



**TOWN OF NEWMARKET, NEW HAMPSHIRE
TOWN COUNCIL AGENDA**

**REGULAR MEETING APRIL 15, 2015 7PM
NEWMARKET TOWN HALL COUNCIL CHAMBERS**

*****PLEASE NOTE***** There will be a Non-Public Session at 6PM Pursuant to RSA 91-A:3 II (a) the compensation of an employee and (c) matters that may adversely affect the reputation of a person)

1) Pledge of Allegiance

2) Public Forum ***Public Forum is an opportunity for the public to address the Town Council. All comments should be addressed to the Chair of the Council. No person will be allowed to speak longer than 5 minutes.***

3) Public Hearing

a) Ordinance #2014/2015-02 - Adopting the Codification of the Town Ordinances

4) Town Council to Consider Acceptance of Minutes

- a) Minutes of April 1, 2015
- b) Non-Public Minutes of April 1, 2015

5) Report of the Town Administrator and Department Head Reports

6) Committee Reports

7) Old Business

- a) Ordinances and Resolutions in the 2nd Reading
 - i. Ordinance #2014/2015-02 Adopting the Codification of the Ordinance Book*
 - ii. Resolution #2014/2015-49 Town Council Rules for Proceedings*
- b) Ordinances and Resolutions in the 3rd Reading
- c) Items Laid on the Table – NONE (*Items will remain on the table unless a member of the Town Council moves to remove the item.*)

8) New Business/Correspondence

- a) Town Council to Consider Nominations, Appointments and Elections
 - i. Zoning Board of Adjustment: Candidate Jonathan Kiper Term Expires March 2017*

b) Ordinance and Resolutions in the 1st Reading

i. Resolution #2014/2015-50 Authorizing the Town Administrator to Enter Into a Payment In Lieu Of Taxes Agreement with Great Bay Kids Company

ii. Ordinance #2014/2015 – 03 Prohibiting the Feeding of Birds and Wild Animals on Public Property

iii. Ordinance #2014/2015 – 04 - Regulating Raffles

iv. Resolution #2014/2015-51 - Relating to Replacement Doors at Recreation Center

c) Correspondence to the Town Council

d) Closing Comments by Town Councilors

9) Adjournment



TOWN HALL
186 MAIN STREET
NEWMARKET, NH 03857

TEL: (603) 659-3617
FAX: (603) 659-8508

FOUNDED DECEMBER 15, 1727
CHARTERED JANUARY 1, 1991

TOWN OF NEWMARKET, NEW HAMPSHIRE

NOTICE OF PUBLIC HEARING Newmarket Town Council

Notice is hereby given that the Town Council will be holding a Public Hearing on Wednesday April 15, 2015 at 7PM the Newmarket Town Hall located at 186 Main Street Newmarket, NH to receive input on Ordinance #2014-15 – 2: Adopting and Enacting a New Municipal Code for the Town of Newmarket, New Hampshire

Posted

Town Hall
Website
Post Office
Portsmouth Herald

PLEASE NOTE

Agenda Items:

4 a) Minutes of April 1, 2015 &

4 b) Non-Public Minutes of April 1, 2015

*Are not included in your packet and will
be distributed at a later date.*

STEPHEN R. FOURNIER
TOWN ADMINISTRATOR

sfournier@newmarketnh.gov
www.newmarketnh.gov



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TOWN OF NEWMARKET, NEW HAMPSHIRE
OFFICE *of the* TOWN ADMINISTRATOR

REPORT OF THE TOWN ADMINISTRATOR
April 16, 2015

Newmarket LIVE!: On Saturday April 18 from 9AM to 12PM, the Planning Department in conjunction with Strafford Regional Planning Commission will be holding a community forum at the Town Hall Auditorium. This is an opportunity for the community to get together and have a visioning session as part of the Master Planning process. Please RSVP with Kyle Pimental at kpimental@strafford.org or 603-994-3500 if you plan to attend.

Dedication of the Martha McNeil Room: You are invited to attend the Dedication Ceremony for the Martha McNeil Room on April 16 at 10:30am at the Sunrise Sunset Activity Center, 2 Terrace Drive, Newmarket. Please RSVP by responding to sunrise@newmarketnh.gov.

The program will be approximately one hour long and lunch will follow at 11:30. The menu for lunch is a Turkey, Spinach & Swiss Cheese Crepe w/Tarragon Sauce, Wild Rice Pilaf, Peas & Asparagus and Boston Cream Cake.

COAST Bus Route 7: I will have an update at the meeting.

Respectfully Submitted,

A handwritten signature in black ink that reads "Steve Fournier". The signature is stylized and written in a cursive script.

Stephen R. Fournier
Town Administrator



Department Heads Monthly Reports to the Town Council and Town Administrator

Police Department

Activity:

Call volume, arrests and reported incidents of criminal activity continue to be up slightly over this period last year. At this time I am happy to report that we have kept up with the increased volume of activity and our rate of resolving reported incidents continues to be high. There has been no unusual criminal activity since last month's report.

Emergency Response Plans

We recently completed a two month process of updating our emergency response plans for most of the high risk areas in town. Our plans have been redesigned to fit a model currently developed with our partner agencies in the Seacoast Emergency Response Team. This model will be presented to other law enforcement agencies throughout Rockingham County and the State. We are excited to be one of the first agencies in the region to adopt this model response plan.

Personnel:

There are no changes from last month to report and we are fully staffed.

Police Academy Cadre:

Detective Scott Kukesh will be completing his cadre assignment with the NH Police Academy at their graduation on April 10th. I recently met with the Director Donald Vittum of the NH Police Standards and Training Council, who indicated that Scott has been a tremendous mentor to the new recruits and has shared his experience and expertise with the graduating class. Director Vittum related that Scott has gone above and beyond with his training assignment. We are very fortunate to have him on the team here at Newmarket PD.

Police Cruiser Replacements:

After a discussion with the Town Administrator, I have begun the process to replace a police cruiser earlier this year. Usually this process begins after the new fiscal year begins, however this usually doesn't coincide with the manufacturer's build out schedule and summer plant closings. This year I've started gathering State bid pricing for the vehicle and outfitting quotes from three vendors earlier in order to get the vehicle ordered sooner and avoid the delay in delivery date. We have found that new utility style vehicle has proven to be an excellent replacement to the traditional Crown Victoria style vehicle that was used for about 20 years. The utilities handle extremely well, and have proven that they can handle the roughest winter weather. In addition, they are more fuel efficient and have more interior room than the Crown Victoria style cruisers.

I hope to have a proposal ready for the Council in May.

Great Bay Half Marathon:

Normally at the time I am compiling this report, we have just completed another year's half marathon and I can update the Council from the PD's perspective. However the submission date for this report is two days prior to this year's race so I will provide an update in next month's report.

We have met with the race organizers and that the route and traffic detours are the same as in recent past years.

Current Year Budget:

As of the end of March we completed the first nine months of the FY 2014-2015 budget. At the time of this writing we have expended approximately 70% of the appropriation and are on track to finish this year within budget. The equipment repair line item is currently slightly over budget. We are monitoring this line very closely. In comparison our gasoline budget is currently well under budget and will make up for any repair line item shortfall. I anticipate that the overall police budget will be in the black at fiscal years end. For the second year in a row, winter snow removal has placed a tremendous burden on every town department's budget. With a full quarter of the year left to go, all the department heads are reducing spending to compensate for a lack of funding for snow removal.

	<u>Budget</u>	<u>Month Exp.</u>	<u>YTD Exp</u>	<u>Amount Remaining</u>	<u>% Expended</u>	<u>Previous</u> <u>Year</u> <u>%</u> <u>Expended</u>
<i>Police Total</i>	1,264,752.00	90,724.68	854,337.98	410,414.02	68%	69%

Fire and Rescue Department

- For the month of March the department responded to 108 calls for service of those 67 were medical calls transporting 52 patients to area hospitals. The ambulance responded to Newfields for eleven medical calls transporting eight patients. The ambulance also responded to Durham, Epping, Lee and Stratham transporting 5 patients to the hospital. The tanker and ladder responded to Durham five times for station coverage and a structure fire. The ladder responded to Dover and Newfields for structure fires also. March was a very busy month for the department we typically do about 80 calls for service.
- The following new members successfully completed Fire 1 and are now state certified Ryan Ferguson, Tim Littlefield and Tyler Dodds. They have also successfully completed their probationary period.
- I have attached charts with activity reports for the month of March.
- No concerns at this point with my budget expenditures.

	<u>Budget</u>	<u>Month Exp.</u>	<u>YTD Exp</u>	<u>Amount</u> <u>Remaining</u>	<u>%</u> <u>Expended</u>	<u>Previous</u> <u>Year</u>	<u>%</u> <u>Expended</u>
<i>Fire & Rescue Total</i>	335,785.00	24,134.00	253,399.80	82,385.20	75%		80%

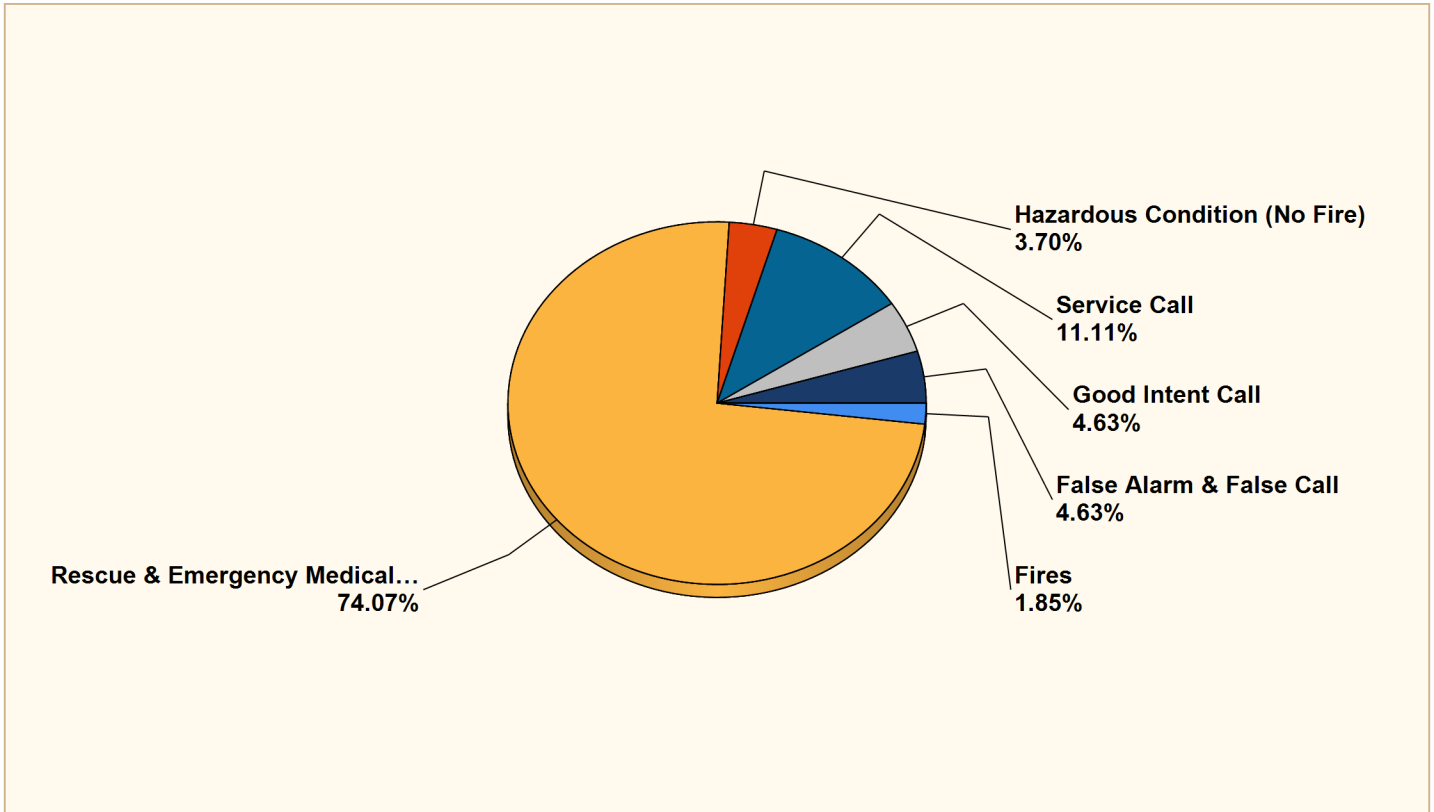
Newmarket Fire & Rescue

Newmarket, NH

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Breakdown by Major Incident Types for Date Range

Start Date: 03/01/2015 | End Date: 03/31/2015



MAJOR INCIDENT TYPE	# INCIDENTS	% of TOTAL
Fires	2	1.85%
Rescue & Emergency Medical Service	80	74.07%
Hazardous Condition (No Fire)	4	3.70%
Service Call	12	11.11%
Good Intent Call	5	4.63%
False Alarm & False Call	5	4.63%
TOTAL	108	100.00%

Only REVIEWED incidents included. Summary results for a major incident type are not displayed if the count is zero.

