



Town Council Meeting Minutes

Thursday, May 8, 2014, at 7:00 PM, in the Matthew Thornton Room

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

Pledge of Allegiance

Councilor Dwyer lead in the Pledge of Allegiance.

Announcements

The Town Council will conduct its Retreat/Goal Session in the upstairs lounge at Swan Chocolates on Friday, May 16, 2014 from 9:00 a.m. to 4:00 p.m. Regular meetings of the Town Council will be conducted on Thursday May 22, 2014, June 12, 2014, and June 26, 2014 at 7:00 p.m. in the Matthew Thornton Room.

The Merrimack Police Department will be hosting their annual Open House this Saturday, May 10th. Festivities start at 10:00 a.m. with the traditional opening ceremony to recognize the start of National Police Week and a tribute to our fallen police officers. The station will be open for tours, and there will be plenty of entertainment and family fun.

The Transfer Station is planning to have extended hours every Thursday from 4:00 - 7:00 p.m. from May 22nd to September 11th.

Comments from the Press and Public - None

Recognitions, Resignations and Retirements

1. Acceptance of the Resignation of Kevin Shea from the Zoning Board of Adjustment

Submitted by Town Council Chairman

The Town Council to accept the resignation of Kevin Shea from the Zoning Board of Adjustment where he has served as a member since July 2012.

MOTION made by Councilor Boyd and seconded by Councilor Mahon to accept, with regret, the resignation of Kevin Shea from the Zoning Board of Adjustment

ON THE QUESTION

Councilor Boyd commented it is very difficult to sit as a member of the Zoning Board of Adjustment. He thanked Mr. Shea for having provided the community with close to two years of dedicated service, and wished him and his family the best of success for their future endeavors.

MOTION CARRIED 7-0-0

There being no objection the Council went out of the regular order of business to take up Item #4 under New Business

4. 2014 Fall Festival / Merrimack Rocks

Submitted by David Shaw and Dave McCray

Review of the 2013 events and discuss the tentative plans for the 2014 events.

Mr. McCray noted as of 7/1/13 the account balance was \$1,175.00. Revenue generated for the 2013 event totaled \$17,260.00. Expenses associated with the Fall Business Expo. and Merrimack Rocks totaled \$18,437.41 resulting in a balance, as of 4/30/14, of (\$2.41). A check from Silver Chariot will make up the difference. He spoke of the success of the events and the generous donations received.

Councilor Koenig spoke of the expense associated with advertising on Facebook, and questioned whether an indication was received as to whether or not that type of social media advertising is advantageous. Mr. McCray responded two years ago a good deal of money was expended on advertising on Facebook. The event had high attendance despite unfavorable weather. The following year the only advertising conducted was through the use of signage, and attendance was down quite a bit. As the only difference was advertising on Facebook, he came to the conclusion it was advantageous. This year Facebook was again utilized and attendance was good.

Councilor Boyd thanked Bellavance Beverage for their contribution in covering costs associated with participation by the Clydesdales. He also expressed gratitude to Mr. McCray and those who provided assistance to him in coordinating these events.

Mr. McCray had previously stated a desire to have in place a successor plan. Mr. David Shaw expressed an interest in learning the process. To that end, he worked alongside Mr. McCray in coordinating the most recent events. This year Mr. Shaw will spearhead the effort with assistance provided by Mr. McCray when needed. It is anticipated there will be approximately 125 vendors and similar entertainment. Each event will be able to expend revenue generated. Accounting will be handled separately. The Merrimack Rocks event will run again this year. A commitment has been received from Tom Monahan for a \$5,000 donation and nearly all of last year's sponsors have stated intent to donate.

Mr. McCray recognized the Boosters for their donations to the most recent event. Although the desire had been to include, in the most recent event, a ceremony recognizing WWII survivors, with no cooperation from the Federal Government and the age and health issues of the survivors, coordination of the event was unable to be completed.

The focus (theme) this year will be public safety. There will be a Lifetime Achievement Award for Community Service presented. Once the individual is contacted, the name will be announced. Two Public Safety Leadership Awards will be presented to a retiree from the Police Department and a retiree from the Fire Department. The honoree from the Fire Department has not yet been contacted. The honoree from the Police Department is former Chief, William F. Mulligan.

With regard to entertainment, the event will be MC'd by Bernie Del Llano, and will include; the duo of Matt Bradford and Chris Yeterian, Solo artist Isabel (Madie) Keefe, and The Shotz Band - Classic Rock Masters. It is anticipated \$10,000 will be allocated towards the fireworks display. The event

will run from 4:00 – 8:00 p.m. Both the Police and Fire Chief have stated they are honored the theme will be public safety and have stated they would do whatever is necessary to provide a great display. The petting zoo will run both during the day and evening events. As food lines averaged 35-40 minutes, additional food/vendors will be solicited for the coming event.

Mr. David Shaw thanked the Council for its continued support. He expressed gratitude to all who volunteered their time to make the day a great success, and thanked Mr. McCray for helping guide him through the process.

Highlighting some of the positives, he spoke of the level of attendance, the 130+ exhibitors who provided a great variety of items to enjoy, the food, and demonstrations. He noted the event came in under budget. Some of the areas to strive for improvement include maintaining a steady flow of foot traffic to both gyms (lack of vendor provided volunteers to guide people through the school towards the Smith gym) and vendors not adhering to the parking policy.

Mr. Shaw requested the Council approve the plans to move forward with the 8th Annual Fall Festival and Business Expo. for September. He stated his belief the Expo. is a great event for the Town, and he does not foresee any issues with once again meeting the budget.

MOTION made by Councilor Boyd and seconded by Councilor Dwyer to approve plans to move forward with the 8th Annual Fall Festival and Business Expo., that the Merrimack Rocks event not exceed a cost of Twenty Thousand Dollars (\$20,000) and the Business Expo. not exceed a cost of Seven Thousand Five Hundred Dollars (\$7,500), that expenditures are offset by revenue resulting in no cost impact to the Town, that the coordinators of the events return to the Council should donations/revenue exceed those amounts; and, furthermore, that the Town Manager and/or her proxy be authorized to execute any and all documents necessary to complete financial transactions. MOTION CARRIED 7-0-0

The Council returned to the regular order of business.

Appointments

1. Annual Review with the Planning Board

Submitted by Planning Board Chairman Robert Best

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

Robert Best, Chairman, Planning Board, informed the Council, in 2013, the Planning Board held 19 regular meetings and reviewed and approved 8 residential sub-division plans, which created 16 cluster and 18 new conventional residential lots. That represents a steep increase over prior years. The board approved 1 lot line adjustment, 3 voluntary lot mergers, 2 commercial, 5 industrial, and 2 residential site plans. Notable site plans included 2 for the YMCA and Melton Associates with 57 units of elderly housing development, Nanocomp's expansion at their current location at D.W. Highway, XTL Inc.'s 182,000 sq. ft. warehouse facility on Mast Road and the Flatley Company's 120,000 sq. ft. warehouse distribution facility on D.W. Highway.

