller for assistance in providing internet service. It is available at the Society for 6 months of the year (May to October). The Society is open from April to December. The Commission and the Society worked jointly on many projects. All members of the Commission are members of the Society. The cooperation between both organizations has greatly benefited progress and the interests of the Town.

2. Annual Review with the Highway Safety Committee

Submitted by Highway Safety Committee Chairman Mark Doyle

Per Town of Merrimack Charter Section 6-6, at least annually, there should be an annual review with the Highway Safety Committee. This agenda item is to highlight the committee's significant

actions, current projects, anticipated actions, and to raise any concerns the Council should know or could act on.

Police Chief Mark Doyle, Chairman, Highway Safety Committee, recognized the memory and contributions of Norman Pepin, a member of the Highway Safety Committee who passed away last year. He commented, Norm's contributions were great and varied, and he will be sorely missed.

The Committee had two meetings last year (April and June). One of the issues addressed was the Chapel Lane parking restriction issue. The Committee had been briefed almost a year prior regarding problems on that road when the church is in use for various functions. During the winter both sides of the road would be taken up by parked vehicles and snowbanks, which would encroach upon the roadway and made it very difficult for regular traffic as well as emergency access traffic. Fire Chief Michael Currier has been asked to provide the Committee an update on his thoughts with regard to parking restrictions at a meeting planned for May.

An update was presented by Kyle Fox, Deputy Director, Public Works Department, on the Bedford Road and Manchester Street bridge projects. Manchester Street is ongoing. The road is currently closed and will be for the duration of spring into summer. The timeline for the Bedford Road project seems to have been pushed off due to funding issues. Deputy Director Fox will continue to keep the Committee informed.

A request was made by the Heron Cove Condominium Board of Directors regarding the installation of no parking restrictions and signage along the section of Manchester Street (both sides of the road) on this side of the Nashua line. A problem was perceived due to motorists parking along the sides of the road and accessing the common property by climbing over the fence line and trying to access the water for various activities including fishing, skating, etc. Prior to identifying it as a problem they conducted 12 directed patrols in the area over the course of 30 days. The Committee did not recognize there to be a parking problem at all. Historical data research was performed on the computer aided dispatch and record management system to see if they had had a problem or any recognized perception of a problem in the area in terms of suspicious vehicles, suspicious persons, trespassing, etc. They did not see one. They did want to ensure the folks at Heron Cove knew that because of the building and the project design, there may be an adjustment to the road or the width may accommodate more vehicles parking along that section of the road once the bridge work was completed. Directed patrols will continue to allay any fears. The Committee will maintain contact with residents to allow for the appropriate response should any further concerns arise.

A presentation was provided by the Town Center Committee for approval of their conceptual plan to extend the sidewalk from the library across the Church Street intersection in front of the old Pizza Man and up to Wire Road. The presentation was fairly detailed. The proposal they provided the Committee and subsequently discussed with other stakeholders including the residents of Church Street, is to close off the end of the road on Church Street where it intersects with Daniel Webster Highway and have one ingress and egress out of Church Street at the intersection where McElwain Street almost meets. The concept was to eliminate two things; the ability to extend the sidewalk up to Wire Road as well as eliminate the line of site issue as motorists travel down out of Church Street onto D.W. Highway.

There is a real concern with the lack of sidewalk accessibility and extension of sidewalks where we would like to see them. The Committee approved the efforts of the Town Center Committee to further explore extending the sidewalk across the Church Street intersection knowing full well there still has to be a lot of work done with it in terms of PWD research on boundaries, property lines, rights of way, etc. as well as the Town Center Committee doing their due-diligence in talking with folks from the Senior Center, library, residents, and those that need to access the church.

In the short term, they designed a “do not block the intersection” box on the road and placed signage up (last fall), which has worked out well. They will continue to monitor/address the issue.

The Committee had an opportunity to discuss the stop sign that was erected on Railroad Ave. and Route 3 almost in front of the Rivet Funeral Parlor where the flower shop is. A question was raised regarding the height of the sign and whether it was actually within code. Both Adam Jacobs and Kyle Fox went down to ensure the sign height was appropriate. They found they had to keep the sign higher than what would normally be accepted because of the line of sight coming up over the top of the hill from Railroad Ave. onto D.W. Highway. They ensured it was within code. They also mentioned, as they do more painting along that section of D.W. Highway and Railroad Ave., they will continue to edge out the striping so that when motorists make that merge they have to come out more in terms of a jug handle to make a more sharp right turn so that they can have a clearer view of the traffic traveling northbound on D.W. Highway eliminating the potential for accidents at that location. He stressed there hasn't been a history of accidents there, but efforts are being made to ensure they maintain a safe intersecting roadway.

A request was submitted by Jennifer Page of 3 Nichols Lane regarding placing a crosswalk from Bramber Estates over across the street to Lilac Court where there is a sidewalk that comes down from Reeds Ferry School and curls around onto Bedford Road. The problem is there is no sidewalk on this side of Bedford Road where you would have a crosswalk that would actually connect the two. There is a crosswalk that exists between no sidewalks across Bedford Road where the church currently sits. The proposal from Ms. Page was to put one further up so that the residents coming from Bramber Estates could use a crosswalk and get to the school without having to worry about making a mad dash across Bedford Road. Deputy Director Fox has done a lot of work on that in terms of research to determine what if any code restrictions there are regarding crosswalks. Additional work is needed. The Committee did not take action as Ms. Page was unable to attend the last meeting in June. She will be invited to the May meeting to provide the Committee with an update on her thoughts regarding the crosswalk issue.