Detailed Breakdown by Incident Type

INCIDENT TYPE	# INCIDENTS	% of TOTAL
111 - Building fire	2	1.85%
320 - Emergency medical service, other	1	0.93%
321 - EMS call, excluding vehicle accident with injury	74	68.52%
323 - Motor vehicle/pedestrian accident (MV Ped)	1	0.93%
324 - Motor vehicle accident with no injuries.	1	0.93%
362 - Ice rescue	1	0.93%
381 - Rescue or EMS standby	2	1.85%
412 - Gas leak (natural gas or LPG)	3	2.78%
424 - Carbon monoxide incident	1	0.93%
500 - Service Call, other	2	1.85%
511 - Lock-out	1	0.93%
550 - Public service assistance, other	1	0.93%
551 - Assist police or other governmental agency	1	0.93%
554 - Assist invalid	3	2.78%
571 - Cover assignment, standby, moveup	4	3.70%
600 - Good intent call, other	2	1.85%
611 - Dispatched & cancelled en route	2	1.85%
651 - Smoke scare, odor of smoke	1	0.93%
733 - Smoke detector activation due to malfunction	1	0.93%
734 - Heat detector activation due to malfunction	1	0.93%
735 - Alarm system sounded due to malfunction	1	0.93%
745 - Alarm system activation, no fire - unintentional	2	1.85%
TOTAL INCIDENTS:	108	100.00%

Only REVIEWED incidents included. Summary results for a major incident type are not displayed if the count is zero.

Newmarket Fire & Rescue

Newmarket, NH

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Incident Detail for Aid Given and Received for Incident Type Range for Date Range

Incident Type Range: 100 - 911 | StartDate: 03/01/2015 | EndDate: 03/31/2015

INCIDENT DATE	INCIDENT #	ADDRESS	INCIDENT TYPE	SHIFT
AID TYPE: Automatic aid given				
03/22/2015	2015-244	46 College RD	571 - Cover assignment, standby, moveup	1 - Station 1

Percentage of Total Incidents:

0.93%

AID TYPE: Mutual aid given				
03/06/2015	2015-183	28 woodman RD	111 - Building fire	1 - Station 1
03/11/2015	2015-202	34 DIAMOND HILL RD	321 - EMS call, excluding vehicle accident with injury	1 - Station 1
03/14/2015	2015-214	11 Squamscott RD	111 - Building fire	1 - Station 1
03/16/2015	2015-220	2 College RD	321 - EMS call, excluding vehicle accident with injury	1 - Station 1
03/20/2015	2015-230	590 Rte 1 Bypass	551 - Assist police or other governmental agency	1 - Station 1
03/24/2015	2015-251	33 Worthen RD	321 - EMS call, excluding vehicle accident with injury	1 - Station 1
03/24/2015	2015-254	Dover South End Station	571 - Cover assignment, standby, moveup	1 - Station 1
03/30/2015	2015-271	32 Captain Parker DR	321 - EMS call, excluding vehicle accident with injury	1 - Station 1

Percentage of Total Incidents:

7.41%

AID TYPE: Mutual aid received				
03/23/2015	2015-246	32 Birch	321 - EMS call, excluding vehicle accident with injury	1 - Station 1
03/24/2015	2015-252	15 Moody Point drive DR	735 - Alarm system sounded due to malfunction	1 - Station 1

Percentage of Total Incidents:

1.85%

Displays all incidents with aid given or received, and excludes incidents with neither. Percentages calculated from total number of incidents for parameters provided. Only REVIEWED incidents included.

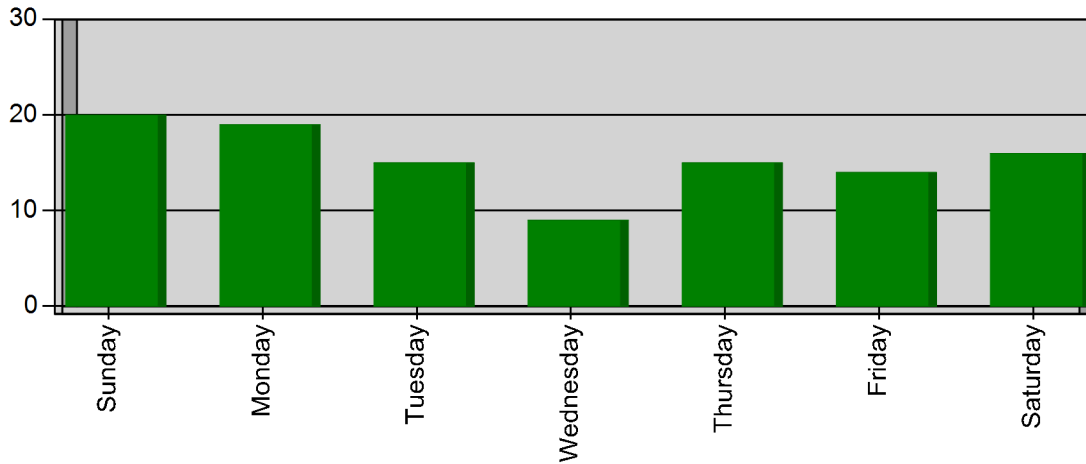
Newmarket Fire & Rescue

Newmarket, NH

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Incidents by Day of the Week for Date Range

Incident Range: 100 - 911 | Start Date: 03/01/15 | End Date: 03/31/15



DAY OF THE WEEK	# INCIDENTS
Sunday	20
Monday	19
Tuesday	15
Wednesday	9
Thursday	15
Friday	14
Saturday	16
TOTAL	108



emergencyreporting.com

Doc Id: 1284

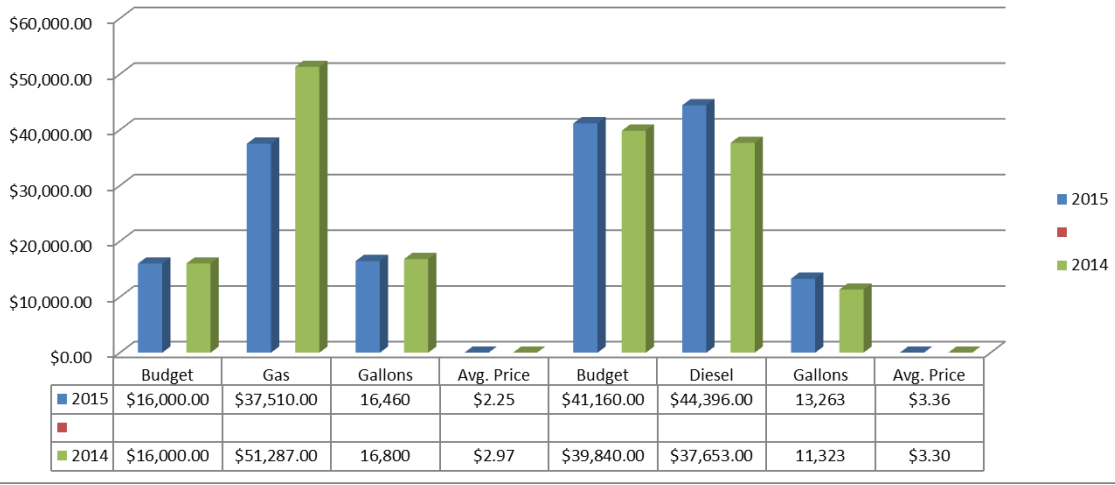
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Public Works Department

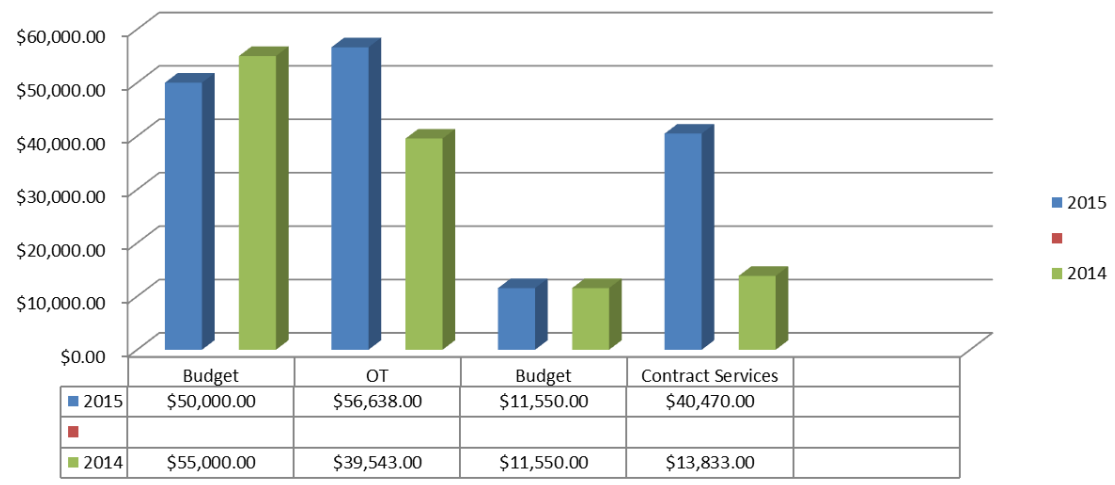
- March was a relatively quiet month for snow events; hopefully April will be too. Every few years we typically get an April event, let’s hope this year isn’t that year. The ball fields still have several feet of snow on them so the seasonal employees will be starting back later than usual. Now that warmer weather is here crews have started sweeping the streets and sidewalks. This typically takes a month to do the entire town but with the severity of this year’s winter, that process is anticipated to take longer. Soon we will get all the benches and trash/recycling barrels back out on Main Street.
- Spring clean up has been advertised for the first week in May. The time frame and the amount of loads you can take to the transfer station have been reduced to help keep the budget in line. The dates for cleanup will be Saturday May 2nd, Wednesday May 6th and Saturday May 9th. The curbside pickup for senior citizens will be on Monday May 4th and Tuesday May 5th.
- I have attached charts to show more detail on budget expenditures.