So far in 2014, the Planning Board has conducted 8 meetings, reviewed 11 site plans, 1 sub-division, 1 lot line adjustment, 1 Conditional Use Permit (CUP), which is relatively rare. It is the mechanism for large site plans to be master planned to include mixed uses. The one that was submitted was at the south end of Town across D.W. Highway from Harris Pond and south of Nanocomp all the way to the Nashua line. Proposed is residential, commercial, and business, e.g., retail, gas station, etc. It has not yet been approved; however, has been proposed. There were also 4 pre-submission hearings including a second CUP for the Flatley parcel located north of the North Fire Station where the Homestead restaurant is. That includes another large chunk of residential, commercial, and industrial development.

There are currently openings for two alternate positions on the board, and two current members are up for renewal.

In early 2014, the Board adopted the new Master Plan. In all master plans there is an implementation section explaining how all of the items listed would be carried out. Taking a slightly different approach, the Board sat with a sub-committee to discuss means to ensure the document is utilized. As a result, the Master Plan includes a table outlining which groups are responsible for which tasks. The suggestion made was that as the Council conducts its annual reviews with the various, boards, committees, etc. that the responsibilities identified on the table be included in part of that discussion.

Mr. Best stated sidewalks are a big part of what is included in the Master Plan and what the Planning Board does. Sidewalks have become a topic of public discussion. Mr. Best spoke of the backgrounds of those sitting on the Planning Board, e.g., engineers, architect, attorney, etc., and of research that has been conducted on sidewalks and walkable communities.

Sidewalks have been part of the Master Plan in Merrimack since, at least, 1980. There are about 26 miles of sidewalk in Town compared to about 170 miles of road. The site plan and subdivision regulations require sidewalks to be built in most commercial developments and residential subdivisions. The 2013 Master Plan calls for the development of a town-wide pedestrian and bicycle plan to focus on the development of sidewalks in the future. The idea of creating a pedestrian and bicycle plan throughout the town is consistent with guidance received from the New Hampshire Department of Transportation (NH DOT). The Master Plan encourages consideration of capital improvement projects that include sidewalks. Mr. Best also spoke of the Town Center Committee, which is focused on walkability in the vicinity of Town Hall, Watson Park, Library, etc.

It was noted waivers from the requirement to build sidewalks are available if an applicant can show why a sidewalk shouldn't be built. Maintenance of sidewalks is a municipal expense that has certainly been unpopular at times and discussed quite a bit. Applicants sometimes disfavor the requirement to build sidewalks because it adds a modest expense to their project (cost to bond is \$12/linear foot). In a normal residential one-acre home lot of 100-200' of frontage the cost could be \$1,200 - \$1,400. This only comes up when property is being sub-divided or redeveloped.

Mr. Best spoke of the science behind sidewalks and the measurable gains that can be generated through becoming a walkable community. Walkability is quantified by a measure called walk score developed by a walk score advisory board, which is a panel of 9 of the country's leading experts on municipal planning. You can check a walk score by visiting www.walkscore.com. He provided a

great deal of information from the publication “Walkable City” as well as other data sources, which include examples of communities putting such measures in place and the dividends generated both in terms of monetary savings and improvements to quality of life (copy of presentation attached). Mr. Best commented even modest progress towards walkability can produce real measurable dividends, which is why the Planning Board supports sidewalks.

Vice Chairman Harrington questioned whether public transportation was a variable considered in the process utilized to identify a walk score. Mr. Best responded it is not a variable with respect to scoring. Public transportation is an interesting component with respect to walkability because at some point the walkability becomes a situation where you might consider not having a car at all. Walkable communities are more compact developments. In Merrimack there is a unique situation with the development pattern between the east and the west side of the turnpike where one side is very rural, very spread out, one-acre lots; relatively suburban and on the other side of the turnpike along D.W. Highway is an opportunity for more apartment buildings and where all of the commercial development is primarily. If talking about a priority place to put sidewalks it would be; D.W. Highway from Nashua to Bedford, Continental Boulevard over to 101A, and Baboosic Lake Road up to Madeline Bennett Lane where the school is. A lot of that is already developed. You certainly want to see them connected. The Planning Board has been criticized for suggesting to applicants that they build a sidewalk in front of their property when there is no sidewalk on the abutting properties. The desire would be to have sidewalks all over the place, but it is not capital improvement that has been widely supported. It is certainly in the Master Plan. Mr. Best remarked Mr. Disco requested he mention there may be some efforts coming forward out of the sidewalk and bicycle sub-committee to suggest that there ought to be.

Councilor Mahon commented the other issue rarely raised is the fact that in other parts of the country the maintenance/clearing of the sidewalk is the responsibility of the property owner where in New Hampshire it is the responsibility of the entity that requires it, e.g., city or town. He commented, according to the demographics being looked at, Merrimack will be a ghost town in 20 years. At present, Merrimack does not have the zoning that allows some of the things being discussed in creating a walkable community, e.g., pharmacies, etc. in residential zones. He spoke of the robust public transportation systems of some of the communities mentioned in the statistics provided. That type of infrastructure does not exist in Merrimack. Merrimack has the typical zoning, which was developed back in the ‘70s when development was very different than it is now. He stated agreement there is a benefit to it, and there are a lot more people out walking than has been the case in the past, with or without sidewalks. He suggested construction of sidewalks could be utilized as an incentive to developers for other considerations.

Mr. Best remarked there is a maintenance cost associated with sidewalks, and he believes the Town has had great improvement over the past few years in terms of resources and its ability to maintain sidewalks. He suggested if the home value benefit is such as what was seen in Charlotte, NC (12.5% increase in property value and \$34,000 on an average home) it would produce \$800 more per year in tax revenue, which should exceed the cost of maintaining the sidewalk. That is but one of the benefits to be gained through becoming a walkable community.

Although there are a good many cities that do a great deal more with public transportation, he does not see that happening within Merrimack, Bedford, Manchester, etc. There could be the situation where

someone is interested in living in downtown Manchester because it is an urban center but can get on that train and come down to Merrimack to work if Merrimack has some walkable communities that make the businesses want to come here.

Chairman Yakuboff questioned when the publication “Walkable City” was published, and was informed it was 2012. He stated his belief most of the information is skewed. He spoke of the hurried nature of the population and resulting habits, e.g., people dropping their children off at school rather than utilizing the bus, etc. He spoke of the consequences/domino effect not included in the studies such as impact to the local economy resulting from the savings cited as being achieved by the reduced number of tires purchased, etc. He stated the need for both sides of the issue to be reviewed.

Mr. Best stated his respectful disagreement with the characterization of the data being skewed. He believes the data is not intended to suggest that people will give up their cars, etc. You may reach an average of some reduction in mileage per day if a small portion of the population gives up a lot of miles and some don't give up any. The data is looking at the average miles driven. He commented he has a family of 6 and only 2 drivers, which means he would have to reduce his driving by 6 miles to meet the 1 mile per person/per day. On average if you create the opportunity for people to at least attempt it you get the kind of thing that the millennial generation is saying; this is the kind of community we want to live in, and that is where the jobs are going to come from. The domino effect is very clearly something that was examined in the data where they are looking at 85% of the money spent on transportation is leaving the local economy. Most of the cost of that tire is not staying in Merrimack or New Hampshire. All of the cost of the gas is not staying here, etc.

Mr. Best commented there is no question the guy that runs the gas station would rather see people lined up buying gas. In terms of what we would want to develop in a quality community creating a strategy where there is \$3.5 million more spent in restaurants and premium outlet malls and those kinds of things is a favored planning goal. One of the things he did not touch on is the carbon footprint; 1,000 gallons of gasoline less burned by saving 1 mile per person/per day, which is a pretty big deal.