The Committee discussed the alignment of Patten Road and the new construction that occurred at Patten and Baboosic Lake Road where the road no longer splits around a telephone pole. The pole was moved to the left resulting in a very clean T intersection. PWD employees did a great job of making that design work, and it has been a Godsend.

Fran & Bob L'Heureux brought to the Committee's attention the issue of ADA compliance relative to no parking and handicapped parking locations around town, specifically down at the Commons. Another gentleman who sits on the committee on parking on the Governor's Commission on Disability has contacted him directly, through the Facebook page, to let him know there are other issues around town. These issues have been communicated to Tim Thompson, Director, Community Development

as well as Chief Currier. The information has been forwarded to Fred Kelley, Code Enforcement Officer, to ensure those particular areas in town have been brought up to code.

Work is underway to ensure all agendas and minutes are posted to the Town's website. The Committee is working towards preparing an agenda for a May meeting. The 12 members of the Committee will get together to discuss issues to be addressed in the upcoming year as well as seek interest in filling an open position.

Councilor Mahon spoke of the area at the bottom of Naticook and Amherst where motorists coming down the hill, in order to see to the right, have to come out sometimes as far as half a car length into the intersection to get a clear view. The view to the east was blocked by snowbanks and in the absence of snowbanks is blocked by vegetation. Chief Doyle stated that to be the type of issue that can be addressed without having to go in front of the Highway Safety Committee. The Town has a request program in place through the PWD. That puts the Committee in the loop right away for any potential traffic hazards. Anyone with line of sight issues or other issues believed to create the potential for accidents or dangerous driving, etc. should utilize the form to bring it to the committee's attention.

Councilor Boyd remarked last year they talked about the airport connector road and the fact the northbound and southbound traffic merge in an area where there is a blind spot. He commented 4 months ago he was nearly hit. He questioned whether the Committee has reached out to the State or if discussions have ensued regarding traffic calming measures, e.g., signage, reduction of the berm, etc. Chief Doyle stated he met with the Department of Transportation and the Bedford Police Chief on that issue about a year and a half ago when it first came up. They did change the signage so that it reflects the need to merge. The second step was for them to review it after a year, which is coming up, to see if they had to reduce the berm so that motorists could have a clear line of sight for traffic coming off before merging with it at the last minute. That will be addressed this year.

Councilor Boyd questioned the proposal for Church Street and whether, from a public safety standpoint, the Chief believes it worth shutting down Church Street. Chief Doyle stated his belief it is worthwhile to ensure all parties have an opportunity to provide input. He believes the Highway Safety Committee is of the opinion there is probably no other way to do it than to shut that road down because it comes in at such a steep grade with D.W. Highway. It would be cost prohibitive to bring it to a grade where an ADA compliant crosswalk could be created and keep that section of the road open.

With regard to the airport access road, Chairman Rothhaus suggested the berm should be lowered, which has been stated may be done. However the ideal solution would be a yield sign on the northbound lane.

Public Hearing

There being no objection, the Council addressed both issues regarding Milfoil grant funds simultaneously.

1. Public Hearing – 2014 Milfoil Grant Funds for Horseshoe Pond

Submitted by Assistant Planner Donna Pohli

To ask the Town Council to accept and authorize the expenditure of up to \$20,784 of the grant from the NHDES for milfoil control via Herbicide treatment and Diver Assisted Suction Harvesting. This is a matching grant of which the Town's share would be \$12,471 for variable milfoil control efforts in portions of Horseshoe Pond, pursuant to Charter Article 8-15 and RSA 31:95-b.

2. Public Hearing – 2014 Milfoil Grant Funds Naticook Lake

Submitted by Assistant Planner Donna Pohli

To ask the Town Council to accept and authorize the expenditure of up to \$20,271 of the grant from NHDES for milfoil control via Herbicide treatment and Diver Assisted Suction Harvesting. This is a matching grant of which the Town's share would be \$10,005 for variable milfoil control efforts in portions of Naticook Lake and to ask that the Town's share be expended from the Community Development budget, pursuant to Charter Article 8-15 and RSA 31:95-b.

Chairman Rothhaus declared the Public Hearing open at 7:41 p.m.

Ms. Donna Pohli, Assistant Planner, informed the Council and viewing audience the Town has received a grant from the New Hampshire Department of Environmental Services (NHDES). It is a 60/40 matching grant meaning the Town would be responsible for 60%.

The request is for grant funds to be expended in the current fiscal year. Due to the nature of the milfoil, it is believed to be cost effective to begin the process closer to the spring.

When asked about cost, Ms. Pohli stated the requested expenditure for Horseshoe Pond to be an amount up to \$20,784 (total State and Town contribution for this year). The Town's share would be up to \$12,471 (\$8,391 for Herbicide Treatment and \$4,080 for Diver Assisted Suction Harvesting). Director Thompson remarked that cost can be funded through the donations received from the residents and what remains in the milfoil trust fund.

The Town's portion of the cost for remediation at Naticook Lake is \$10,005. As the remainder of the funds from the expendable trust fund would be utilized for Horseshoe Pond, being proposed for Naticook Lake is for funding for the remainder of this fiscal year to come from the Community Development budget, which is expected to be achieved through cost savings (staffing changes). Moving forward into FY15 the milfoil trust fund would be utilized for future projects, assuming it is approved by the voters.

Councilor Boyd noted the amount requested for Horseshoe Pond was identified as a worst-case scenario, and asked for verification, if the expendable trust fund is not completely depleted for Horseshoe Pond, remaining funds would be utilized at Naticook Lake. Ms. Pohli responded that would ideally be what would happen.