	<u>Budget</u>	<u>Month Exp.</u>	<u>YTD Exp</u>	<u>Amount Remaining</u>	<u>% Expended</u>	<u>% Expended Previous Yr</u>
Public Works Admin. Total	417,247.00	43,886.04	333,847.54	83,399.46	80%	80%
Roadways and Sidewalks Total	384,070.00	45,302.02	398,218.98	-14,148.98	104%	114%
Street Lights Total	46,250.00	4,217.84	33,010.13	13,239.87	71%	65%
Building and Grounds Total	449,362.00	44,764.33	373,834.31	75,527.69	83%	77%
Cemeteries Total	36,963.00	1,419.46	18,323.27	18,639.73	50%	56%
Vehicle Maintenance Total	174,810.00	35,246.91	181,685.10	-6,875.10	104%	81%

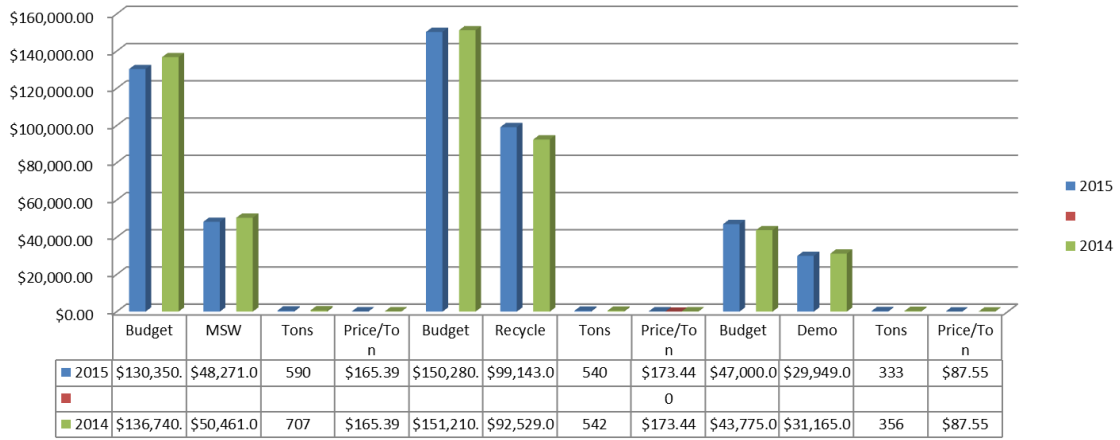
Public Works Department YTD Gas/Diesel



Public Works Department YTD Overtime/Contract Services



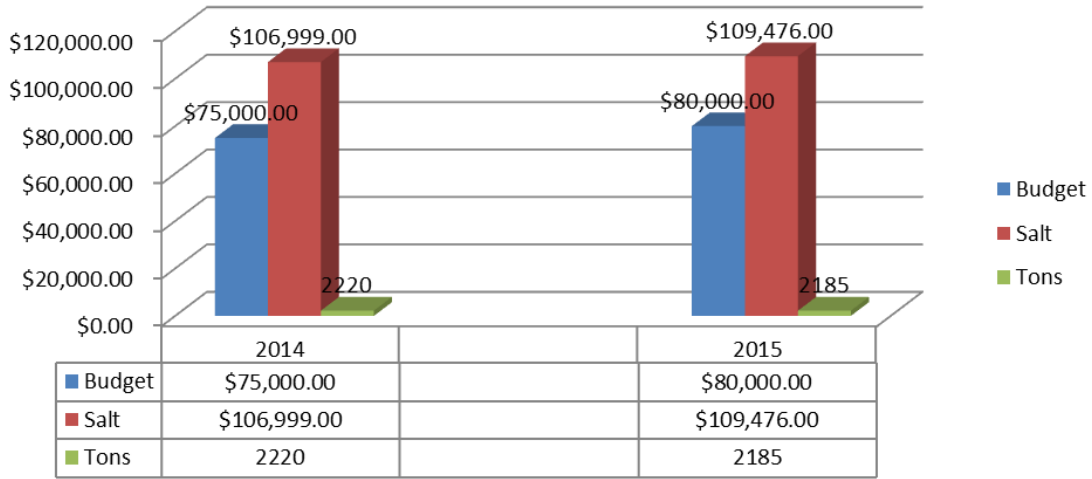
Public Works Department YTD Solid Waste



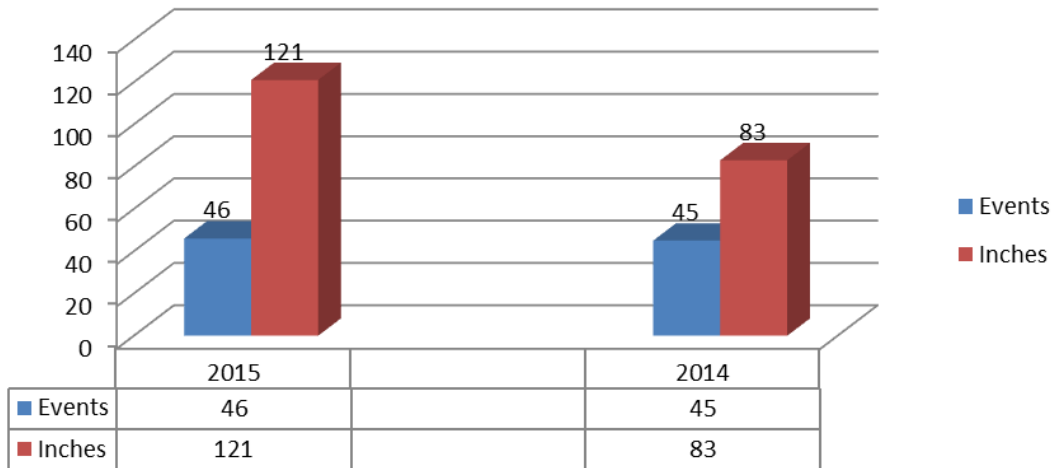
Public Works Department YTD Equipment/Vehicle Maintenance



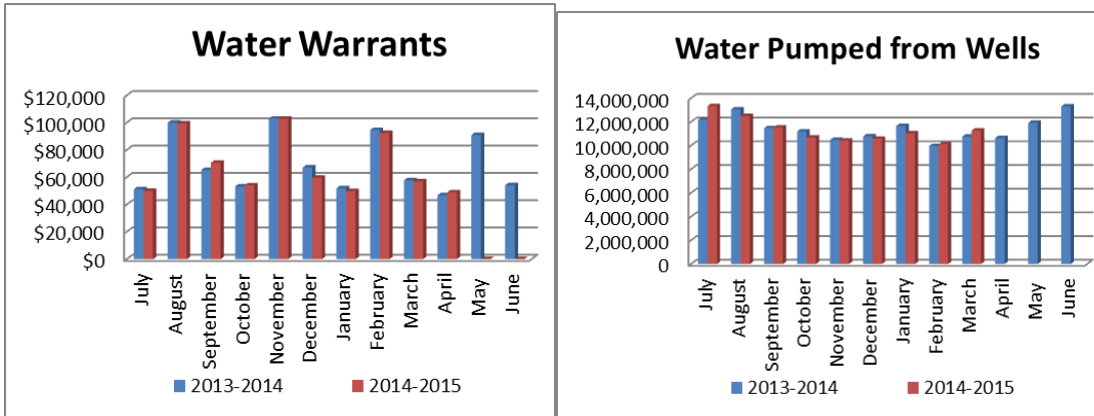
Public Works Department YTD Salt



Public Works Department YTD Snow Events



Water System



Water Loss for March 2015: 3.84%

Water Loss Year to Date: 4.01%

Great Hill to Route 108 Water Main Replacement

The bids have closed for the Great Hill to Route 108 Water Main Replacement Project. The bids are currently being analyzed to determine lowest bidder. The Water Department should have a recommendation for the Town Council by the middle of April.

North Main Street Water Main Replacement

The North Main Street Water Main Project has begun. Albanese D&S Inc. began installing temporary water main on March 30, 2015. The road construction is anticipated to begin in the middle of April.

Chemical Leaks

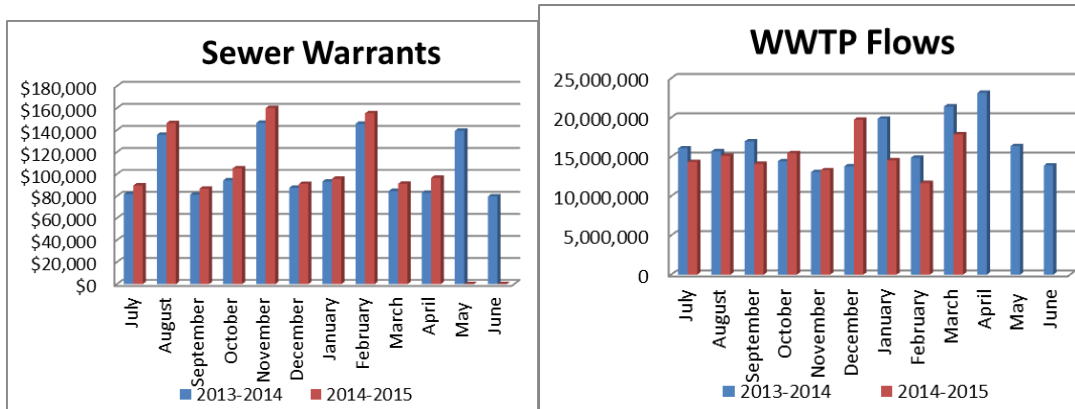
The Sewall Well has had issue with chemical (caustic soda) leaks within the chemical storage containment area. Department personnel installed a new tank and piping to eliminate the leaks.

Sewall Well

The parts needed to fix the Sewall Well vibration problem have been ordered.

	<u>Budget</u>	<u>Month Exp.</u>	<u>YTD Exp</u>	<u>Amount Remaining</u>	<u>% Expended</u>	<u>% Expended Previous Yr</u>
Water Total	829,062.00	40,852.94	704,015.08	125,046.92	85%	81%

Sewer System



Infiltration and Inflow for March 2015: 243,510 gallons per day

Treated Wastewater for March 2015: 17,865,000 gallons

Great Bay Pollution Tracking and Accounting Pilot Project (PTAPP)

The PTAP had its second meeting on March 24, 2015. Several key outcomes were achieved:

- Defining the objective of pollutant tracking and accounting protocol
- Greater understanding of regional efforts
- Draft definitions for tracking and accounting
- A draft list of items for tracking

The next step is for the group to breakdown into subcommittees to research tracking items.

1. Provide further definition for items
2. Identify regional and local collection methods and roles
3. Describe barriers and needs

Thickener Drive Motor Failure

Sewer department personnel found the drive mechanism for the thickener was not operating. It was determined that the drive motor was inoperable. A new motor was ordered and installed. It took a couple of days to receive and install the new motor. The lack of mixing in the tank caused the solids to become too thick to pump to the digester. The solids were removed from the thickener with the Vac-truck and placed in the drying beds.

Frozen Sludge Pipe

The Sewer Department was unable to process sludge during the beginning of March. The sludge pipe that is used to transfer the sludge from the digester to the sludge press for dewatering was found to be frozen. Department personnel were able to thaw out the pipe and begin processing sludge the last week of March.

	<u>Budget</u>	<u>Month Exp.</u>	<u>YTD Exp</u>	<u>Amount Remaining</u>	<u>% Expended</u>	<u>% Expended Previous Yr</u>
Waste Water Total	947,896.00	59,916.86	690,149.49	257,746.51	73%	72%

Human Services

- New Welfare Inquiries (calls, partial applications, third party inquiries) not resulting in applications but in referrals 32
- Ongoing cases that are requiring case management 11
- Total new (first time to this office) completed applications received this month- eligible and not eligible 14

Notes:

- Evictions were slower over the winter. We did have 2 chronically homeless families we were working with they have found seasonal rentals out of Town.
- Woman-aid helped several clients with heating costs this winter- this saved the Town these budgetary expenses.
- Ever since the new Electric Company is instituting a new policy of requiring security deposits from accounts that may never have been disconnected but continually run late. For our most vulnerable population this is a concern. We have one family who has always paid their account, albeit late, with late fees, who are now struggling to make a security deposit on an account they have had for over 15 years. The Town per our guidelines cannot assist with security deposits and this is creating hardship. Many families have contacted this office indicating they have disconnects for April and would be in to see us then- so we expect an uptake in Electric payments as is customary in April.
- General Assistance Clients rely on the public bus service (COAST) and have expressed concerns over the loss of service. They take it to work, doctor's appointments and appointments to other social service agencies.