Vice Chairman Harrington commented she believes some of the statistics will evolve as a result of telecommuting. That will have an impact now and into the future. Councilor Dwyer stated his disagreement with the analysis provided. He is of the belief the data is skewed and spoke of those who work at home as well as teenage drivers; today the demographic has completely changed. The reason teenage drivers aren't driving as many miles or buying cars is because of the cost. There is a direct correlation to why individuals are not getting their licenses at 16 and waiting until 18. In New Hampshire people aren't walking 6 months out of the year because of the weather. He questioned where, in a rural community, you would be looking to walk to. We're just not a walkable town; we are large and spread out. It makes no sense to invest money into sidewalks for our community.

Councilor Dwyer remarked any time after 5:00 p.m. or 6:00 p.m. at Gold's Gym you can't get on a bike or treadmill. Even when we have the opportunity to walk outside, as a culture, we have chosen not to. He commented, to him, more density means more crime. He commented he chose to live in Merrimack because it doesn't have density. Plowing and maintenance costs can be outrageous, and he would rather see those funds spend on paved roads.

Mr. Best remarked if you create a situation where it is too expensive to drive and you are in a community where you cannot walk the result is you have to leave. One of the things mentioned earlier is we have the east of the turnpike/west of the turnpike dynamic where if you like less dense there is a fair supply of that. What is being discussed is the other side of the turnpike where there is commercial development and a lot of multi-family developments where the density is quite a bit higher. One of the interesting pieces of the Master Plan the division of the D.W. Highway corridor into 5 neighborhoods as you go from north to south from Nashua to Bedford. It looks at focusing some strategy or overview to the zoning into those areas and treating those a little bit differently by looking at some performance based zoning where you can put residential and commercial and smaller footprint stuff together. There are openings in the Master Plan to do that if there is support for it.

Councilor Dwyer spoke of funding expended on parks and how walkers drive to those locations. When resources are scarce, he would rather see monies expended on the parks.

Councilor Boyd spoke of having taken a cursory glance at the Master Plan, and stated his desire the Planning Board leadership return to talk about the housing component; affordable housing plan. He stated his impression, as written, the law is not realistic; how do you determine what is an affordable house here in Merrimack and how we quantify what constitutes affordable housing to meet the particular formula the State wants us to meet. Mr. Best stated he would be glad to do that. He remarked what the Board tried to do with the Master Plan was to categorize the goals as something to consider. He noted both of the CUPs have enormous housing components, which will ultimately be either condo or rental and probably be more in the realm of what meets the definition of affordable housing in New Hampshire. He agreed, as a town, Merrimack has quite a bit of multi-family and affordable housing that meets the standards. He is unsure we would have an obligation to do more, but we do have applicants coming forward with plans to do more.

Alastair Millns, Secretary, Planning Board, commented the Town Moderator, Lynn Christensen, who sits on the Planning Board, is also on the State Commission on Housing Policy and regulation, which is looking at this matter. He suggested, if desired, she could be asked to appear before the Council.

2. Annual Review with the Agricultural Commission

Submitted by Agricultural Commission Chairman Bob McCabe

Per Town of Merrimack Charter Section 6-6, at least annually, there should be an annual review with the Agricultural 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.

Bob McCabe, Chairman, Agricultural Commission, stated last year the Commission completed its 6th full year in operation. A wet spring offered up planting and fertilization changes and blight and diseases were experienced with tomatoes. The summer eventually warmed and crops showed promise. A long growing season followed and a hard frost eventually came on October 22, 2013. After a long and heavy winter the spring has opened with much promise.

The 2014 Merrimack Farmer's Market has a new focus this year. The Commission is seeking the right Farmer's Market Aid to be onsite every Wednesday to assist vendors and advertise products. There

are many small farmers growing products in our area, and we strive to provide local farmers of various sizes with the opportunity to showcase.

The Merrimack Agricultural Commission worked with the Park and Recreation Committee to continue the site for a community garden at Wasserman Park. The citizens of Merrimack used 100 garden plots in 2013, and by Mother's Day of 2014 it is anticipated the garden will be opened for the new season with a sellout of all garden plots.

The Merrimack Agricultural Commission makes an annual contribution to the 4H Club of Merrimack to continue training and/or education. At its monthly meetings the Commission continues to provide updates on various horticultural concerns such as insect and disease control. The apple expert continues to offer input on growing and harvesting, and the equine expert keeps the Commission updated on matters related to care and training of horses. The Commission continually monitors and discusses training sessions available to the public through the UNH Extension Service and Offices. The Chairman of the Merrimack Agricultural Commission saw through the duration and end of the planning process for the Master Planning Committee over the last two years. New members and/or volunteers are welcome. The public is welcome to attend meetings, provide comment, and participate in any items of interest. To date, there have been no public monies used for the Commission.

Chairman Yakuboff spoke of the efforts to seek a Farmer's Market Aid, and questioned why the Commission could not assign a member to the task. He suggested, if unable to assign a member, one would think some support could be provided by the 4H Club. Chairman McCabe noted Commission members have been utilized in the past; however, at present, there is a shortage of physical labor due to age, time constraints, etc. Members of the 4H club are younger/junior members. What would be ideal is an agriculture or marketing major with a cell phone who could drum up business, which is what has worked well for the other large markets within the State. Last year the Council granted permission for the hiring of a Manager. The position was advertised. To date, one individual has expressed interest and been interviewed. The position would be part-time (2:30 – 6:00 p.m. each Wednesday). The successful candidate would be trained in place to assist in working through the issues being faced with the market.

Mr. McCabe remarked what exists is a small to medium market, and there is not enough traffic. The greatest concern is the need to increase traffic. This year 10-11 new vendors have signed up. The market will open on June 18, 2014.

Chairman Yakuboff suggested Commission members and/or members of the 4H Club be utilized. He suggested that age group (4H) is well versed with the use of social media for advertising. Mr. McCabe noted the Commission consists of 5 full-time members and 1 alternate; two of which are 80 years of age, 1 is 72 years of age, and 2 of the terms are expiring. The help is not available. It is his belief, at this time the only recourse is a part-time employee. The other avenue would be to sell the market, which would result in a complete change to how the market is run.

Councilor Boyd questioned whether the level of traffic is a matter of location. Mr. McCabe remarked he has tried to identify another location, and has sent letters to the owner of the former Shaws site to no avail. It is possible location is a factor. There is a line of site issue with the current location; however,

having been in that location for the past five years, he is confident the location of the market is well known.

Councilor Boyd spoke of the community gardens at Wasserman Park, and questioned whether the market should be located at the gardens where people can see exactly what is done. Mr. McCabe spoke of the parking issue. He noted an individual stationed at the market utilizes a cell phone to put the word out on specials being conducted, produce available, etc., which draws people in. Councilor Boyd commented Plymouth State University, through their Masters of Business Administration program, has students in their entrepreneurial program, and part of the practicum is for them to manage a small business as an intern. He suggested that could be a unique opportunity for the Commission to explore. Mr. McCabe remarked some of that marketing advertisement was sent out through the head marketer at the Extension service in Durham. She put it in all of the right places and nobody responded. Mr. McCabe stated he could try Plymouth State; however, the market is opening in a month one way or the other. He requested direction from the Council.