Amy Smagula, Limnologist/Exotic Species Program Coordinator, NHDES, stated the percentage of matching funds varies from year to year. She typically tries to offer a 50% match out to communities and lake associations, if feasible. Across the board this year in New Hampshire the match being made is 40%.

Councilor Harrington commented she has read the paperwork provided and believes there to have been a suggestion the effort could wait another year if need be; however, she does not believe that would be a wise decision. She stated her support for the effort. She acknowledged the efforts made by the residents in the areas of Horseshoe Pond and Naticook Lake, which should be supported by the Town.

Chairman Rothhaus opened the floor for public comment.

George Baird, 82 Island Drive

Stated he has been coming to Merrimack since 1953 and has been swimming in Horseshoe Pond during that length of time. He spoke of the fragile state of the pond. He spoke of the closing of the Naticook boat landing in the prior year. There are three motorized boats owned by residents of Island Drive. In August he witnessed 10 boats, which meant the overflow came to Horseshoe Pond, which should not happen again.

Chairman Rothhaus noted the boat landing was closed because one of the Milfoil concentrations was at the boat ramp. If users had utilized the launch it would have created a larger problem. Mr. Baird stated it should not occur this year. Chairman Rothhaus remarked it is his hope it will not. Chairman Rothhaus noted volunteers are spending time at the boat ramps encouraging users to look for any vegetation that might be hung up on their trailers, etc.

Bob Shagoury, 71 Island Drive

Remarked he attended a meeting last year when Mr. Leroux made the suggestion of adding an additional fee to licenses as a means of growing the fund, and questioned whether that suggestion has been considered. He questioned whether there is a means of utilizing prison labor to hand pull the Milfoil. Councilor Mahon noted the county discontinued programs such as roadside cleanup, etc. two years ago. Mr. Shagoury stated he received two newspapers from Connecticut where they put in grass carp that ate the Milfoil. He has been informed they would not work for us; however, he is unsure why that is the case.

Chairman Rothhaus responded consideration of adding a fee to licenses is an issue that would have to be addressed at the State. Mr. Shagoury questioned whether the Council could make such a recommendation to the State or if he should as an individual. Chairman Rothhaus suggested the request of an individual might be heard more quickly.

Ms. Smagula remarked the Grass Carp are large fish that do eat vegetation in lakes and ponds. They are illegal in New Hampshire. They are very selective in what they eat. Milfoil is not one of the first things they will go after. They would eventually eat all of the vegetation in the lake. They can each 40-50 pounds and thrash their bodies around so much that they stir up the bottom while they are feeding resulting in an unappealing appearance. They also flop themselves on the bank and chew the grass and vegetation on the shallow bank areas or near water bank areas. They are not lake friendly. They are also not sterile.

With regard to the suggestion of a fee increase, that is something that has to be addressed at the State level. All of the exotic species program funding comes from boat registration fees (\$7.50 per boat),

which is broken up in a number of ways to support different program elements. Some of it does go to control. House Bill 292 just passed Ways & Means and will go to a vote on the full House floor. It is seeking a \$2 fee increase to boat registrations to bring in more revenues for control money exclusively. If it does pass the full House floor it will cross over to the Senate. She suggested individuals reach out to their Senators to encourage support of HB292.

Laura Haynes, 6 High Noon Ave.

Noted the attendance of quite a few representatives from the Lake Naticook Association, and commented the Association has been proactive and invites representatives of Horseshoe Pond to work alongside them in addressing a problem that exists statewide.

She remarked she has signed up to be a point person through the New Hampshire Lakes Association to be trained in looking for Milfoil on boats and perhaps set up a volunteer station at the ramp. She stated support of acceptance of grant funding to assist in the process of Milfoil remediation.

Chairman Rothhaus noted the Council's recognition of the efforts of the volunteer group. He commented 10 months or so ago the Council discussed a willingness to accept donations towards addressing the issue. The result was donations adding up to approximately \$1,000. Ms. Haynes remarked motorboats are a problem on small lakes in this area. Naticook Lake has always been the headwaters for all of the water systems; Naticook Brook flowing right into Horseshoe Pond. It is an aquifer for the town wells. It was disappointing to see the Milfoil coming up.

Bob Shagoury, 71 Island Drive

Stated a desire to make a correction; water flows from in back of King Cone, whether Naticook or Baboosic Lake, and depending on the height of it, comes into Horseshoe Pond. Since it is circling, they don't dump anything into Naticook or Baboosic.

Jean Towns, 11 Sunset Drive

Remarked last summer tremendous progress was made towards eliminating the Milfoil in the lake thanks largely to the efforts of Ms. Smagula and her team. If the work does not continue the Milfoil will grow back and quickly eradicate all of the hard work and money spent last year to control and eliminate the Milfoil. A good many Merrimack residents enjoy fishing, swimming, and paddling in the lake. There are two summer camps on the lake, etc. All of these activities would be severely impacted within a few years if the Town did not continue to fund the cleanup of the Milfoil. She was one of several last year who actively patrolled the lake looking for Milfoil and placing markers so that the team of divers who came to pull Milfoil knew exactly where to go so that their efforts could be as efficient as possible.

She stated a willingness to commit to help monitor the lake and continue to identify Milfoil growth this year. She stated her hope by staying on top of the situation there will be a strong chance of reducing the amount of Milfoil and perhaps even eliminating it.