Information Technology

1. We are experimenting with Netbooks for the Councilors. Lighter and smaller with great battery life, but not as full featured as a laptop. We will monitor and perhaps replace the other laptops when they die off.
2. Added Town email addresses for some Councilors, this makes it much easier when/if we get a Right to Know Request. Also updated the mailserver to more stable software, definitely seeing improvements there.
3. We are starting the major upgrade the Auditorium and Channel 13. So much of the equipment in the studio is more than 10 years old and some will run another ten years. Others are failing almost every day, so we want to get those out of there.
4. Still making small fixes to the Town website, where we post Public Notices was especially problematic. I wound up deleting the current setup and starting with a cleaner one from scratch. This should make life easier for those that need to post Public Notices.
5. 5. We need to replace the main PC at the Rec Ctr. This will take a lot of effort as the current PC processes all payments from credit cards, and getting it to work right the first time took a lot of tweaking.
6. We continue to monitor and assess our printing needs in an effort to be more efficient. Some new software from one of the copier vendors may provide us some useful information.
7. Another camera the PD failed. Finding these old style CCTV cameras is getting more and more difficult. As such, we are exploring rewiring the camera stations to utilize the newer IP based cameras. We also need to make sure our recorder would support the newer cameras.
8. 8. Assisted BayRing with some equipment swap out for the Newmarket Biz Assoc which supplies the free Downtown WiFi.
9. A large battery backup failure at the Police Station has exposed a situation with the power that we need to resolve. We have swapped out some hardware and can now monitor the entire situation online as well as temporarily resolving any issues from anywhere.
10. Other: Sometimes entries on the website cannot be changed, working with VTS on that. Setup a new copier/multipurpose machine at the Fire Dept, lots of new features they can use. Adjusted email backup so it can finish in a couple of hours. Working on making more forms electronically available to citizens.

<u>Budget</u>	<u>Month Exp.</u>	<u>YTD Exp</u>	<u>Amount</u> <u>Remaining</u>	<u>%</u> <u>Expended</u>	<u>%</u> <u>Expended</u> <u>Previous Yr</u>
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<i>IT Total</i>	140,152.00	7,760.39	97,398.94	42,753.06	69%	74%
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Building Inspector/Code Enforcement Officer

Previous Month Activities

- Issued:
 - 6 Building Permits \$ 3365
 - 3 Electrical Permits \$ 130 *1 paid with building permit
 - 5 Plumbing Permits \$ 135 *3 paid with building permit
 - 4 Mechanical Permits \$ 210
- Revenues collected \$3840**

- Completed 25 construction inspections
- Responded to an environmental impact complaint arising from construction activities
- Closed investigation on rental housing complaint with compliance gained
- Attended photovoltaic inspections training with NH Building Officials Association
- Assisted with three pre-construction consultations
- Reviewed concerns of excessive or no longer applicable traffic signage
- Met with local sign-maker regarding the sale of non-compliant business signs

	<u>Budget</u>	<u>Month Exp.</u>	<u>YTD Exp</u>	<u>Amount Remaining</u>	<u>% Expended</u>	<u>% Expended Previous Yr</u>
<i>Code Enforcement Total</i>	66,723.00	5,156.46	49,050.86	17,672.14	74%	77%

Report of the Town Clerk - Tax Collector

TAXES

Total Committed 2014	\$18,153,846	Tax 1 & Tax 2
Total Collected thru 3/31/15	\$17,902,561.35 (Principal & Interest)	

TAX LIENS

	<u>2013 Liens (Deed 2016)</u>	<u>2012 Liens (Deed 2015)</u>
Property Tax Amount Liened	245,781.	248,049.
W/S Amount Liened	67,890.	81,699.
# Properties Liened	125	127
Uncollected thru 3/31/15	147,484.	70,062.

WATER & SEWER (1/1 THRU 3/31/15)

	<u>2015</u>	<u>2014</u>
Water Billed	199,436.	204,212.
Sewer Billed	343,944.	323,924.
Uncollected thru 3/31/15	140,521.	157,609.

TOWN CLERK REVENUE (7/1 thru 3/31/15)

	<u>Year End 6/30/15</u>	<u>Year End 6/30/14</u>	
Motor Vehicle (MV)	945,599.	904,801.	4.51% increase
Town "non-MV"	95,437.	88,727.	7.56% increase
State NH (MV, Vitals, Boats, Dogs)	358,817.	361,764.	0.81% decrease

- Motor vehicles still on the upswing
- Daily activity steady; revenues continue to show steady increase
- Annual Town Meeting – 1096 ballots were cast (16% turnout)
- Town Clerk assisted with school board recount
- 2014 Lien Date: May 28, 2015
- 2012 Deed Date: June 18, 2015

	<u>Budget</u>	<u>Month Exp.</u>	<u>YTD Exp</u>	<u>Amount Remaining</u>	<u>% Expended</u>	<u>% Expended Previous Yr</u>
Town Clerk - Tax Collector Total	166,544.00	13,975.94	110,543.30	56,000.70	66%	59%

Planning Department

Planning Board Activities

Applications

Status of recently approved applications of the Planning Board:

Rockingham Golf, LLC (a.k.a. Chinburg Builders, Inc.) is developing a residential open space design subdivision, involving 52 house lots, at the site of the “Rockingham Country Club” at 200 Exeter Road. The plan envisions the existing golf course, to remain open to the public, and the adjacent wetlands to be preserved as open space. Construction activity has moved along expeditiously at the site. Road construction is nearly complete with only the overlay and landscaping to be completed. A performance guarantee has been posted in the amount of \$106,000 to assure final completion of the road and all related infrastructure improvements. The developer has received Certificates of Occupancy (COs) for the first four homes in the development. Another five (5) homes have building permits and are currently under construction.

Newmarket Mills Retail Shops, LLC – This project concerns a new tenant for the former building known as the “Riverdale Automotive” property. The developer is in the process of converting and expanding the building into a small grocery focusing on perishable foods, such as meat and local produce. In addition, there will be a drive-through service for coffee sales. The final plans have been signed and recorded at the Rockingham County Register of Deeds and construction is current underway. The coffee service business, Aroma Joes, is expected to open sometime in May and the market is expected to open in June 2015.

Newmarket Mills LLC – Newmarket Mills Retail Shops – This project involves the construction of a 9,600 square foot commercial retail structure along with site improvements and landscaping on land to the rear of the Newmarket Library off of Main, Elm, and Spring Streets. The Planning Board approved plans for a 3,600 square foot nano-brewery to be located within the building in April 2014. Interior construction for that use is currently underway. The new Panzanella’s restaurant opened in the new retail shops in January 2015 moving from its previous location at 72 Main Street. The restaurant has added a sports bar and an outside patio for warm weather dining. Building plans have been received for a new Japanese Restaurant within the retail shops. Only one tenant space remains to be leased at this time.

Applications currently before the Planning Board:

Newmarket Industrial Park Lot 6, LLC/Shearwater Investment Corporation – This is an application for a Major Site Review for a 24,000 square foot expansion of an existing

industrial building located on Forbes Road (Tax Map R-3, Lot 8 and Tax Map R3, Lot 9-6.) The site plan includes associated parking, drainage and landscaping improvements. The lots will be merged upon site plan approval.

In May 2014, the Planning Board made a determination that the application involves excavation that is incidental to the development and, therefore, doesn't require additional permitting under the Town's regulations governing earth excavations and the State RSA 155 E.

The application has been extensively reviewed by the Technical Review Committee (TRC) related to drainage, landscaping, erosion control, buffer requirements, and other engineering details. There have been several iterations of the plans.

Initially there were concerns about the steepness of the proposed slopes which are within 15 feet of the State's right-of-way and the potential that exists to destabilize the roadway. The NH DOT has approved the geotechnical study that was completed by the applicant's engineer which addressed those concerns.

Another concern was related to the intersection of Forbes Road and Route 108 which currently is less than ideal for access due to poor sight lines and traffic conditions during peak hours. The applicant prepared a traffic report including a calculation of traffic generation, a lane warrant analysis and site distance evaluation.

For several months, the applicant has worked closely with the Technical Advisory Committee (TAC) of the Planning Board and the traffic engineer from NH Department of Transportation (District 6) looking at possible modifications to the intersection to improve the intersection's safety and functionality. The applicant has provided additional survey data and a proposed mitigation plan which will be greatly improve the safety the intersection. This project has been scheduled for a final hearing at the Planning Board meeting on April 14.

FEMA Flood Plain Maps and Ordinances

The Federal Emergency Management Agency (FEMA) has sent the Town new Flood Insurance Rate Maps (FIRM). Whenever new maps are produced, communities, such as Newmarket who are participating in the National Flood Insurance Program, are required to have ordinances in place which are compliant with federal regulations. The NH Office of Energy and Planning (OEP) has conducted a compliance review of our regulations and forwarded to us recommendations for updating our regulations. The Planning Board will be working in the next few months ahead on amendments to the zoning, subdivision and site review regulations to assure Newmarket's continued eligibility in the program. These changes need to be adopted before the maps become effective in fall 2015. Copies of the preliminary flood plain maps are available for public viewing in the Planning Office and have been posted on the Town's website.

Moody Point Company

The Planning Board had received an application for a Special Use Permit involving wetlands modification, dredging and filling, and mitigation associated with the development of a duplex on Cushing Road. The project involves a direct wetlands impact and the disturbance of a 25 foot buffer around said wetlands. A public hearing was scheduled for a public hearing on Tuesday, March 17. The Planning Board did not accept the application due to a number of inadequacies in the application and the extent of wetland impacts associated with site development. The applicant has since been withdrawn by the applicant.

Update of Newmarket Master Plan:

Housing and Demographics - At the Planning Board meeting on February 10, 2015, Matt Sullivan, Planner of the Strafford Regional Planning Commission provided an overview of the results of a demographic analysis to include historic and future population trends related to age, school, income, and employment, housing characteristics, trends and affordability, and a discussion of future directions. Mr. Sullivan will be returning to the Planning Board on April 14 to discuss future directions, goals and recommendations related this chapter in the Master Plan.

Visioning Process – The Town Planner has been working with the Strafford Regional Planning Commission and a steering committee of the Planning Board to organize two public forums to be held this spring on Saturday, April 18 and May 30 (tentatively). The purpose of these forums is to solicit comments and input from Town residents and stakeholders on a variety of planning issues. The responses and the information from the forums will be summarized in a report and become the Town’s vision statement as part of the Master Plan Update. The project has been branded “Newmarket LIVE!” LIVE is an acronym for Local Interactive Visioning Exercise. Through a series of exercises, participants will explore the key components of achieving and maintaining a high level of quality of life and sense of community, here in Newmarket, today and into the future. Topics include community leadership, volunteerism, citizen engagement, community services and facilities, recreational opportunities, historic, cultural and natural resources, growth, development, housing trends, and land use, economic vitality and transportation.

Future Land Use Chapter – Using the feedback from the visioning process, the Future Land Use Chapter of the Master Plan will be updated with assistance from the Strafford Regional Planning Commission. The chapter will look at different development scenarios using the build-out analysis that was completed in the Existing Land Use Chapter and various computer software applications.

Zoning Board of Adjustment

The Zoning Board of Adjustment (ZBA) has received an application from Kyle and Maury Barnett for a variance to permit an accessory apartment on the second floor of a detached

garage at 48 Elm Street. The application has been postponed pending the appointment of further Zoning Board of Adjustment members so the application can be heard with a full Board.