Councilor Rothhaus commented the Zyla property is right on Route 3 and may be a preferable location. Mr. McCabe spoke of the requirement for permitting, and stated a willingness to reach out to the owner of the property.

Public Hearing

1. Public Hearing – Equipment Donation for the Merrimack Fire Department

Submitted by Fire Chief Michael Currier

The Town Council will hold a public hearing to authorize the acceptance of a Zoll AutoPulse System with attachments and accessories, valued at approximately \$14,094.00 from Catholic Medical Center for the Merrimack Fire Department, pursuant to RSA 31:95-e and Charter Article 8-15.

Chairman Yakuboff declared the Public Hearing open at 8:30 p.m.

Michael Currier, Fire Chief, introduced Assistant Chief Richard Pierson and Master Firefighter/Paramedic Mike Kelly. Assistant Chief Richard Pierson noted about 6-9 months ago the department began to evaluate automatic CPR devices. When CPR is being performed on an individual in cardiac arrest, the device would perform the actual compressions (in accordance with standards). Two models were evaluated. Unfortunately, there were 6 instances where the devices had to be utilized. Through the evaluation process, which included discussions with users of the devices, it was decided the Zoll AutoPulse model was desired.

Unfortunately, no monies were set aside for that purpose. Paramedic Kelly suggested reaching out to Catholic Medical Center (CMC), where a lot of our cardiac patients are taken, to see what they might have for funding. A letter was written back in February explaining the evaluation process, requesting an opportunity to make a presentation, and questioning whether funding was available. About two months ago they had the opportunity to go to CMC to provide the presentation. The following day they received a call stating CMC's appreciation of the presentation and a commitment to fund one CPR device.

The letter stated in part “The mission of the New England Heart Institute Foundation at Catholic Medical Center is to provide and distribute funding for cardiac education, wellness programs, and emergency equipment aimed at enhancing the cardiac health and wellbeing of the community. Funding for this grant was raised through donations from grateful patients and special events organized by the New England Heart Institute Foundation.”

The request before the Council was to accept a donation from the Catholic Medical Center for an automatic CPR device; Zoll AutoPulse CPR System with pass-through, which generates consistent and uninterrupted chest compressions offering improved blood flow during cardiac arrest. Included are the backboard user guide, quick reference guide, shoulder restraints, backboard cable ties, head immobilizer, in-service training, and a one-year warrantee. Also included are two spare lithium ion batteries, a charger and conditioner for the batteries, a soft carry case and an auto pulse soft stretcher. This extrication stretcher is suitable to move the patient while the auto pulse is deployed. The total donation from CMC to the Town of Merrimack is \$14,094.

Chairman Yakuboff opened the floor for public comment. No one from the public addressed the Council.

Chairman Yakuboff declared the Public Hearing closed at 8:35 p.m.

Councilor Boyd thanked CMC for the donation. He commented his Wife worked in the Cardiac Intensive Care unit for ten years and he knows first-hand the type of work they do there, and the fact they want to ensure when a patient is being transported he/she has every chance to get the needed medical attention.

Vice Chairman Harrington complimented the department for taking the initiative to locate a resource to allow for the purchase of equipment identified as a need. She commented it is a direct reflection of the reputation Merrimack has achieved with regard to the quality of service provided. Councilor Koenig questioned where the equipment would be housed. Assistant Chief Pierson responded, at this time, the intent is to place the equipment on Ambulance 1. When asked how frequently this type of equipment might be utilized, he stated, during the evaluation period (approximately 8 months) it was deployed 6 times. Councilor Koenig questioned how these types of situations would be addressed if the equipment were not available. Assistant Chief Pierson provided the example; if Ambulance 2 had to respond to a cardiac arrest call and Engine 1 and Ambulance 1 were already out on a call, the three personnel have to come off of Engine 2 onto Ambulance 2. There would be three of them; one driving and two in the back. The patient’s airway would have to be maintained with positive pressure and someone would have to do compressions. If fortunate enough to have a second Paramedic on duty in the ambulance, he would be pushing medications and drugs. It is really tough to juggle all of that in the back. With the equipment available, it would do the compressions.

When asked if his experience with the equipment is that it adequately replaces the individual responsiveness of a person doing those compressions, Assistant Chief Pierson stated it allows the compressions to be done at the accepted rate and without someone tiring out. It is also safer in the back of the ambulance as the individual doing the compressions has to be standing in the back of the ambulance while it is moving.

Councilor Dwyer questioned whether plans should be in place for the purchase of a few additional devices so that each ambulance could be equipped. Assistant Chief Pierson stated his opinion this equipment should be on every ambulance. In the presentation to CMC a request was made for two devices, and he would not say that they would not return to CMC in 6 months to make them aware of the effectiveness and use of the device. Councilor Dwyer reiterated it would be his hope for a plan/budget to acquire the necessary amount of devices.

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to authorize the acceptance of a Zoll AutoPulse System with attachments and accessories, valued at approximately Fourteen Thousand Ninety Four Dollars (\$14,094.00) from Catholic Medical Center for the Merrimack Fire Department, pursuant to RSA 31:95-e and Charter Article 8-15, to instruct the Town Manager and/or her proxy to execute any documents necessary to perfect the transaction, and furthermore that either the Town Manager or the Fire Chief send a letter to the Catholic Medical Center Administration on behalf of the Town Council extending sincerest gratitude and thanks for donating this particular tool not just to the firefighters of Merrimack but to the community of Merrimack. MOTION CARRIED 7-0-0

2. Public Hearing – Abbie Griffin Memorial Funds for Fire and Police Departments

Submitted by Finance Director Paul Micali

The Town Council will hold a public hearing to authorize the acceptance and expenditure of funds from the Abbie Griffin Memorial Fund in the amount of \$17,800 for the purchase of the ImageTrend EMS Field Bridge Xpress application, (5) 32 GB Apple iPads, (5) Life proof cases, mounts for the apparatus, Apple Care extended plan, a set of CPR manikins with a carrying case, and (3) Pelican 1550EMS Boxes for the Fire Department and for the purchase of tactical equipment and a Total Station software upgrade for the Police Department, pursuant to RSA 31:95-b and Charter Article 8-15.

Chairman Yakuboff declared the Public Hearing open at 8:45 p.m.

Assistant Chief Richard Pierson remarked each year Merrimack Fire Rescue is fortunate enough to receive resources from the Abbie Griffin Memorial Fund to procure items that will benefit the department and the community which would not ordinarily be purchased through the operating budget. This year the department has been allotted \$8,900. The intent is to utilize the funds to enhance emergency medical efficiencies.

When caring for a patient, department personnel enter what is called the Patient Care Report into a State reporting system named TEMSIS. With the current system, that information cannot be entered until personnel report back to the station. There are many instances of back-to-back calls that result in the personnel not returning to the station for a few hours. In accordance with an agreement in place with the hospitals, the report on a Status 1 patient (most critical) has to be provided to the hospital prior to personnel leaving the hospital, for a Status 2 patient, the hospital has to receive the report within an hour from the patient being dropped off. There are times when these guidelines cannot be met. There are also times when personnel will spend hours identifying which patient goes to which report, which procedures, medications used, etc.