John McDonald, 19 Pondview Drive

Remarked in the past year a great deal of progress has been made. A lot of changes have been made in Horseshoe Pond and at Naticook Lake. Volunteers met with Ms. Smagula in July and received a package from the State that assisted them in identifying what needs to be looked for, e.g., Milfoil as well as other invasive species. Residents on Horseshoe Pond as well as Naticook Lake have done their share. They understand this is not done in a vacuum. What the Council is considering is funding the project utilizing tax dollars that every taxpayer in Merrimack has contributed to, which is recognized by the residents of the areas just as they recognize they contribute to issues that occur outside of their neighborhood. He stated appreciation that the Council sees the big picture, and what is required to address the issue, and spoke of the benefit gained by all users.

He noted approval by the Planning Board for a project consisting of 57 units of housing on Horseshoe Pond. There will be more stress on the pond. Anything that can be done to help eliminate or relieve some of that is greatly appreciated.

Chairman Rothhaus stated his belief those concerns were taken into account as the project went through the planning process. Director Thompson stated the Planning Board did a relatively thorough job in terms of mandating low-phosphate fertilizers and other protection measures both on the elderly housing project and the recreational fields project. Those projects are currently conditionally approved and do not have final approval to begin construction. Plans are in the works. Ultimately the last step will be discussions between the Town and the Manchester YMCA regarding the athletic fields, e.g., ensuring they are consistent with the Charitable Trust Division's execution of the Wright Family Trust and the maintenance and access responsibilities for both parties relative to those fields.

Roger Gettel, 1 Veterans Park Drive

Spoke in favor of the funding request. He commented Naticook Lake is critical recreational infrastructure for the Town. Used by Veterans Park, Wasserman Park, the YMCA camp, etc., the lake serves a broad swath of residents and non-residents. A great deal of progress was made last year in controlling Milfoil. We may never be rid of it, but if efforts do not continue, it will take over the lake. He stated his intent to continue monitoring efforts.

Mary Booth Ingram Road

Encouraged the Council to support the funding request. She stated concern with a map provided by Ms. Smagula relative to Milfoil infestation on the lake. She remarked any reasonable person viewing it would see the infestation is worse around the boat ramp. She stated her belief it is a reasonable conclusion boats coming into the lake are bringing Milfoil. There is the need to look at preventing re-infestation of the lake. She stated she has lived on the lake for many years and believes both of the lakes are sick. If not addressed, the lakes could be lost, which would impact a good many people.

She stated concern with motorized boats on the lake. Ms. Smagula has stated when a motor goes through a bed of Milfoil it acts like a blender in that it cuts off little pieces of Milfoil, which then spread and re-infects the lake.

Ms. Smagula

Stated it is definitely a credit to the two town water bodies and the Town itself that it has such a committed group of volunteers. She remarked she works with 79 water bodies across the State and there are many groups that are very strong and focused on protecting their water bodies, but the folks on Horseshoe Pond and Naticook Lake are tremendously committed. She commented she typically asks volunteers to e-mail her once a month from May through September; to do survey work and make her aware of their results. She was getting e-mails weekly or daily from the volunteers. She commented success for Milfoil management cannot be there without a strong group of volunteers, which Merrimack definitely has.

Councilor Koenig questioned what would occur with any funds remaining at year end. Ms. Smagula stated the State matches up to 40% of the total cost of the project. If there is a smaller treatment area than expected, funds remaining could be shifted over to the cost for diving, etc. If by the end of the grant timeframe the funds are not expended they are put back into the State account to be granted out the following year. Councilor Koenig remarked, as a matching grant, the funds have to be expended and an invoice provided the State for the 40% match. Ms. Smagula stated reimbursement is generally received within two weeks from the time the invoice is received.

Chairman Rothhaus declared the Public Hearing closed at 8:15 p.m.

MOTION made by Councilor Boyd and seconded by Councilor Yakuboff to accept and authorize the expenditure of up to Twenty Thousand Seven Hundred Eighty Four Dollars (\$20,784) for Horseshoe Pond; Thirteen Thousand Nine Hundred and Eighty Four Dollars (\$13,984) for the herbicide treatment and Six Thousand Eight Hundred Dollars (\$6,800) for Diver Assisted Suction Harvesting, a/k/a/ DASH, of the grant from the NHDES for Milfoil control. This is a matching grant of which the Town's share would be up to Twelve Thousand Four Hundred and Seventy One Dollars (\$12,471) of which Eight Thousand Three Hundred and Ninety One Dollars (\$8,391) is for herbicide treatment and Four Thousand Eighty Dollars (\$4,080) for DASH for variable Milfoil control efforts in portions of Horseshoe Pond, and

Furthermore, that Nine Thousand Seventy Four Dollars (\$9,074) of the Town's share be expended from the Expendable Trust Fund for Milfoil, Nine Hundred and Forty Five Dollars (\$945) from the generosity of private donations made to the Fund, and the remaining amount of Two Thousand Four Hundred and Fifty Dollars (\$2,450) to be expended from the Community Development Department budget; and

Furthermore, authorize the Town Manager and/or her proxy to execute any documents which may be necessary to perfect the contracts with Lycott Environmental, Inc. and AB Aquatics, Inc., which have been selected as the vendors for both the herbicide treatment and DASH.

ON THE QUESTION

Councilor Boyd spoke of quality of life in Merrimack and ensuring residents have access to clear and clean lakes. He also touched upon impacts to property values around the areas. The Council has

expressed its commitment to treating Milfoil. This is a good step in the effort of Milfoil mitigation.