Special Projects

Route 108 Pedestrian Crossings

A public information meeting was held in July regarding traffic calming improvements on Main Street between Elm Street and Exeter Road. A number of concerns were raised as well as suggestions for improving the project, which were taken into consideration by the engineering consultants as they move forward with the design of the project.

The traffic calming improvements, generally referred to as Alternative 3, in the “Pedestrian Crossing Improvements Engineering Study”, prepared by Dubois and King, Inc. include:

- Improved pedestrian signage
- Additional pedestrian-level luminaires to improve nighttime visibility
- Installation of Rectangular Rapid Flashing Beacons (RRFB)
- Enhanced curb extensions
- Reconstruction of five (5) existing crosswalks with red concrete pavers, flanked by granite
- Construction of a cantilevered deck adjacent to the main entrance to the mill.
- Installation of a new crosswalk between Church Street and Exeter Road
- Relocation of the existing solar-powered flashing LED pedestrian crossing signs
- Improved pedestrian visibility, traffic calming and streetscape improvements in the vicinity of the Newmarket Library and Newmarket mills egress

The engineering consultant submitted near final engineering plans to the New Hampshire Department of Transportation (NHDOT) on August 1. On August 5, the Town received word from the NHDOT that it had approved a request to reduce the speed limit on Route 108 in the downtown to 25 mph. This will be implemented as part of project.

The engineering consultant submitted the final plans and specifications to the NH Department of Transportation (NH DOT) in January 2015. The Town recently completed negotiations regarding the purchase of a 140 square foot permanent easement from the Newmarket Mills, LLC. for a cantilevered deck which is one of the pedestrian safety improvements that is being planned adjacent to the main entrance to the mills. The Town recently received review comments from the New Hampshire Department of Transportation (NHDOT) and is responding to those comments.

The project is scheduled to be advertised for bids once final approval is provided by the NH DOT, hopefully during the month of May 2015. Construction is expected to begin in the summer of 2015 and be completed prior to the winter of 2016. A copy of the engineering report and the most recent plans can be viewed electronically on the Town’s website at www.newmarketnh.gov under the heading “Main Street Draft Pedestrian Improvements Plans Released”.

Macallen Dam Feasibility Study

The final report concerning removal of the dam, prepared by Gomez and Sullivan Engineers, was released in July 2014. A copy of the report can be found on the Town's web site at <http://newmarketnh.gov>.

In August, a resolution was passed by the Town Council to formalize the Macallen Dam Study committee and broaden its purpose to examine all options the Town has with respect to the dam, for removal, preservation, and other possibilities. The committee is charged with reporting back to the Town Council with a recommended course of action. Appointments were made to the Macallen Dam Study Committee in September.

The committee has been meeting regularly since October reviewing various options for repairing the dam. One option that appears to have merit includes increasing the height of and structurally stabilizing the retaining walls on either side of the dam, in order to pass the 10,258 cfs (cubic feet per second) 100 year flood, which is being required by the State. Further engineering study is necessary to determine the feasibility of this option and to identify construction costs.

The Macallen Dam Study Committee met with Steve Doyon, Chief Engineer, of the Dam Safety Bureau of the New Hampshire Department of Environmental Services (NH DES) on March 3, 2015 to discuss the Town's Letter of Deficiency and obtain feedback on the various approaches before moving forward.

At the Town Meeting on March 10, funding in the amount of \$50,000, was approved for the Macallen Dam Capital Reserve Fund. Committee members are working on a Request for Proposal (RFP) for engineering services which will look at the current stability of the dam as well as the option of raising the abutments in order to meet requirements to pass the 100 year flood. Funding for this engineering study will become available in July 2015.

Route 108 Shoulder Widening and Bike Path Construction Project

In 2010, the Town Meeting approved a warrant article to raise and appropriate the sum of \$809,292 to allow the Town to construct a shoulder widening and bicycle lane project from the Irving Gas Station to the Newmarket/Newfields town line. The NH DOT and Federal Highway Administration (FHWA) proposed providing full funding for this project through the Federal Congestion Mitigation and Air Quality (CMAQ) Program and State tolls program. A resolution was approved by the Town Council at its meeting on May 21, 2014 to authorize the Town Administrator to enter into a design contract with Underwood Engineers to prepared a feasibility study related to the project. A "kick-off" meeting to begin work on the engineering study was held in July 2014.

Over the summer, the consultant prepared two alternative concepts for the bikeway and a preliminary opinion of cost for the two alternatives. The first alternative involved the construction of 5 foot wide paved shoulders extending from the Rockingham Country Club to the southerly limits of the Phase 1: Newmarket Main Street Project, which was completed in 2005. It included drainage improvements to facilitate shoulder widening and road-widening to accommodate a center through lane in the vicinity of Forbes Road. A second alternative involved separating

vehicle traffic from bike traffic adjacent to Route 108 by having a bike path on one side of the road.

The Town staff held a meeting in October, 2014 with NH DOT Division 6, and the Concord NH DOT office to evaluate the options; obtain technical comments; and receive some preliminary guidance on the most feasible approach. As a result of that meeting, several modifications were made to the plan in order to bring costs down to a fundable level. The current plan involves a phased approach to the project including the construction of 5 foot wide paved shoulders and related drainage improvements, and a separate 8 foot wide bike path segment on the west side of Route 108 in the vicinity of the Rockingham Country Club.

The preliminary cost estimate for the revised project is \$1,009,000. The State has indicated that they will consider a project around \$1 million, however, the Town would have provide the additional 20% match (for the increase over \$809,292) available) to increase the project budget. The cost of the 20% match is estimated at \$40,000. In the near future, the Town Council will need to confirm that local funding for the additional 20% match will be forthcoming and decide whether to move forward with the project, as envisioned.

In February 2015, Underwood Engineers issued a draft of the Engineering Study for review by the Town. A public hearing/information meeting will be scheduled for the Town Council meeting on May 20 on the draft report to secure input from the citizens and identify the preferred alternative for submission to the New Hampshire Department of Transportation (NH DOT), before moving on to the next stage in project development. The Town and UE will make a specific invitation to impacted land owners. A time extension to the project to December 31, 2016 to allow additional time for engineering and planning has been granted.

Coastal Resilience Technical Assistance Project

The Planning Department received a \$57,793 NH Coastal Program grant from the NH Department of Environmental Services (NH DES) to hire a consultant to assess building resilience to flooding and climate change in the Moonlight Brook Watershed. This project will update an existing watershed model to characterize the conditions in the Moonlight Brook watershed, include a build-out analysis based on population and growth projections, identify potential flooding risks in the watershed and recommend measures to reduce stormwater flows and restore ecosystem functions through the design of a green infrastructure project. A presentation of the project was held at the December 17, 2014 Town Council meeting.

At that meeting, the Town Council authorized the Town Administrator to accept the grant. The project is scheduled to begin sometime after the March 2015 Town Meeting. This project will augment work that is currently underway related tracking/accounting system for Total Nitrogen in response to the Town's EPA Administrative Order and will provide credit to the Town under the MS4 program for non-point source pollution abatement once the Town's new Stormwater Management Program is underway. PTAPP is a cooperative forum of watershed communities

within the Great Bay region which are working together toward identifying a consistent, effective tracking system and accounting system for monitoring pollutant loads, including Nitrogen, into the Great Bay. Newmarket is required to monitor and track Nitrogen loading from point and nonpoint sources as part of its Administrative Order on Consent that has been issued by the Environmental Protection Agency (EPA).

	<u>Budget</u>	<u>Month Exp.</u>	<u>YTD Exp</u>	<u>Amount Remaining</u>	<u>% Expended</u>	<u>% Expended Previous Yr</u>
Planning Total	128,153.00	11,084.69	78,179.51	49,973.49	61%	67%

Finance Department

Department's primary function:

- Process accounts payable, payroll, and accounts receivables not under the control of the Tax Collector.
- Monitor human resources, fiscal budget, and financial analysis and forecasting.
- Providing financial assistance and analysis to Town Departments.

Essentially, we are the “fiscal watchdog;” however, we are mindful that we are simply a service organization to other departments and the Town’s elected leaders.

Projects:

Projects have been segregated into two groups, where “major” projects require most of our attention, while “minor” projects does not.

Major Projects

- New Accounting System RFI – We have received the RFI’s from BlumShapiro, BS&A Software, Maze, and Munis (Tyler Technologies). We are beginning to prepare a detailed RFP.
- Evaluating our storage needs. Currently, we have consumed the entire storage facility and have no more capacity to absorb our current files.

Minor Projects

- Accounts receivables (non-tax related A/R) – We continued our monthly receivable collections efforts. We have seen a slight increase in the number of slow paying customers; however, many of these customers have had a long-term relationship with the Town.

Economic Indicators

Final water and sewer bills are an indicator of real estate sales. The following are final water and sewer bills by month.

Month	FY 15	FY 14	Increase/ (decrease)	% Increase/ (decrease)
July	15	11	4	36.36%
August	10	26	(16)	-61.54%
September	12	7	5	71.43%
October	10	8	2	25.00%
November	3	9	(6)	-66.67%
December	9	5	4	80.00%
January	5	9	(4)	-44.44%
February	7	5	2	40.00%
March		14	(14)	-100.00%
April		10	(10)	-100.00%
May		11	(11)	-100.00%
June		12	(12)	-100.00%
Total	71	127	(56)	-44.09%

Financial Highlights:

Please note that pursuant to generally accepted accounting principles fund balance terminology has changed. My analysis uses the old terminology with the new terminology in brackets.

- Highlights of FY 2015 are as follows:
 - We just went through one of our low cash balances. At the end of December, our operating account had a reconciled balance of \$11,375,521.83, which is a consolidated bank account that includes many activities. A majority of the cash balance belongs to the Solid Waste Fund (\$358,232.67), Water Fund (\$1,010,961.42), Conservation Fund (\$205,873.94), and Wastewater Fund (\$953,604.69). Additionally, we have to pay the remainder of the School District assessment from this cash fund, which amounts to \$5,262,216.
 - Non-real estate tax derived revenues continue to be strong.
 - Motor vehicle revenue continues to be strong. We are currently 12% above expectation.
 - Building permits continue to be strong as well. We are 15% above expectation. This is a good indication of our local economy, where home owners and developers are investing in their properties.
 - Ambulance revenue is slightly above last-year’s collections. At this point, I expect to see ambulance revenue on target, as compared to the prior year.
 - Solid waste has begun to catch my interest, where it is tracking almost 7% below expectations. Regardless, we have been working to reduce the surplus in this fund for several years, by way of reduced general fund subsidy.
 - Expenditure highlights are:

- The Finance Department continues to show below than expected expenditures; however, this is due to holding the audit service fee.
- Assessing has continued to show positive expenditure results. The major reason is the removal of the part-time position that is now a contracted service.
- Although legal is above expectation, it has begun to stabilize. I am hoping it will meet expectations by year-end.
- Public works is above expectations, which is due to our recent snow storms. Currently, overtime is above its appropriation by 13%. Winter salt is currently 7% above its appropriation. Vehicle maintenance, while not being over budget, is 18% above where I would expect it. We will have to take from other departments to cover these shortfalls.
- Buildings and grounds is above expectation, which is primarily due to water and sewer utility bills and maintenance to Town Hall.
- Construction Project highlights are:
 - We continued to send reimbursement requests as soon as possible after month-end. The timing of reimbursement request and month end left \$14,428 of unreimbursed costs out of \$993,255 incurred year-to-date for six different projects. (Last month, I included several grants in my calculation. This month, I am including any grant relating to a capital asset, such as water treatment plant upgrade.)