Proposed for purchase is Field Bridge Xpress, which is software made by the same company that makes the TEMSIS program. The program allows for the use of tablets to report patient care information. Once WiFi is available (at hospital or station) the information can be downloaded into TEMSIS. In conjunction with that, is the request to purchase a Field Bridge system (\$2,500) and five 32 GB Apple iPads along with life proof cases, mount, and an Apple Care warranty program (\$1,009 for each of the 5). The devices would be housed in each of the ambulances, Engine 1, and Engine 2. Total cost for this system would be \$7,545.

Also proposed is the purchase of CPR manikins (adult, child, and infant) with carrying case. Personnel must be recertified in CPR every two years. The current manikins utilized for this purpose as well as teaching CPR classes are over 20 years old and in dire need of replacement (\$543.95). The final item proposed for purchase is medication boxes. All ambulances are advanced life support and carry medication drug boxes. They contain numerous medications that must be easily accessible yet need to be easily stored for positive identification in the field as well as tagged due to accountability requirements. With the current system boxes similar to fishing boxes are being utilized. There have been issues with interior drawers jamming and some of the lock tabs breaking. Proposed is the purchase of three Pelican 1550 EMS Boxes (total cost \$754.47). Total cost for all items would be \$8,843.42.

Chairman Yakuboff opened the floor for public comment. No one from the public addressed the Council.

Councilor Mahon questioned whether WiFi capability would be useful, and was informed it would. It was noted the reason behind the decision to purchase 4G capable devices was to provide that capability if needed outside of a WiFi accessible area. Councilor Mahon questioned whether there would be additional expense associated with the capability, and was informed there would not be. When asked about the need for a contract, Master Firefighter Kelly stated the department worked with Verizon to review efficiencies and use of current devices, they were able to eliminate some of the existing devices and consider new plans offered, which resulted in the ability to add the iPads to the contract while reducing the overall cost by approximately \$2.00.

Councilor Mahon questioned how the information is secured, and was informed the Apple iPads utilize an Advanced Encryption Standard 256. Apple is the only device that carries that, which is used by NSA. Councilor Boyd questioned whether it is a fair statement to say the Field Bridge software is HIPAA compliant, and was informed it is. He questioned how the information is transmitted to the hospital, and was informed it goes through TEMSIS, which is closed (single) source software (from them to the hospital).

Councilor Koenig asked for clarification of the \$2,500 cost associated with the Field Bridge software and questioned whether there is an annual fee, etc. It was explained the \$2,500 is the cost for the software site license. The department has monies appropriated for any maintenance fees.

Councilor Boyd questioned and was informed drug inventory is done by hand. He spoke of knowledge of a computerized drug dispensary box, which dispenses medication and inventories. He questioned whether the proposed boxes would be similar, and was informed what is proposed is a storage box. Councilor Boyd questioned whether the marketplace has a dispensary box type system for ambulances.

Vice Chairman Harrington commented the diversity of the medications you have to give on a hospital floor is magnified by 100. In an ambulance, you have a specified number of drugs that you would have to use, and you would not want to have to input into a computer what you need, you would want to be able to get ahold of it immediately. She stated the device is not applicable to an ambulance.

Police Chief Mark Doyle spoke of the fortunate opportunity provided the department each year to be able to take advantage of expending monies from the Abbie Griffin Memorial Fund. All members of the department were asked to provide input as to what they thought would be important from a wants and needs perspective for the department. Some very good suggestions were put forth. The determination made was to continue the outfitting of the tactical Containment Team through the purchase of ceramic plates for the tactical team vest carriers purchased last year and 3A ballistic panels (front and rear sets) (\$6,455). The second request is to purchase a software upgrade for the Total Station, which is a physical device that creates a virtual diagram of a crime or accident scene so that officers can do work in the field without the use of long tape, pencil drawings, etc. The software creates the virtual diagram and retrieves the data from the field so that it can be downloaded onto a laptop at the station. The current system was purchased in 2005. Because it is on a Windows XP platform updates are no longer associated with it. The department has worked closely with the vendor to come up with a reasonable accommodation in terms of purchasing new software as well as prepaid update protection and technical support and three-day training (webinar) for officers on the Accident Reconstruction Team and the Crime Scene Team (\$2,494.25). Total proposed expenditure from the Fund is \$8,949.

Chairman Yakuboff opened the floor for public comment. No one from the public addressed the Council.

Chairman Yakuboff declared the Public Hearing closed at 9:07 p.m.

Councilor Rothhaus requested additional information on the tactical equipment. Chief Doyle explained the requested purchase is for eight ceramic plates, level 4, 9.375" x 12.375", 8.6 lb. stand-alone, 17mm multi-curve front plates, five ceramic plates, level 4, 10x12, full cut 7.9 lb. stand-alone single curve rear plates for the back panels, four GS level 3A ballistic panels, front and rear set (four were purchased last year), and custom patches for the vest carriers ("police" on front and back).

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to authorize the acceptance and expenditure of funds from the Abbie Griffin Memorial Fund for the Merrimack Fire Department in the amount of Eight Thousand Eight Hundred and Forty Three Dollars and Forty Two Cents (\$8,843.42) for the purchase of the ImageTrend EMS Field Bridge Xpress application, (5) 32 GB Apple iPads, (5) Life proof cases, mounts for the apparatus, Apple Care extended plan, a set of CPR manikins with a carrying case, and (3) Pelican 1550EMS Boxes and that the Town Manager and/or her proxy be authorized to execute any and all documents necessary to effect the transaction. MOTION CARRIED 7-0-0

MOTION made by Councilor Boyd and seconded by Councilor Mahon to authorize the acceptance and expenditure of funds from the Abbie Griffin Memorial Fund for the Merrimack Police Department in the amount of Eight Thousand Nine Hundred and Forty Nine Dollars (\$8,949) for the purchase of tactical equipment and a Total Station software upgrade, pursuant

to RSA 31:95-b and Charter Article 8-15 and that the Town Manager and/or her proxy be authorized to sign any and all documents necessary to effect the transaction. MOTION CARRIED 7-0-0

Councilor Rothhaus commented the Abbie Griffin Memorial Fund is an amazing endowment that has been left, and one which has been a real benefit for our community.

3. Public Hearing – NH Highway Safety Agency DWI Enforcement Grant

Submitted by Lieutenant Paul Trepaney

The Town Council will hold a public hearing to authorize the acceptance and expenditure of a New Hampshire Highway Safety Agency DWI Enforcement grant in the amount of \$7,461.48 for the Merrimack Police Department to fund overtime saturation patrol efforts for additional patrols to occur on weekend evenings and holidays, pursuant to RSA 31:95-b and Charter Article 8-15.

Chairman Yakuboff declared the Public Hearing open at 9:14 p.m.

Lieutenant Paul Trepaney stated he was before the Council seeking acceptance of a grant in the amount of \$7,461.48 to fund DWI patrols. The grant was awarded by the New Hampshire Highway Safety Agency. The funding would provide supplemental patrols allowing officers to concentrate on impaired driver enforcement on weekend and holiday evenings.

Chairman Yakuboff opened the floor for public comment. No one from the public addressed the Council.

Chairman Yakuboff declared the Public Hearing closed at 9:18 p.m.

Councilor Boyd questioned the data obtained from the last instance (year before last) the grant was received. It was noted the information was provided to the Finance Department when the request was submitted for grant reimbursement. Director Micali stated the information would be forwarded to the Council.