MOTION CARRIED 6-0-0

MOTION made by Councilor Boyd and seconded by Councilor Yakuboff to accept and authorize the expenditure of up to Twenty Thousand Two Hundred Sixty Five Dollars (\$20,265) of the grant from NHDES for milfoil control via herbicide treatment and DASH including Ten Thousand Five Dollars (\$10,005) of the Town's share for Herbicide Treatment from the Community Development Department budget, and

Furthermore, authorize the Town Manager and/or her proxy to execute any documents which may be necessary to perfect the contracts with Aquatic Control Technology, LLC. and AB Aquatics, Inc., which have been selected for this project. MOTION CARRIED 6-0-0

Chairman Rothhaus stated the Council will be providing Certificates of Appreciation to the volunteers "In recognition of their valuable contributions, dedication, hard work, and participation in the ongoing efforts to control the variable Milfoil in Naticook Lake and Horseshoe Pond."

Legislative Updates from State Representatives

Director Micali informed the Council of a visit he received earlier in the day from Representative Pellegrino who wanted to make the Council aware of a Senate Bill voted on this afternoon regarding the 4.2 cent increase in the gas tax. Within the Bill was a proposal to eliminate the Exit 12 toll. Representative Pellegrino stated a desire for the Council and community to be aware the Federal Gas Tax will also be increasing (August). At the time of his visit he did not have the result of the vote. He sent his apologies for not being in attendance this evening; however, he had another commitment in another community. He requested citizens having concerns and/or comments contact him.

Councilor Boyd questioned the amount of the Federal increase. Director Micali stated all that is known at this time is that there will be an increase. The impetus for the increase is due to sales in electric cars resulting in decreased revenue from the gas tax.

Town Manager's Report

Director Micali stated the Merrimack Crimeline and Police Department will be having their annual "Magic Show" on April 12th from 10:00 a.m. - 2:00 p.m. at the American Legion. Local magicians and "Gunny" will be putting on a show for the Police K-9 program.

School Resource Officer Michael Murray has been selected to receive the Lifetime Achievement Award at this year's, sixth Annual Police, Fire and EMS Foundation dinner on April 23rd at the Radisson Hotel in Manchester.

The 2014 Household Hazardous Waste Collection schedule is now posted on the Town's website. The first event is scheduled for Saturday, April 19th from 8:00 a.m. - Noon at the Nashua Public Works garage located at 9 Stadium Drive. Another is scheduled for Saturday May 3rd from 8:00 a.m. - Noon at the Milford Public Works garage located at 283 South Street. There is a \$10.00 fee per vehicle

which covers 10 gallons or 20 pounds of hazardous materials. Items accepted include, adhesives, fertilizer, mixed gas, paint thinner, etc. Please go online to see a complete list of what will be accepted.

The Wasserman Park Dining Hall is in the process of being demolished. The cabin will also be demolished in the upcoming week. Once the snow recedes, the Bishop Street red house will be demolished.

Councilor Dwyer arrived at 8:25 p.m.

Consent Agenda - None

Old Business – None

New Business

1. Donation Acceptance for the Welfare Department

Submitted by Welfare Administrator Pat Murphy

The Town Council to consider the acceptance of a donation from the Merrimack Sno-Buds in the amount of \$1,000 to be used for the Heating Assistance Donation account administered by the Welfare Department, pursuant to Charter Article 8-15 and RSA 31:95-b. The Sno-Buds ask for this donation to help the elderly and disabled in financial need.

Ms. Pat Murphy, Welfare Administrator, stated the Town has been receiving this type of donation since 2004. Chairman Rothhaus commented on the level of donations made by the Sno-Buds over the years, and stated appreciation.

MOTION made by Councilor Yakuboff and seconded by Councilor Harrington to accept a donation from the Merrimack Sno-Buds in the amount of One Thousand Dollars (\$1,000) to be used for the Heating Assistance Donation account administered by the Welfare Department with the understanding the Sno-Buds have asked that the donation be utilized to help the elderly and disabled in financial need, pursuant to Charter Article 8-15 and RSA 31:95-b

ON THE QUESTION

Vice Chairman Yakuboff reiterated the Council, at its last meeting, spoke of past donations. He stated amazement with the amount of donations made state-wide. He remarked, with regard to donations/fundraisers, they have been the top club in the state fifteen times. Councilor Boyd stated appreciation.

MOTION CARRIED 7-0-0

2. Town of Merrimack NH Plating Site Groundwater and Soil Management Ordinance [First Reading]

Submitted by Community Development Director Tim Thompson

The Town Council to consider the USEPA's recommended ordinance to be added as a chapter as Town of Merrimack, NH Plating Site Groundwater and Soil Management to the Merrimack Town Code, pursuant to Charter Article V.

Councilor Boyd noted the document received by the Council was marked Attorney/Client Privileged & Confidential. Director Thompson responded that language remained from the initial draft he and Attorney Upton were reviewing, and should have been removed prior to inclusion in the Council's packets.

Director Thompson stated the ordinance to be one Town Manager Cabanel had requested he work with Attorney Upton on. It is a request from the U.S. Department of Environmental Protection to put together an ordinance to address the Superfund site known as the former New Hampshire Plating Company site. The language was put together by Attorney Upton's office and reviewed by Director Thompson. It has yet to be determined where in the Town Code this would be placed. There was initial discussion around making it part of the Town Zoning Ordinance. However, based on EPA guidelines, it permits waivers, which is not something the Zoning Ordinance is allowed to contain under State law. In reviewing it with Attorney Upton, they came to the conclusion the most appropriate place would be in the Town's general Code of Ordinances. They will work with Director Micali and Town Manager Cabanel to determine where the language should be inserted prior to the conduction of a Public Hearing.