	<u><i>Budget</i></u>	<u><i>Month Exp.</i></u>	<u><i>YTD Exp</i></u>	<u><i>Amount Remaining</i></u>	<u><i>% Expended</i></u>	<u><i>% Expended Previous Yr</i></u>
Finance Total	199,175.00	32,224.19	122,709.68	76,465.32	62%	72%
Human Resources Total	166,544.00	84,811.12	962,112.19	423,596.81	69%	71%

Recreation Department

Recreation Fiscal Business Report: Total Recreation for revolving account revenue comparison up to the last day of March fiscal year 2014-15 was \$141,066.90. This is a \$48,861.85 increase, up by 52.9 % compared to the revenue numbers which totaled \$92,205.00 in the last fiscal year 2013-14. Day Camp registration began on March 2nd 2015 and 50% of the total day camp slots were sold in less than one month. It is our forecast that the department could sell out by the first of May 2015 if this trend continues. The Recreation Department's sell out number is 240 campers. In addition, the preschool play group, preschool sports, increases in spring program enrollment, and aggressive marketing continues to boost this revenue increase.

The expenditure of the Revolving Account as of March 31, 2015 is for this fiscal year is \$130,680.26 which is 68.357% of the total budget and is right on track for the department's next 3 monthly projections. The General Fund expenditures as of March 31, 2015 are \$136,253.85 which is 66.754% of the total budget. However, a mandate from the finance office has requested that an amount of \$6,634 or 3.25% of the total \$204,114.00 2014-15 budget be designated to be taken out of the Recreation General Fund Budget to help to defray the overage in the Newmarket PWD budget due to the snow plowing and snow removal from the extreme winter conditions in 2015. The Finance Office has indicated that a FEMA claim may contribute back to Newmarket to reimburse for the overage. This fiscal action is being done as a proactive precautionary measure in case there is no or a smaller reimbursement from FEMA after a settlement is discharged. With this withdrawal of \$6,634.00 occurring, the next 3 month expenditure projections will only leave funds in the General Fund for personnel and obligated monthly billings of dedicated service agreements.

Recreation Program Report: The Recreation Department has been very busy planning, coordinating, and designing the new Spring/Summer programs that will run until the end of June 2015. The Department will still be offering all the great programs Newmarket residents have come to expect from the Recreation Department however, in an effort to control costs, the department is changing from a bi-annual brochure to a single yearly publication. For the most updated offerings, dates, and rates, simply head to the Recreation Department's website for any and all details. You can also check us out on Face Book for daily posts regarding Recreation events and updates. The department has been working hard at developing a user friendly web site packed with information about the varied programs offered at the Recreation Department. If you have not had a chance to check us out please take a look: www.newmarketrec.org.

As part of the spring offerings; the five and six year old t-ball league is expected to have 50+ participants. Spring flag football is always a big hit and the department is expecting 20 participants. The Recreation Department will also expand the recreation lacrosse program to the 3rd to 5th graders this year and will have 2 coed teams. Newmarket Youth Track Club is also being expanded and will be sponsored by Loco Sports. The Newmarket Track Club utilizes the UNH Track with the Oyster River Youth Association participants. Newmarket will be competing in the Granite State Track and Field Meets run by the New Hampshire Recreation and Park Association.

Currently, the Recreation Department is running ballet classes on Wednesdays. The Wanna Iguana Monday's after school program has only two openings to be completely filled. Lego League will finish next week with 12 participants. The Sunrise Sunset 55+ Activity Center is presenting opening day of the Red Sox will be held on Monday April 13th at 2:00 PM at the center with all the hype and fixings of a real game experience.

	<u><i>Budget</i></u>	<u><i>Month Exp.</i></u>	<u><i>YTD Exp</i></u>	<u><i>Amount Remaining</i></u>	<u><i>% Used</i></u>
Recreation	204,114.00	16,040.94	136,253.85	67,860.15	67%
Rec. Revolving	191,172.00	6,709.41	130,680.26	60,491.74	68%

TOWN OF NEWMARKET, NEW HAMPSHIRE
By the Newmarket Town Council
ORDINANCE NO. 2014/2015-02

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE TOWN OF NEWMARKET, NEW HAMPSHIRE; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

The Town of Newmarket ordains:

Section 1. The Code entitled "Municipal Code of the Town of Newmarket, New Hampshire," published by Municipal Code Corporation, consisting of chapters 1 through 30, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before May 7, 2014, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not to exceed \$1,000.00. Except as otherwise provided by law or ordinance: (1) with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense; and (2) with respect to violations of this Code that are not continuous with respect to time, each act constitutes a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the town may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate an intention to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after May 7, 2014, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective upon final adoption.

First Reading: April 1, 2015
Second Reading: April 15, 2015

Council Approval: April 15, 2015


Approved: _____
Philip Nazzaro, Town Council Chairman

A True Copy Attest: _____
Terri Littlefield, Town Clerk



TOWN OF NEWMARKET, NEW HAMPSHIRE
OFFICE *of the* TOWN ADMINISTRATOR

INTEROFFICE MEMORANDUM

TO: TOWN COUNCIL
FROM: STEVE FOURNIER, TOWN ADMINISTRATOR 
SUBJECT: ORDINANCE #2014/2015 – 02: CODIFICATION OF THE TOWN ORDINANCES
DATE: 4/6/2015
CC:

Before you tonight is Ordinance #2014/2015 – 02: Accepting the Codification of the Town Ordinances. For those of you who may not be familiar with the history of this project, in 2012 when I arrived and I talked to the then Town Clerk - Tax Collector and asked for a copy of the Town Code Book. The Town did not have a codified ordinance book even though section 3.11 of the Town Charter, the codification is required.

We began this process in 2013. The Town hired Municode to provide this service. They took all ordinances that the Town has adopted since being chartered and compiled them in a single codebook. In addition, they worked with the Town Attorney to determine if ordinances we still in compliance with State Law or if they were needed.

There were a number of small changes to the ordinances and the Town Administrator Eric Maher will be present for the April 16 Council meeting to discuss. I am including some documents that may be helpful to see how the review process went.

MEMORANDUM

TO: JJR
FROM: EAM
DATE: March 20, 2014
RE: Town of Newmarket Municipal Code Revisions

I. Introduction

The following memorandum is intended to detail potential issues that are present in the Town of Newmarket recodification completed by Municode. The review entailed analyzing proposed amendments, additions, and omissions to the Town Code for grammar, clarity, and substance. As to the substantive changes, Municode often provided statutory authority for proposed changes. These statutory references, therefore, were cross-checked to ensure that the proposed changes were accurate and in accordance with the law.

II. Potential Issues

Upon review of the Municode recodification, several items jump out as presenting potential issues or points of discussion which should be addressed with Municode or the Town. For convenience, the following list reflects those potential issues as follows:

A. The recodification relies on an outdated version of the Town Charter.

Consequently, all revisions to the Town Charter provided the recodification rely on an outdated version of the Town Charter. Moreover, several subsequent provisions of the Code which rely upon this prior version of the Town Charter are also inaccurate.

- B. In Chapter 1, Sec. 1-2, the recodification attempts to state various tenants of statutory construction, particularly in the third sentence where it says, “but, technical words, technical phrases, and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.” The use of the word “peculiar” inserts an element of uncertainty and vagueness. A suggested edit is “particular” or “specific.”
- C. In the same chapter and section, under the word “conjunctions,” Municode attempts to define “and” “or” and “either/or.” I would suggest striking this proposed change because Municode’s attempt to define “and” “or” and “either/or” in the manner suggested confuses terms that are relatively simple to understand and, consequently, inserts a level of uncertainty into the revised Code.
- D. In the same chapter and section, under the word “signature and subscription,” Municode attempts to define the terms as “the term signature or subscription means and include a mark when the person cannot write.” As it stands, the definition is grammatically incorrect — it should say “terms signature or subscription mean.” Moreover, the definition should also be amended so as to (1) incorporate the regular definition of signature and subscription which includes marks when a person can write or (2) change the definition to state “the terms signature or subscription, in addition to their regularly accepted usage, shall mean a mark when the person cannot write.”

- E. Under Chapter 1, Sec. 1-5, entitled “Amendments to Code,” under Subsection (B), the subsection and following subsections are unclear as to when those provisions actually apply.
- F. Under Chapter 1, Sec. 1-9, entitled “Provisions of Code Considered as Continuations of Existing Ordinances,” it states that “[t]he provisions appearing in this Code so far as they are the same as those of the Ordinance of the Town included herein shall be considered as continuous thereof and not as new enactments.” This revision should be edited to strike the “included herein” language. Moreover, the revision should be edited to insert the words “or significantly similar” after the word “same.”
- H. Under Chapter 1, Sec. 1.1.4 entitled “Public Hearing and Notice Thereof,” the suggested edits rely upon a version of the Town Charter that has since been changed. The revision, therefore, should be revised to be consistent with the recent revisions.
- I. Under Sec. 1.1.10, entitled “Recording of Ordinance,” Municode suggests making revisions based upon an interpretation that the prior Code that prohibits the keeping of ordinances electronically. While I agree that the Ordinances should be allowed to be published electronically, I do not believe that this provision is even necessary given the wording of the revised Town Charter. The charter provides that Ordinances will be recorded with the Town Clerk, the procedure to record the ordinance, and that the Town Clerk “shall be responsible for the systematic indexing, printing, publication, and maintenance of the ordinances of the Town.”

- J. With regard to Sec. 1.2, entitled “Access to Public Records and Meetings,” I agree with Municode that the section could be stricken as it is simply a recitation of RSA 91-A. However, should the Code remain in place, I agree with Municode’s alterations as it is consistent with the current language of RSA 91-A.
- K. Under Subsection 1.3.5, entitled “Public Hearing,” I suggest inserting at the beginning of the provision “Unless otherwise provided in Subsection 1.2.8”
- L. Under Sec. 2.5.1, entitled “Tax Increment Financing Economic Development Districts,” the revisions suggest striking the provision that states that the Town has adopted RSA 162-K. I disagree with striking this provision as I believe the current version of the ordinance is helpful to both the public and attorneys wishing to know whether the Town has actually adopted RSA 162-K without having to resort to looking for a particular ordinance.
- M. With regard to Sec. 2.6, entitled “Downtown Business District Tax Increment Financial District,” I agree with Municode’s analysis that the entire provision can be stricken as it appears that the ordinance enacting the Downtown Business District Tax Increment Financial District has been repealed. The same can be said about Sec. 2.7 entitled “Black Bear Business Park Tax Increment Financial District” as the ordinance establishing that district also appears to have been repealed. A reference should be retained in a footnote, however, that such provisions did exist but that they were repealed, providing the ordinances enacting and repealing both Districts.

- N. Under Subsection 2.8.3, regarding departments within the Town, Municode has indicated that it needs a current up-to-date list of all departments within the Town in order to draft an accurate Code. Steve Fournier, the Town Administrator, informed me that he has drafted an Administrative Code that will designate all municipal departments pursuant to the proposed revisions to the Town Charter. Based on this information, I believe that the entirety of Section 2.8.3 can be removed; the Town Charter Section 4.12 already provides that the Administrative Division will designate departments and agencies of the Town.
- O. Under Subsection 2.11.1, addressing the powers and duties of the Board of Cemetery Trustees, I suggest inserting at the end of “et. seq.” the words “as amended,” as the Board would not likely want to leave an opening for a subsequent revision to the statute to create uncertainty as to the effect of the provision.
- P. With regard to suggested changes to Subsections 2.11.2, 2.12.2 and 2.13.2, addressing tax exemptions for wood heating energy systems, solar energy systems and wind powered energy systems respectively, Municode has suggested that the Town strike from the Code all references to the enabling statutes authorizing the Town to adopt these exemptions. I believe some reference should remain in the Code stating that the Town has in fact adopted these exemptions. Otherwise, residents and taxpayers within the Town will have to dive into ordinance books in order to determine whether a particular tax exemption exists under the Code. While I agree with Municode that the Town need not provide the enabling

legislation in its entirety, the Town should retain a reference to the fact that it has adopted these tax exemptions and cross reference the statute in a footnote.