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to authorize the acceptance and expenditure of a New Hampshire Highway Safety Agency DWI Enforcement grant in the amount of Seven Thousand Four Hundred Sixty One Dollars and Forty Eight Cents (\$7,461.48) for the Merrimack Police Department to fund overtime saturation patrol efforts for additional patrols to occur on weekend evenings and holidays, pursuant to RSA 31:95-b and Charter Article 8-15 and furthermore that the Town Manager and/or her proxy be authorized to sign any and all documents necessary to perfect the grant.

MOTION CARRIED 7-0-0

4. Public Hearing – NH Highway Safety Agency Traffic Enforcement Grant

Submitted by Lieutenant Paul Trepaney

The Town Council will hold a public hearing to authorize the acceptance and expenditure of a New Hampshire Highway Safety Agency Traffic Enforcement grant in the amount of \$5,471.75 for the Merrimack Police Department to fund overtime saturation patrol efforts for additional patrols to occur during weekday rush hours and Saturday mornings, pursuant to RSA 31:95-b and Charter

Article 8-15.

Chairman Yakuboff declared the Public Hearing open at 9:20 p.m.

Lieutenant Paul Trepaney informed the Council the grant was awarded by the New Hampshire Highway Safety Agency to the department in the amount of \$5,471.75 for speed enforcement. It is to supplement patrols and target both focused areas and roadways in Town on the days and dates in question; primarily rush hour and Saturday mornings. It is an effort to get more officers out there to enforce the rules and regulations of the roadway to bring about more compliance; hopefully voluntarily.

Calls for service have increased over the years and the number of summonses and speed warnings decreased with officers tied up on other calls. This will allow more officers to be in the field to enforce the speed laws.

Chairman Yakuboff opened the floor for public comment. No one from the public addressed the Council.

Chairman Yakuboff declared the Public Hearing closed at 9:20 p.m.

Councilor Koenig questioned whether grant funds cover administrative costs. Lt. Trepaney stated it does not cover the cost of his time to handle the administrative end of the process, but it does cover the payroll deductions for the additional benefits related to the officers. When asked about the time involved in preparing grant applications, follow-up reporting, etc., Lt. Trepaney responded it is approximately 3-4 hours of his time between writing the reports, generating statistics, etc. Director Micali noted it takes the Finance Department 3-4 hours to process the necessary paperwork. Lt. Trepaney remarked it is overall a benefit to the Town as it provides additional officers in the field.

MOTION made by Councilor Mahon and seconded by Councilor Koenig to authorize the acceptance and expenditure of a New Hampshire Highway Safety Agency Traffic Enforcement grant in the amount of Five Thousand Four Hundred Seventy One Dollars and Seventy Five Cents (\$5,471.75) for the Merrimack Police Department to fund overtime saturation patrol efforts for additional patrols to occur during weekday rush hours and Saturday mornings, pursuant to RSA 31:95-b and Charter Article 8-15 and to authorize the Town Manager and/or her designee to handle all paperwork. MOTION CARRIED 7-0-0

There being no objection Chairman Yakuboff called for a five-minute recess.

The Council recessed at 9:25 p.m.

The Council reconvened at 9:30 p.m.

Legislative Updates from State Representatives - None

Town Manager's Report

The Community Development Department welcomes our new Planning & Zoning Administrator Jillian Harris to the Town of Merrimack. Ms. Harris started on May 5th, and comes to us with 5+ years of experience with the Southern NH Planning Commission in Manchester.

Please keep Merrimack the 19th safest community in the country by reporting suspicious activity; see something, say something. The Merrimack Police will be joining police departments around the country in May with the "Click it or Ticket" campaign to enforce the seatbelt/child restraint laws of New Hampshire.

Consent Agenda - None

Old Business - None

New Business

1. Joint Merrimack Police Department and School District Full Scale Active Shooter Exercise

Submitted by Captain Mike Dudash

To discuss and request support to apply for a Homeland Security Exercise and Evaluation Grant through the State of New Hampshire Grants Management in conjunction with the Homeland Security Grant Program. This grant, approximately \$50,000, would cover the expenses for planning, coordinating, staffing and training of emergency personnel on how to be more effective and efficient when responding to an active shooter scenario at one of our schools.

Police Chief Mark Doyle requested the Council consider authorizing the Police Department to pursue a grant opportunity through the Office of Emergency Management and Planning. The department had established, several years ago, a partnership whereby the department and the School District work together to address issues relative to active shooters in the schools. The partnership was specifically designed to address mitigation and response to school shootings. This has been three years in the works. The senior staff and he have attended many conferences regarding strategies, mitigation, and response to school shootings hosted by the FBI and by the United States Attorney's Office. The School District has done the same on their end. They have conducted planning and meetings with the District Emergency Management Coordinator, have met individually with each school's leadership team for drills, presentations, and demonstrations on how the department would respond to an active shooter scenario.

Since the incident in Newtown, CT, they have conducted daily visits to all of the schools. Every school in the district knows that they will see a police officer at some point during the course of the school day. They have also provided police radios with an emergency panic button to each one of the schools offices, including the Superintendent's Office so all that they need to do is pick up that radio and hit the emergency panic button to know for all intents and purposes the cavalry is going to come, no questions asked. We have instructed them on how to use that radio and to use it at the behest of making sure that they get a response.

This particular grant is designed to cover costs associated with the planning, policy development, and overtime backfill during the engagement of the actual drill. Chief Doyle spoke of the amount of work that has been undertaken in training the Containment Team and members of the Patrol Division to

respond in kind to an active shooter scenario to any one of the schools. They have actually conducted those live demonstrations in front of each one of the school districts leadership teams, faculty, and staff, again at each and every school including the Brentwood School where they have seen the kind of response that will occur in an active shooter demonstration. This particular drill is the capstone of all of the hard work to date. It is a metric for where the Town is in terms of preparedness; will be working with the office of Emergency and Management Planning in terms of not only conducting the drill but putting together a nice after action report to see where we need to go next.

It will involve a number of law enforcement partners in the region, emergency medical service in Town, the Merrimack Fire Department, and the school district. The venue hasn't been named, but will most likely be one of the secondary school sites. He noted he would be sitting in on a meeting with the School District on May 19th to provide a similar presentation as is being provided to the Council to provide them information on the scope and concept of the exercise and what the school district's involvement would be.

Captain Michael Dudash spoke of coming before the Council a few weeks prior requesting the acceptance of a grant to assist the Bedford Police Department. At that time, the request was for funding for 8 officers to go over and participate in the drill. The following day he spoke with the Chief who questioned whether there would be funds available to conduct our own drill to test us to see if what has been done over the past few years is enough. The desire is for the whole Town to be involved in a full drill.

Captain Dudash contacted Homeland Security about the grant and what it entailed. He was informed there were funds remaining for the current year if the department could gain permission from the Council and start the process. There are also monies available for the following fiscal year. A request was made that the Town not use a consultant as was the case in Bedford, as it is believed a great experience for someone such as Captain Dudash to coordinate the event. Bedford paid approximately \$20,000 for a consultant to run the drill, which cost about \$60,000.

The process would start by holding 3-5 workshops (2-3 hours each in June and July) at which 10 representatives from various departments within the Town would participate. During these workshops, the group would formalize an official plan of how to respond to an active shooter. From there, 3-5 seminars would be conducted (July and August), which are intended to bring each officer in to concentrate solely on the policy and provide feedback. A great deal of training has been done in the past three years, but not every officer has been part of the process of formalizing a plan. At the conclusion of the seminars would be a tabletop exercise (September/October and possibly November). The tabletop exercise is a large event and a test of what your full function exercise would be the following year. The Town Administrator along with members of the Council would be invited to participate.