Chairman Rothhaus questioned the desire for adding the recommended ordinance. Director Micali stated the attorneys for the EPA contacted Town Manager Cabanel. They would like the ordinance in place in case something does occur. Presently the Town does not own the property. If the property were to be purchased by another, the EPA would like the ordinance in place to provide restrictions on the property. There are wells in the area and the potential for development. If the ordinance is in place prior to construction, it would have to be abided by.

Councilor Mahon questioned whether a similar ordinance was put in place for another property. Councilor Boyd stated two years prior, on the same property, testimony was received from a gentleman wishing the Town to take the property. Director Micali stated an ordinance was not put in place. Councilor Boyd noted the prior discussions were around the property being given to the Town by the EPA. Director Micali responded the Town declined for many reasons, the largest being the potential for significant financial liability.

Councilor Harrington questioned whether the ordinance was being presented as a recommendation or requirement. Director Micali stated it is not a requirement, but rather a recommendation it would be wise to put in place. Chairman Rothhaus questioned whether the EPA has covered the associated legal costs. Councilor Dwyer noted Provision V – Enforcement, which reads: "The Town Council shall be responsible for enforcement of the provisions of the NHPS-GSMZ and may pursue all legal and equitable remedies to ensure compliance with this ordinance." He remarked if not Town owned land, he sees no upside to putting the ordinance in place.

Councilor Mahon stated the upside would be enforcement ability that is not required to go through Washington to take place. The other positive is the protection of other properties in the area from any

kind of predations a subsequent owner may have by his use of the property. Councilor Dwyer remarked if that narrow a scope he would agree and would be in favor for that reason alone.

Chairman Rothhaus commented if their property and they wish to sell, they want to re-coop some of the funds spent on clean-up, but the reality is they could put that language into their own documents. Councilor Koenig questioned whether codifying the ordinance would result in the need to include the Town in decisions relative to the property. Director Thompson responded the Town, along with the EPA and NHDES would all have a role to play in any development that would take place on the property.

Councilor Boyd spoke of the second paragraph under Section I – Authority and Purpose, which states in part “The objectives of the NHPS-GSMZ are to assist in implementation of the September 1998 Record of Decision” and remarked this is being addressed 16 years after the fact.

The second paragraph of Section II – Zone Boundaries, states in part “The extent of the boundary of the NHPS-GSMZ shall be reviewed no less frequently than every five years ...” He questioned who conducts and funds the testing. Director Thompson was unsure and stated he would research and report back to the Council. Councilor Mahon stated his belief it is the owner’s responsibility (currently NHDES). When asked if the site has been tested on a five-year basis, Director Micali stated his belief that is what the Council was informed of last year.

MOTION made by Councilor Mahon and seconded by Councilor Dwyer to move the Town of Merrimack NH Plating Site Groundwater and Soil Management Ordinance to a Public Hearing.

MOTION CARRIED

6-1-0

Councilor Yakuboff voted in opposition.

3. April Meeting Schedule Discussion

Submitted by Town Manager Eileen Cabanel

Town Council to determine the meeting schedule for the month of April.

Director Micali stated, as a result of new legislation, Councilors elected at the April 8th Election cannot be sworn into office prior to the Friday following (April 11th at 5:00 p.m.). Should the Council so choose, it could conduct a regular meeting with the current sitting Council on April 10th. The Organizational meeting would have to take place after new members have been sworn into office. Any request for recount would have to be made prior to close of business on Friday, April 11th.

The single April meeting of the Town Council was scheduled for Thursday April 17, 2014.

Director Micali requested the Council give consideration to the date on which the annual Retreat should be scheduled as well as the summer meeting schedule so that decisions can be reached at the April 17th meeting.

4. HB 2014 Hearing – Ten Year Transportation Plan

Submitted by Town Councilor Tom Mahon

Town Council to review and discuss the amendments to HB 2014 State 10-Year Transportation Improvement Plan.

Councilor Mahon noted the Council was provided with a copy of the draft amendment submitted by Representatives Campbell (Nashua) and Graham (Bedford), and adopted by the House Public Works & Highways Committee. Page 2; recommends the addition of paragraph 4(h), which addresses making improvements to the central New Hampshire turnpike, which is the F.E. Everett Turnpike. It references the additional traffic lane in each direction, which has been spoken of for 20 years or more and delineates the areas where they are going to do that work. Paragraph 4(i) speaks of the installation of intelligent transportation systems infrastructure from Nashua to Bedford.

Paragraph 5, VII (a) speaks of completing the connection to the Merrimack industrial interchange and the relocation of Camp Sargent Road. When asked, Councilor Mahon stated he has no idea what is meant by the completion of the connection or the relocation of Camp Sargent Road. He remarked he is unsure if what is meant is the area up by Exit 11. Councilor Harrington noted Camp Sargent Road picks up on the other side of Continental Boulevard. One is labeled Old Camp Sargent Road.

It goes on to read: “the extension of the system to include an easterly circumferential beltway around Nashua extending from exit 2 and running easterly through the City of Nashua and the towns of Hudson, Litchfield, and Merrimack to an intersection with the existing turnpike.” Councilor Boyd remarked that had been talked about for years and they got rid of it. Councilor Mahon stated the Town of Hudson is pleading for a bypass highway that they are willing to pay tolls for. Councilor Mahon stated the hookup would be where the intersection with the existing turnpike is in Merrimack (between Merrimack and Nashua (exit 9), south of where Camper’s Inn is located.