- Q. Under Subsection 2.14.6, I suggest editing Municode's revision so that it reads "Prepayment of taxes is authorized in accordance with the provisions of RSA 80:52-a."
- R. Immediately following Subsection 2.14.6, Municode has indicated that there is material missing from Ordinance # 2012-2013 03. Municode requests that the Town furnish a corrected copy of the ordinance.
- S. Under Sec. 5.09(C) entitled "Historic District Commission," Municode has indicated that the Ordinance which established the Historic District Commission has been abolished. Municode has requested that the Town provide guidance and appropriately account for the repeal of this Ordinance. I would suggest striking Section 5.09 (C) which deals with the Historic District Commission in its entirety, as Municode is correct that the ordinance enacting the commission has been repealed. If the Section is struck, a footnote should be retained showing that the Commission did exist by operation of an ordinance and that it was repealed by a later ordinance; this footnote should give specific reference to those ordinances.
- T. Under Sec. 8 entitled "Dealers and Junk Salvage and Recycled Materials," Municode has suggested that this provision be removed from the Zoning Ordinance because "it really does not appear to belong in zoning as it does not deal with zoning issues." Municode has also indicated that the provisions in Sec. 8 deal extensively with licensing but do not reference a licensing board. I agree

with both conclusions. Removal of this Section from the Zoning Ordinance section and inserting these provisions into the licensing ordinance is warranted under either the present or revised Code; when I raised this matter with Steve Fournier, he concurred with both conclusions.

- U. Under Title 3, Chapter 5 and Title 3, Chapter 6 addressing subdivision and site plan regulations, Municode has suggested that these regulations do not belong in the municipal code, but rather should either be provided for otherwise. Given the language of RSA 674:43, I tend to agree with this conclusion. That statute specifically authorized the Town to authorize a board to issue permits and make subdivision and site plan regulations.
- V. Under Sec. 5.7, entitled “Mutual Aid,” Municode suggests removing the reference to the enabling statute. While I tend to agree that removal of the recitation of the enabling statute reduces unnecessary provisions, the Town should retain a provision stating that they are authorizing their “fire department to go to the aid of another city . . .” For simplicity, the reference to the enabling statute should be left as is; in the alternative, the Town should retain at least retain a statement demonstrating that it has in fact adopted mutual aid pursuant to the enabling legislation.
- W. Under Subsection 11.2.12, entitled “Sleeping in Motor Vehicles,” Municode suggests a complete removal of the code’s prohibition on sleeping in motor vehicles without permission of the Police Department, citing concerns regarding vagueness and a lack of standards. I have spoken with Chief Cyr of the

Newmarket Police Department, who informed me that this Ordinance is not regularly used and that he had no strong opinion one way or the other regarding the issue. I address this revisions only to note that I do not share Municode's concerns, and, should the Town desire to retain the prohibition, an ordinance can be crafted to rectify some of those concerns.

- X. With regard to the Heron Point Sanctuary, Municode has indicated that the ordinance creating the Sanctuary may have been repealed, but that it was not sure. I requested information regarding the Heron Point Sanctuary and was provided with a proposed 2004 Ordinance that attempted to revised the Heron Point Sanctuary Section; this ordinance did not pass. I did not receive any ordinances showing that the Section was repealed.
- Y. With regard to Sec. 14.1, regarding Drug Paraphernalia, there is a concern over whether the Town can regulate controlled substances in such a way. As part of the Controlled Substances Act, the possession of Drug Paraphernalia is prohibited. The Controlled Substances Act was intended to be a comprehensive statute. See State v. Dunphy, 114 N.H. 740, 743 (1974); see also 1996 N.H. Senate Journal 1210 (calling Controlled Substances Act a "master drug bill"). Therefore, it is questionable whether the Town can legislate on this area without an express grant of authority by the legislature. See JTR Colebrook, Inc. v. Town of Colebrook, 149 N.H. 7676, 770 (2003) (stating that "[g]enerally, a detailed and comprehensive State statutory scheme governing a particular field demonstrates legislative intent to preempt that subject by placing exclusive control in the

State's hands" and municipal regulation on that field is preempted). This is particularly true where the Town has instituted its own fines on top of those designated in the Controlled Substances Act. I spoke with Chief Kevin Cyr of the Newmarket Police Department who informed me that the ordinance passed before his time and that he has never used it as an enforcement mechanism. Chief Cyr was comfortable with striking this provision from the Town Code.

- Z. Lastly, Municode suggested striking the Town's prohibition on loitering, Ordinance 97-02, if such prohibition is obsolete. While loitering regulations have been the subject of constitutional challenges due to vagueness concerns, the ordinance as presently written appears to contain sufficient clarity and specificity to avoid such a challenge.

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* * M E M O R A N D U M * *

To: Steve Fournier

From: Eric Maher

Re: Town of Newmarket: Town Code Revisions

Date: October 8, 2014

Task: Review all changes proposed by MuniCode and determine whether said changes should be made or whether any further alterations/changes should be made.

Analysis: I have agreed to all changes found in Municode's memorandum, except the changes and further revisions explicitly referenced below:

- a. Section 1.3.7: MuniCode has suggested removing this provision as it is already covered in the Town's Charter at Section 8.2. The Charter only allows for citizen petitions for the passage or repeal of a particular measure, it does not provide for citizen petitions to remove public officials. The revised charter removed references from citizen petitions to remove public officials upon the determination that New Hampshire law does not permit said petitions.

The measure in the Town Code referencing citizen petitions to remove public officials should be removed.

- b. Section 2.8.3: MuniCode has pointed out that the current departments listed in the Town Code are not accurate. Upon information and belief, the Town Administrator is drafting the Administrative Code. I would suggest leaving the provision in place, but leave the list of Department's blank so as to act as a placeholder upon completion of the Administrative Code.
- c. Section 2.10.2: MuniCode has suggested that the reference in this current provision to the Ordinance establishing the Administrative Code is presently not accurate.

A suggested revision would be to strike "Pursuant to Resolution 2003 23 Administrative Code Section 3.5 Capital Improvement Plan (CIP)," and keep the remainder of the provision intact so that it reads: "The department heads, Town Administrator, and the Town Council on a yearly basis, shall review current capital expenditures."

- d. Section 2.11.2: Like with other references to tax exemptions, I suggest retaining a reference to the fact that the Town has acted upon enabling legislation to allow for a tax exemption for "Wood-Heating Energy Systems." We have made similar suggestions with regard to tax exemptions for "Solar Energy Systems," and "Wind Powered Energy Systems."
- e. Title 3, Chapter 4, Zoning. At Footnote 1 of Ordinance of 2-14-1996 § 1.11, MuniCode suggests revising the definition of "Manufactured Housing" to conform to the definition of RSA 205-D:1. The aforementioned statute pertains to installation standards for various structures. The current definition of "Manufactured Housing" comes directly from RSA 674:31, which pertains to Zoning Ordinances. The difference between the two statutes is that RSA 205-D:1 excludes "campers or recreational vehicles as defined in RSA 216-I:1 or RSA 259:84-a; preside built houses as defined in RSA 674:31; or modular buildings as defined in RSA 205-C:1, XI" from its definition.

No such exclusion exists under RSA chapter 674. Given the parity in the language between these two statutes, the legislature's exclusion of these structures from the definition of "Manufactured Housing" in the zoning context was likely intentional. Therefore, I disagree that the current provision in the Town's Zoning Ordinance does not comport with established statutory definitions.

- f. Title 3, Chapter 5 Subdivision Regulations: MuniCode suggests retaining a provision specifically authorizing the Planning Board to adopt subdivision regulations. There is no need to retain a reference stating that the Town Council authorizes the Planning Board to adopt subdivision regulations because pursuant RSA 674:35, II the Planning Board is authorized by statute, not the local legislative body, to enact subdivision regulations. The provision may be stricken.
- g. Title 3 Chapter 6 Site Plan Regulations: MuniCode suggests retaining a provision specifically authorizing the Planning Board to adopt site plan review regulations. There is no need to retain a reference stating that the Town Council authorizes the Planning Board to adopt site plan regulations because pursuant RSA 674:44, II the Planning Board is authorized by statute, not the local legislative body, to enact site plan review regulations. The provision may be stricken.
- h. Section 4.1: MuniCode suggests deleting this section in its entirety because it is inconsistent with RSA 155-A. Said deletion would include deleting the building fee schedule.

I agree that the Town Code is inconsistent with current law to the extent that it only requires adherence to the 2000 International Building Code because the State Building Code adheres to the 2009 International Building Code. I do not think the Building Code provisions should be removed. The incorporation of applicable Building Codes into the Town Code authorizes enforcement actions pursuant to RSA chapter 676, which is a powerful tool to local code enforcement officers. Moreover, RSA 155-A:9 explicitly authorizes municipalities to enact fees "to defray the costs of administration, implementation, and enforcement of the state building code and any local amendments." Therefore, there is both authority and utility to the incorporation of building codes into the Town Code and such practice should continue in the revised Town Code. Below are suggested revisions to bring said Town Code into compliance with the current and future editions of the applicable building, fire, and electric codes.

The first suggested revision would be to revise Section 4.1 to read: "**Building and Housing:** "The Code" shall be defined as the current edition of the International Building Code, National Electric Code, International Residential Code for One and Two Family Dwellings, and National Fire Code now in effect or as updated by subsequent editions."

A further revision should be made to Section 4.1 to state: "**Statutory Authority:** The Town hereby adopts pursuant to its authority under RSA 674:51 and RSA 155-A:3, the Code and any future amendments or subsequent editions thereto."

Lastly, a revision should be made to Section 4.1.2 so that it reads: "There is hereby adopted by the Town of Newmarket, for the purposes of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use, occupancy, location and maintenance of buildings and structures and permitting thereof, *the Code*, save and except such portions as are hereunder deleted, modified, or amended, and the same are hereby adopted and incorporated by reference as fully as if set out at length herein. The Code shall supersede all prior building codes now or previously in effect in the Town of Newmarket, New Hampshire, and shall take effect on the date of adoption.

The remainder of the section, provided the Section titled "**Local Deletions, Modifications and Amendments to the Code**" accurately references the cited Code Provisions, should remain in effect for the reasons provided above.

- i. Section 6.11.1: MuniCode has requested the date upon which the Town enacted Impact Fees. The date that the Planning Board voted to adopt the Methodology for Impact Fees and recommended said adoption to Town Council was January 30, 2001. The Town Council adopted the Impact Fee Study on February 7, 2001.
- j. Section 10.2.3. Regarding penalties for violations of the Weight Limit Ordinance, MuniCode has suggested striking the entire provision because penalties are provided for in the suggested “General” provisions section and because the imposition of liability for damage resulting from said violation is beyond the power of the Town to enforce.

The Town should retain a provision regarding the ability to recoup damages resulting from said violations. While it is arguable as to whether the Town can impose civil liability above and beyond the common law or statute, it can certainly restate that it shall be capable of seeking damages to the full extent authorized by law, resulting from any violation of this Ordinance. A provision to that effect should be retained by the Town.

- k. Upon conferencing with the Chief Kevin Cyr of the Town of Newmarket Police Department, the following ordinances are either redundant under the criminal code or beyond the power of the Town to enact/enforce. MuniCode did not make these suggested revisions; however, I submit these suggestions as part of a continuing discussion on proper amendments to the Town Code:

Section 14.2: Keeping Controlled Drugs: This provision made it a violation of the Town Code to be on the premises in the location where a controlled drug was present. It is a vestige of a prior statute in New Hampshire which allowed for a charge of possession of a controlled drug when in the same residential structure as a controlled drug. The statute has since been repealed and the ordinance has since not been used for enforcement purposes. Due to the fact that the current provision regulates conduct on private property without any identifiable enabling legislation, it is likely beyond the power of the Town to regulate. It should be stricken in its entirety.