In the following year, 2015 (likely during spring vacation), a location would be identified to conduct the exercise. The School District is in total support of the grant. The department is still awaiting additional information on the grants received by both Concord and Bedford so that their total numbers can be reviewed. It is believed to be in the \$60,000 range. Taking away the cost of the consultant, it is believed the cost of the exercise would be in the vicinity of \$40,000.

The grant monies cover the cost of overtime for the officers to be involved and backfilling positions of first responders including the Fire Department. It includes costs for planning such as overtime expended on budgeting and planning those exercising, supplies such as printed material and handbooks as well as food. Any seminar, etc. exceeding 4 hours in length includes food. Also covered are any costs associated with renting a location.

Chief Doyle noted a meeting was held the prior Friday with the Superintendent and the Emergency Management Director regarding the grant. They are very supportive of the effort.

Councilor Dwyer acknowledged the efforts that have been put forth in this regard. Councilor Boyd remarked he views the request not to utilize a consultant as an indication of the level of confidence in the department and the skillset of its personnel. When asked if his perception is believed fair, Chief Doyle remarked it is, and commented if you were to poll every one of the officers and civilian and support staff, he believes when we talk about school safety everybody realizes there is no more important priority right now than what we can do and be effective doing with the appropriate amount of planning and preparation than to be able to respond in the event something like this happens.

MOTION made by Councilor Mahon and seconded by Councilor Boyd to authorize the Police Department to apply for a Homeland Security Exercise and Evaluation Grant through the State of New Hampshire Grants Management in an amount not to exceed Fifty Thousand Dollars (\$50,000) to cover the expenses for planning, coordinating, staffing, and training of emergency personnel on how to be more effective and efficient when responding to an active shooter scenario at one of our schools. MOTION CARRIED 7-0-0

2. Agricultural Commission – Request for Farmers’ Market Manager

Submitted by Agricultural Commission Chairman Bob McCabe

The Town Council to consider a request to hire a Farmers’ Market Manager.

Bob McCabe, Chairman, Agricultural Commission, stated the request is not for funding. Funding is in place to cover the cost of a part-time Manager. Being sought was feedback and/or direction. When asked, Chairman Yakuboff stated his opinion the market is worth saving, but someone has to step up to the plate. He is unsure an individual needs to be hired to do that. Mr. McCabe spoke again of the age of Commission members and noted 4H Club members are 12-14 years of age, and not trained.

Councilor Dwyer remarked he treats everything with the eye of a business plan. In that regard, it is difficult to fulfill the role of a part-time person for 3-4 hours/week. The demographics of the Commission are also difficult. As a business model, the definition of a part-time job being 3-4 hours/week will fail. Unless someone within the organization wants to volunteer time, he does not see how it will work.

Mr. McCabe noted he developed a job description for the position of Market Manager, and has interviewed one eighteen-year-old who is interested (3.5 hours/week for 18 weeks). Last fall when the market ended, vendors were surveyed and stated the desire for active presence. Mr. McCabe stated a willingness to hire the individual he interviewed who has said he will stay through October. He restated the desire for clarity from the Council.

Chairman Yakuboff remarked when hiring a person, if that individual earns over \$600 annually he/she will have to receive a 1099. If hired as an employee, through the Town, it is a different situation. He requested Director Micali explain the difference. Director Micali stated the Town receives the funds from the Farmer's Market, which sit on the Town's books to address the needs of the Farmer's Market. With regard to the question of a 1099 employee versus an employee of the Town, there are numerous IRS regulations on what a 1099 employee is. Having spoken with counsel, in short, a 1099 employee has to carry their own insurance. You cannot tell a 1099 employee when they are supposed to be working.

A 1099 employee has their own worker's comp. insurance. With an employee of the Town of Merrimack, the Town has to pay the cost of unemployment and worker's comp. and the employee would be covered under the Town's general liability insurance, e.g., if money changes hands and comes up missing, it would be covered by the insurance company. If a 1099 employee technically you cannot supervise them; you can only give them direction on the job you want to have done.

Councilor Dwyer stated that is why elections have consequences. Over the last couple of decades we have elected people who have made these laws over us. This is the world we live in, and we have done it to ourselves. Councilor Mahon stated his opinion the assignment of blame is a little overdone as this has been on the books for a long time, and there are 20 conditions where if a single one is met the individual cannot be considered a contract (1099) employee. The reason the conditions exists is as a result of other employers who have abused that system to beat up on their employees. This is what happens when these people who wish to be unregulated start abusing the privilege they have. Councilor Rothhaus remarked it is the amount of time, e.g., employers will use a 1099 as a way to skate around having to pay for things like workers comp.

Chairman Yakuboff questioned whether the individual would be looking to purchase worker's comp. insurance and was told he would not. It was stated it is not necessary for an individual to have worker's comp. insurance on him/herself. Chairman Yakuboff stated there would be the need for insurance.

Mr. McCabe noted the possibility of hiring a part-time Highway Maintainer was discussed. However, the job description requires the individual be trained on how to solicit iPhone information, Facebook, etc. Ideally the individual would be either agriculture or marketing major. Town Manager Cabanel commented the Town has technologically savvy employees in the Media Division who work part-time. If that is the type of experience being sought, there might be some interest. Mr. McCabe noted the \$10/hour anticipated salary. Mr. McCabe remarked the Commission could use some Facebook training, but he does not believe it could afford to pay those individuals.

Councilor Dwyer suggested a way around some of the strings would be to cease having the funds funnel through the Town. Town Manager Cabanel suggested a decision be made as to whether or not it is believed the employee is something the Council wishes to add to Town staff on a part-time seasonal basis. If the answer is yes, that person becomes an employee of the Town seasonally like a maintainer and would be paid for out of the agricultural funds. She remarked she was trying to avoid hiring an employee, but if not an issue for the Council, that is a direction that could be taken.

Councilor Koenig noted the Town hires part-time seasonal employees for the Parks and Recreation Department every summer. This would be a part-time seasonal employee for support of the Agriculture Commission. He stated his opinion the individual should be brought in as a part-time seasonal employee of the Town working to support the Agricultural Commission and be paid out of the Commission's fund. When asked if there is a disadvantage, Director Micali stated the need to pay FICA, unemployment, worker's comp., etc. At 3.5 hours/week and \$10/hour it does not equate to much. Vice Chairman Harrington stated agreement with the direction suggested.

MOTION made by Councilor Koenig and seconded by Councilor Harrington to approve the addition of a seasonal part-time employee (Market Intern) to assist the Agricultural Commission in running and developing the Farmer's Market and that the position is funded by the Agricultural Commission at a rate of Ten Dollars (\$10) per hour. MOTION CARRIED 7-0-0

There being no objection, the Council went out of the regular order of business to take up Item #5.

5. Amendments to Chapter 193, Welfare Guidelines of the Merrimack Town Code [First Reading]

Submitted by Welfare Administrator Pat Murphy

The Town Council to consider the recommended amendments to Chapter 193, Welfare Guidelines of the Merrimack Town Code, pursuant Charter Article V and RSA 165:1.