Councilor Boyd asked for clarification the area is around Pennichuck across the Merrimack into Litchfield, south into Hudson, and then picks up on that extension that goes past the Green Meadow Golf Course. Chairman Rothhaus stated his belief it goes to the Sagamore Bridge (exit 2). Councilor Boyd asked for clarification that Hudson desires tolls. Councilor Mahon stated Hudson wants a bypass that they are willing to have tolled if the State will construct it as part of the turnpike system.

Paragraph 5, VII (c) reads: “Plan and engineer improvements to the central New Hampshire turnpike, including, but not limited to the addition of a traffic lane or lanes in each direction from exit 6 to exit 7 in the City of Manchester, as well as the reconstruction of the exit 6 and exit 7 interchanges.”

Page 3 of the amendment highlights; Paragraph 9 - Department of Transportation; Projects Added to Unfunded Priorities: I. The following projects shall be added to the turnpikes portion of the unfunded priorities of 14 the 10-year transportation improvement plan 2015-2024: (a) Merrimack, removal of toll on exit 11 at \$1,600,000. (b) Merrimack, removal of toll on exit 12 at \$1,600,000, and II “Both projects under paragraph I shall be contingent upon the relocation of the Bedford main line toll south of its present location on the F.E. Everett Turnpike, and the Town of Merrimack’s acceptance of Continental Boulevard as a municipal highway.”

Councilor Mahon commented the draft that was provided along with the amendment states contingent upon the new location of the ORET, which is on road electronic tolling, Bedford main line toll plaza

being to the south of its present location and the transfer of Continental Boulevard to the Town of Merrimack in “as is” condition.

Councilor Mahon stated the current estimate of lost revenue due to the exit 13 diversion is \$1.8 million. Councilor Dwyer questioned whether Councilor Mahon believes the figure to be accurate. Councilor Mahon stated he does. He stated the original estimate to have been \$6 million. With traffic counters in the pavement they are able to identify the traffic. He stated 75% of the traffic diversion to be northbound traffic. Chairman Rothhaus remarked he always believed the diversion count included motorists who legitimately get off at that ramp to do business in the area. He spoke of the revenue gained by Merrimack allowing exit 10 to continue to be tolled (outlets).

Councilor Dwyer questioned the current opinion of the Council with regard to acceptance of Continental Boulevard. Councilor Mahon noted there are numerous contingencies included in the plan, e.g., gas tax issue. He informed the Council he was the only one who had put a card in indicating his desire to testify on the ten-year plan. The other 4-5 that put cards in were lobbyists. Right now, the ten-year plan only has money in it or the ability for them to get the money to complete the segment between exit 4 and exit 3 of 93. Anything north of that is somewhere else down the road. They are talking about additional revenue from the gas tax (SB367): \$12 million to rehabilitate/reconstruct very poor condition roadways (approx. 36 miles), \$13 million to pave roads in fair to poor condition (approx. 190 miles), and \$7 million to State Aid Bridge Program (approximately 10 additional Municipal Bridges).

Councilor Mahon remarked there are two competing pieces for exit 12; contingency if the Town of Merrimack accepts Continental Boulevard, which is the NHDOT’s proposal and a proposal from the House, and then the removal of exit 11. After seeing in the document removal of exits 11 and 12, he knew the toll booth plaza would come back to exit 10. Every one of the projects is also contingent upon increases in the tolls. Councilor Harrington requested clarification the document is talking about accepting Continental Boulevard, getting rid of exits 11 and 12, and the premise of moving the toll south of exit 10. Chairman Mahon stated it to be south to exit 10, and added the tolls go up because they have to pay for the widening from exit 8 in segments all the way up to the 101 interchange in Bedford. He remarked they are currently re-doing exit 4 in Manchester at a projected cost of \$26.2 million (toll revenue) and exits 6 and 7 projects. He spoke of funding mechanisms that would be utilized; Federal Highway funds as the segments are all in the “no toll” section of the F.E. Everett Turnpike, Turnpike Capital funds based on increased tolls to cover the bonding authority, and local contributions to handle the local connecting road impacts in both Manchester and Goffstown.

He remarked why would they want to do Manchester and Goffstown at exit 7 and move exit 7 to north of the Manchester Community College; if you take the right hand exit (northbound) it will put you into the Manchester Hackett Hill Industrial Park, if you take the left hand exit it runs you into Gofftown’s industrial park. His testimony included his opinion that would make a great location for a toll. He stated equity demands that these two exits have toll plazas. That is not what the plan states as they cannot use Federal Highway monies to put the tolls in there.

He commented this situation all goes back to the way it was set up in 1955 when the tolls were built. Because the Town of Merrimack didn’t get out there with the pitchforks in 1955 to chase them out of exit 8, which was the toll plaza going north, we got it. This thing is so tied up in so many workarounds

and so many political deals that there is no way to untangle it for them to be able to adequately manage the turnpike system. Councilor Harrington remarked the bottom line is the Town continues with its lawsuit pursuit.

Councilor Mahon commented, after all of that is said, don't believe a word of any of it. He stated the final comments in his testimony were remember March Madness starts this week. In the case of this committee and this Legislature, it will not end until June when they finish. Both of the Bills are going to conference committees. He commented, if it is believed for one minute that those Representatives are going to let exit 12 stand in the way of the gas tax because of the \$7 million in bridge aid, forget it.

Councilor Dwyer questioned if it were known that the State was serious and were going to move the toll booth south to our territory, and in exchange they were going to take down exits 11 and 12, would the Council entertain taking Continental Boulevard. He remarked he would do almost anything to eliminate 2 of the 3 toll booths and likes the idea of controlling our own property. It may mean one additional person in the PWD, extra paving costs, which could budgeted, snow removal, which could be done without additional staff but some additional funds as it would be sub-contracted out, and the curb cuts on that road would become Merrimack's power.

Chairman Rothhaus stated if ORET were moved down to Nashua he would be of a different mind about it. Currently the average added cost has been estimated at \$61,000/year; however, he is not sure the "as is" condition was taken into account when arriving at that estimate. He stated his belief exit 12 will be eliminated regardless as there has to be an out before reaching the airport access road. If moved down deep into Nashua he would think differently as then it would be a bit more equitable.

Councilor Boyd remarked, all things being equal, if the overhead tolling was north of Bedford Road or somewhere down in Nashua, he would take Continental Boulevard. He remarked he is onboard with the thought process expressed regarding control.

Councilor Harrington stated she does not believe any of it. She cannot foresee the State taking out exits 11 and 12 and the Town accepting Continental Boulevard. It does not sound right to her. She added there is no way the State can ensure an exit won't be placed at exit 10. If they had good intentions for Merrimack, the Town would have viewed some of it by now, and there has been none.

Vice Chairman Yakuboff stated his preference not to even comment as he agrees with remarks made by Councilor Harrington; not worth discussion as there is not enough there. Councilor Koenig remarked he appreciates the comments about being able to control property inside the borders of the Town of Merrimack, but he has not personally seen any indication to believe better than Councilor Harrington that any of this will come to fruition. He resents the fact there is legislation that says we will do a tit for tat with Merrimack when Merrimack has been shafted through the whole program so many times and for so long. Someone may have accepted 20, 30, 50 years ago, tolls in Merrimack, but to have all of the other work done on the turnpike system without a nickel being gathered has frustrated him. While he travels up to Manchester daily and often times go through the tolls and travels along the highway that is being constructed now, it frustrates him that they will turn around and take Federal money because it is not tolled and then take turnpike money because it is turnpike. In his opinion, it is all very disingenuous, and when they finally get rid of the system and come up with something more

unified then he will pay attention. If they want to talk then about being responsible for roads in Merrimack he would be more interested in listening.

Councilor Harrington commented there has never been so much discussion or even a suggestion of toll negotiation until the Council became vocal about wanting to do something. It may be completely unrelated, but a pretty good coincidence.

Councilor Mahon remarked some of the efforts were in process before the Council took its vote. One of the original proposals was for a commuter discount; after 30 trips in a month. He noted he was reminded this is the first time there has been any legislation that talked about the removal of toll booths in Merrimack.

Speaking with regard to the gas tax, Councilor Dwyer commented it has not been raised in 20 something years and \$.04 does not sound like a great deal. He may be for it because there is a need for funding for roads and bridges. However, the reason 30-40 Representatives will not vote for it is because they won't stop the current raiding of the money. They continue to take the money out of the gas tax and spend it on other things. Until they can be held accountable and stop doing that they won't get the support. Toll money should be spent only on toll roads and it is not. Councilor Mahon commented they should remember that their predecessors voted to do that. He stated his recollection 30% of the gas tax funds are used for other things, a great deal of which goes to the State Police because they patrol the highways.

Minutes

Approve the minutes from the following Town Council meetings: March 12, 2014 and March 13, 2014

MOTION made by Councilor Boyd and seconded by Councilor Mahon to approve the minutes of the Special Session of the Town Council conducted on March 12, 2014 as presented.

MOTION CARRIED 7-0-0

MOTION made by Councilor Boyd and seconded by Councilor Harrington to approve the minutes of the March 13, 2014 Town Council Meeting as presented. MOTION CARRIED 7-0-0

Comments from the Press - None

Comments from the Public - None

Comments from the Council

Councilor Boyd commented the Friday before St. Patrick's Day he had the opportunity to go to the Wild Irish Breakfast in Nashua, which is a fundraiser for the PLUS Company. It is the PLUS Company parent organization that provides training and services to children and young adults with special needs and disabilities. Low and behold there was an individual that took a course on public speaking and was invited to speak and give the invocation at the breakfast. That individual was Nick Koenig, the Son of Councilor Tom Koenig. Councilor Boyd remarked he could not have been more

Approved: April 17, 2014

Posted: April 21, 2014

thrilled for Nick to give the invocation and talk about the program and how it has impacted his life. He received a round of applause from those in attendance. He added he cannot begin to express the amount of joy he had for Nick being able to get up in front of all of those people and speak with such precision and clarity, and expressed his congratulations.

Councilor Boyd noted the Junior Fire Muster would be conducted on Saturday, March 29th from 10:00 a.m. to Noon at the James Mastricola Upper Elementary School. April 4th is the date of the Teen Book Festival at the Merrimack High school for grades 7-12. It will be held from 12:30 - 3:15 p.m. For more information reach out to the library at 424-5021.

Councilor Boyd commended the Merrimack Tomahawk Basketball team for an excellent season.

The Merrimack Boys Hockey Team beat the Merrimack Police Department in their Special Olympics fundraiser, and won the golden skate by a score of 8-4.

Councilor Boyd reminded residents Tuesday April 8th is Election Day in Merrimack. He thanked the employees of the community for the work they do every day. Having had the opportunity to witness their efforts has edified for him personally the work he has been able to do on the Council. He thanked his colleagues for being both colleagues and friends for the past three years. Chairman Rothhaus wished his mother Happy Birthday.

Councilor Mahon noted it was his 38th wedding anniversary, and wished his wife a Happy Anniversary.

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

The March 27, 2014 meeting of the Town Council was adjourned at 9:25 p.m.

Submitted by Dawn MacMillan