Pat Murphy, Welfare Administrator, informed the Council of her recommendation to amend the welfare guidelines; to make corrections on references to the Merrimack Charter (page 4) and to delete reference to New Hampshire State law 167:27 due to a conflict with the American Disabilities Act (page 18). The conflict resulted because of an amendment to State law, which took effect on January 1st. Where the law used to say people who received certain types of assistance, e.g., old age assistance or aid to the permanently and totally disabled, which are State cash assistance programs, were ineligible to receive public assistance from another entity, it now states an exception to that will be made if the municipality wishes to make changes to their guidelines to allow eligibility.

It has been realized by giving the option to the municipality, if the municipality does not make such a change it would appear as though the municipality was discriminating against the disabled and elderly. The opinion received from legal counsel was it would be best to eliminate from the guidelines any reference to the law. The feeling was State law is now superseded by the Federal Discrimination Act.

If an individual receiving these types of assistance approached the Welfare Department for assistance, and the determination were made there is ineligibility due to the reference/law that currently exists in the welfare guidelines, it could result in a discrimination lawsuit. Ms. Murphy noted, with the change, it is understood the income related to the other types of assistance would be included in the eligibility determination for assistance.

MOTION made by Councilor Dwyer and seconded by Councilor Mahon to move the matter to public hearing

ON THE QUESTION

Councilor Koenig requested additional clarification. He commented it is his feeling the Town is being threatened by the Disabilities Rights Center, Inc. where they say if we don't do this we may put the municipality at risk of legal action. He questioned whether the risk of legal action would be from them. Ms. Murphy stated them to be one entity and the one that brought the matter to the forefront. She remarked the legislative action started as removal of the law and ended up being identified as an option for municipalities to determine whether or not to make such a change in the guidelines. Groups like the Disabilities Rights Center saw it as discrimination if the municipality opted not to opt to provide assistance to individuals receiving these types of assistance. The amount of such made on a yearly basis is typically between 1 and 2. Prior to the amendment, the Law stated an individual could lose benefits if receiving assistance from another public entity. With the option available for municipalities to provide assistance, if it chooses not to, it gives the appearance of discrimination.

Councilor Koenig asked for clarification the American Disabilities Act states you cannot discriminate and you have to provide assistance? Ms. Murphy responded the Federal America Disabilities Act simply does not allow you to discriminate period. Her interpretation is that if someone with a disability or elderly came in, requested assistance, and was deemed ineligible based on their receipt of those types of benefits, the department would then be discriminating against them based on the fact that they are disabled or elderly. She explained further, prior to the change in State law, the law stated if a person came in and requested that funding they would lose their benefits (was viewed as double dipping). She remarked she is unsure if the prior language of the State law could have been viewed as discriminating.

Councilor Koenig questioned whether the Town would no longer be responsible to adhere to the law if reference were removed. Ms. Murphy responded legal counsel informed her Federal law supersedes State law; if there is State law that conflicts with Federal law, we have to abide by Federal law. The Federal Disabilities Act states you cannot discriminate against people with disabilities or elderly. Referencing a law that would be in conflict with Federal law would result in problems. The recommendation was to remove the reference from the guidelines. Councilor Mahon and Councilor Koenig commented on challenges involved.

Councilor Rothhaus stated that he believed the reason you could not receive benefits from one entity was because it was offset by another. It is not discrimination because of their disability it is because of the funding they already receive. If it is duplicative funding under a different name, that is the discrimination. Councilor Mahon stated the need to review the Statute 165:1 I, which defines who eligibility. Even though they may be receiving those other payments, they probably were being discriminated against at some point because if they were poor and unable to support themselves we are required to relieve them and be maintained by the overseers of public welfare.

MOTION CARRIED 4-3-0

Councilors Koenig, Rothhaus, and Boyd voted in Opposition

3. Proclamation of National Public Works Week

Submitted by Public Works Director Rick Seymour

The Town Council to proclaim the week of May 18 – 24, 2014 as National Public Works Week.

MOTION made by Councilor Mahon and seconded by Councilor Boyd to proclaim the week of May 18 – 24, 2014 as National Public Works Week

The following Proclamation was read into the record:

“Whereas, public works services provided in our community are an integral part of our citizen’s everyday lives; and

Whereas, the support of an understanding and informed citizenry is vital to efficient operation of public works systems and programs such as wastewater collection and treatment, street and bridges, buildings and grounds; transfer station/recycling; equipment maintenance; park and cemetery maintenance; and engineering.

Whereas, the health, safety and comfort of this community greatly depends on these facilities and services; and

Whereas, the quality and effectiveness of these facilities, as well as their planning, design, construction, is vitally dependent upon the efforts and skill of public works officials; and

Whereas, the efficiency of the qualified and dedicated personnel who staff public works departments is materially influenced by the people’s attitude and understanding of the importance of the work they perform,

Now, therefore, We, Town Council of the Town of Merrimack, do hereby proclaim the week of May 18 - 24, 2014 as “National Public Works Week” in the Town of Merrimack, and we call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing our public works and to recognize the contributions which public works officials make every day to our health, safety, comfort, and quality of life.

Given under our hands and Seal of the Town of Merrimack this 8th day of May, 2014.”

MOTION CARRIED 7-0-0

Minutes

Approve the minutes from the April 17, 2014 Town Council meeting.

The following amendment was offered:

Page 4, Line 20; replace the word “disk” with the word “disc”.

MOTION made by Councilor Boyd and seconded by Councilor Harrington to approve the minutes of the Town Council meeting of April 17, 2014 as amended. **MOTION CARRIED 7-0-0**

Comments from the Press - None

Comments from the Public

Bob KillKelley, 18 Hillside Terrace

Commented listening to the earlier discussion around sidewalks brought to the forefront for him a concern he has had for the past 6 months or so. The Public Works Department will shortly be doing work in the area of Hillside Terrace. Last fall when the department was doing the layouts he had the opportunity to speak with Kyle Fox, Deputy Director of Public Works, and questioned whether consideration had been given to sidewalks in the area. He stated his belief the area is dangerous for pedestrians. The topography is a sharp corner on a hill, and the area has been prone to many accidents. He spoke of the level of pedestrian traffic in the area. Deputy Director Fox had stated the department does not do sidewalks.

Mr. KillKelley suggested projects performed by the Public Works Department be required, as is the case with most development that goes before the Planning Board, to include the construction of sidewalks when appropriate.

Mr. KillKelley spoke of two projects recently before the Planning Board; Pearson Road and Amherst Street, where, in both cases, the engineers made statements that 12" pipe will do the job, but 15" is what the Public Works Department desires, so that is what they are doing. However, in the project being conducted by the Public Works Department 12" piping is being used. Mr. KillKelley questioned why the private sector should be required to incur additional costs for standards the Town does not hold itself to.

Comments from the Council

Councilor Boyd reminded the Council and viewing audience Hannah Vaccaro is putting on her annual Race To Lace 5K on May 24th. Ms. Vaccaro raises funds for an orphanage in Haiti. This year's theme will be a food drive. As part of registration participants are asked to bring a non-perishable item to the road race.

MOTION made by Councilor Dwyer and seconded by Councilor Koenig to adjourn the meeting.

MOTION CARRIED 6-1-0

Councilor Boyd voted in opposition

The May 8, 2014 meeting of the Town Council was adjourned at 10:39 p.m.

Submitted by Dawn MacMillan