Section 14.3: Sale of Rolling Papers to Minors: While there may be potential issues regarding whether the Town is authorized to enact such a provision, I believe it is likely a valid business regulation. See RSA 47:17.¹ Moreover, Chief Cyr has stated that this provision is helpful, particularly since the Town has had head shops in the past. This provision should be retained, and I address it merely to bring it to your attention.

Section 14.4: Threatening Conduct: The provision stated that it is violation of the Town Code to “possess any dangerous weapon in a threatening manner” The provision is largely controlled by the current criminal threatening statute and this Town Code provision has not been enforced by the Town. It should be stricken in its entirety.

Section 14.5: Private Property Rights: This provision prohibited individuals from looking into the windows of private or public buildings for the purposes of watching the occupants of that building. There is no enabling legislation allowing this ordinance to be made applicable to private property, which was likely the main purpose behind the provisions enactment. Moreover, Chief Cyr has informed me that he does not enforce this ordinance and relies upon the Prowling and Loitering Statutes found in the New Hampshire Criminal Code. Section 14.5 should be stricken in its entirety.

¹ Newmarket, as a Town Council form of government, has the powers of a City Council.

Section 14.8 Interference with Law Enforcement Officers: This provision overlaps in its entirety with several Criminal Code statutes including Disorderly Conduct, Disobeying an Officer, Hindering Apprehension or Prosecution, and Obstructing Government Administration. Chief Cyr has not enforced this provision, and the provision is without clear statutory authorization. It should be stricken in its entirety.

Section 17.5: Prohibition of Jet Skis From the Lamprey River and Piscassic River Boat Launches. The title essentially explains the substance of the provision. The Town can enforce the prohibition on launching Jet Skis from public boat launches pursuant to RSA 31:39, regarding its ability to regulate Town-owned property. It is uncertain whether it has the ability to regulate the use of Jet Skis on bodies of water because RSA 270:74 and 207-D, which states that “[a] person may operate a ski craft on the lakes, ponds, and rivers of the state except in areas which are prohibited by the department and those lakes, ponds, and rivers specifically prohibited by RSA 270:75-109 and other legislative acts.”

Chief Cyr has stated that he does not enforce this ordinance and does not have an issue with removing it. It may be stricken in its entirety.

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municode

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March 16, 2015

Mr. Steve Fournier
Town Administrator, Town of Newmarket New Hampshire
Emailed to: sfournier@newmarketnh.gov

Re: Newmarket Recodification

Dear Mr. Fournier:

I am pleased to advise that the new Town Code has been cleared to press and will ship within the next few days.

The new Code embraces ordinances through Ord. No. 2013/2014-02, adopted May 7, 2014. Enclosed is a suggested adopting ordinance for the new Code. I recommend that you have the Town Attorney review it and have it adopted at an early date.

We will also need a copy of each ordinance that has been adopted since May 7, 2014, not previously sent to us for inclusion in the first supplement. We can receive ordinances via e-mail at ords@mail.municode.com, or you may send disks and/or hard copies of the ordinances to Steffanie Rasmussen of our sales department. Stephanie will contact you shortly and will work with you to make sure that Supplements are published on the schedule that you desire.

Sincerely,

Roger D. Merriam

MUNICIPAL CODE CORPORATION
MAILING ADDRESS: P.O. Box 2235 Tallahassee, FL 32316
PHYSICAL ADDRESS: 1700 Capital Circle, SW Tallahassee, FL 32310
FAX: 850-575-8852
LOCAL TELEPHONE NUMBER: 850-576-3171

TOWN OF NEWMARKET, NEW HAMPSHIRE

By the Newmarket Town Council

Resolution 2014/2015-49

2015-2016 TOWN COUNCIL RULES FOR PROCEEDINGS

WHEREAS, Section 3.2 of the Town Charter requires the Town Council to adopt rules of Council Proceedings.

NOW THEREFORE LET IT BE RESOLVED BY THE NEWMARKET TOWN COUNCIL, That the Town Council adopts their 2015-2016 Rules of Council Proceedings as appended to this Resolution.

First Reading: April 1, 2015

Second Reading: April 15, 2015

Council Approval: April 15, 2015

Approved: _____

Philip Nazzaro, Town Council Chairman

A True Copy Attest: _____

Terri Littlefield, Town Clerk



TOWN *of* NEWMARKET, NEW HAMPSHIRE

2015-2016
TOWN COUNCIL RULES FOR PROCEEDINGS

1. **Council Meetings**

All meetings of the Town Council shall be public as required by RSA 91-A.

Business meetings shall be held on the first and third Wednesday of each month at 7:00 p.m., unless otherwise provided by ordinance or resolution. When Wednesday is a holiday, the regular meeting shall be held on a Wednesday following at the same hour unless otherwise provided by motion. The public portions of Council meetings shall end by 10:00 p.m., unless the Chairman or a majority of the Council present determines that continuing the meeting shall allow the necessary business of the meeting to be completed. In order to proceed beyond 10:00 p.m., a motion to do so shall be made and a vote shall be taken. The motion shall pass to the extent two-thirds (2/3) of the votes cast. Notwithstanding the foregoing, non-public sessions of the Council may continue after 10:00 p.m.

Business Meetings are for the purpose of deliberating and voting upon Town business. Agendas will generally follow the order of business established in Section 5 below and shall include on the agenda an opportunity for citizen comment related to the matter(s) included on the agenda and/or pertaining to the business of the City Council.

Special Meetings are for the purpose of deliberating and voting upon Town business at times other than during a regularly scheduled Business Meeting. Such meetings are "special" because the Chair, or upon request of the Town Administrator, or five (5) Council Members by written request submitted to the Chair, can call them on a minimum of 24 hours' notice. Agendas will generally follow the order of business established in Section 5 limited to one or more items requiring Council action and shall include on the agenda an opportunity for citizen comment specifically related to the matter(s) included on the agenda.

Special Meetings may be scheduled for any day provided sufficient notice is afforded in accordance with provisions of State law.

Workshop Meetings are for the purpose of the Council receiving information about Town business in an informal setting during which no formal action can be taken. The workshop agenda format is intended to encourage in-depth presentations by Town Boards, Commissions, Committees and/or staff (including consultants engaged for purposes of advising the Council), and detailed questioning and brainstorming by Council Members. The Council may discuss the material freely without following formal rules of parliamentary procedure, subject to the direction of the presiding officer. Although formal action may not be taken during Workshop Meetings, the presiding officer may poll Council Members during the meeting to determine the general consensus of the Council in order to bring matters back for consideration at future meetings. Agendas will generally follow the order of business established in Section 6 below limited to one or more items for Council review and discussion and shall include on the agenda, prior to the end of the meeting, an opportunity for citizen comment related to the matter(s) included on the agenda.

Non-Public Meetings are held to discuss only certain items specified in State law during which the public cannot attend. Non-Public Meetings shall be properly noticed and State law pertaining to the appropriateness and necessity of holding such meetings shall be strictly adhered to in all cases.

Non-Public meetings are typically scheduled as necessary, before or after other Council meetings.

Consultation with Legal Counsel/Collective Bargaining Strategy or Negotiation meetings are held solely for purposes of receiving legal counsel and/or for collective bargaining matters relating to strategy or negotiations during which the public cannot attend. These sessions are typically scheduled as necessary, before or after other Council meetings.

The place of the meetings shall be the Council Chambers at the Town Hall.

A quorum of the Council for the transaction of any business shall be four (4) of the members currently in office. A majority of those members present may adjourn the meeting to another time or date.

2. **Presiding Officer**

The Chairman shall be the presiding officer at all Council meetings. He/She shall take the chair precisely at the hour appointed for the meeting and call the members to order. In the absence or disability of the Chairman, the Vice-chairman shall preside and act as Chairman during such absence or disability.

3. **Chairman Pro Tem**

In case of the absence of both the Chairman and the Vice Chairman, the Recording Secretary shall call the Council to order and call the roll of the members. If a quorum is found to be

present, the Council shall choose one of its members to act as Chairman *pro tem* by a plurality of votes until the Chairman or Vice-Chairman appears.

4. **Recording Secretary**

The Recording Secretary shall be ex-officio Recording Secretary of the Council and shall keep minutes of the meetings and perform such other and further duties, as may be ordered by the presiding officer or Council. The Recording Secretary shall record the names of the members present and coming in after the call to order. It shall be sufficient for the Recording Secretary to record special and non-public meetings by written form. Not more than 5 business days, excluding weekends and national and state holidays, the Recording Secretary shall make available a copy of the minutes of the previous meetings to include regular, special and non-sealed non-public meetings. In the absence of the Recording Secretary, the presiding officer shall appoint an acting recording secretary during such absence that shall tape record the meeting and take minutes.

5. **Order of Business**

The business of all business meetings and workshops of the Council shall be transacted in the following order unless the Council, by a vote of at least two-thirds (2/3) of the votes cast, shall suspend the rules and change the order.

Business Meetings:

1. Pledge of Allegiance
2. Public Forum
3. Public Hearing
4. Town Council to Consider Acceptance of Minutes
5. Report of the Town Administrator
 - a. Monthly Department Heads Report
6. Committee Reports
7. Old Business
 - a. Ordinances and Resolutions in the 2nd Reading
 - b. Ordinances and Resolutions in the 3rd Reading
 - c. Items Laid on the Table
8. New Business/Correspondence
 - a. Town Council to Consider Nominations, Appointments and Elections
 - b. Ordinances and Resolutions in the 1st Reading
 - c. Correspondence to the Town Council
 - d. Closing Comments by Town Councilors
9. Adjournment

6. **Ordinances and Resolutions**

- a. Ordinances - Any Ordinance to be considered by the Council other than those to be enacted for purposes of addressing emergency circumstances as specified in the Town Charter shall be initiated and acted upon in accordance with the requirements established herein.
 - i. A proposed Ordinance shall appear on a meeting agenda for a first reading after which it may be referred to a Workshop Meeting, if deemed necessary, and/or a future Public Hearing date shall be set.
 - ii. After a Public Hearing relating to a proposed Ordinance has been held and testimony allowed in accordance with these rules, the proposed Ordinance shall be brought before the Council for a second reading during the same meeting, together with any and all recommendations for passage, rejection, referral to a workshop, or to a third reading.
 - iii. Any proposed Ordinance submitted for consideration by the Council, may be amended and/or enacted by a majority roll call vote in conjunction with the second and/or subsequent readings.
 - iv. If a proposed Ordinance is extensively amended following the first reading and the Council wishes further review, or additional time is needed for the public to express its opinion on the issue, it may be held for a third reading, on a simple majority vote of Council Members present.
 - v. Unless otherwise provided, each Ordinance approved by the Council shall become effective upon its passage, after it has been duly advertised within 7 business days of the Council meeting at which time the ordinance was adopted.
 - vi. The Town Clerk shall certify that the amendments are incorporated into the original ordinance with the proper reference to the amended ordinance number and date.
- b. Resolutions - Any Resolution to be considered by the Council shall typically be initiated and acted upon in accordance with these rules above. Resolutions subject to public hearings will also be subject to the following:
 - i. A proposed Resolution shall appear on a meeting agenda for a first reading after which it may be referred to a Workshop Meeting, if deemed necessary, and/or a future Public Hearing date shall be set, if necessary. If no workshop or Public Hearing is necessary, than the Resolution will be referred to the next regular business meeting.
 - ii. After the proposed Resolution has been presented at the required public hearing, if necessary, it shall then be brought before the Council for a second reading the same meeting, together with any and all recommendations, for passage, rejection, referral to a workshop or other meeting.
 - iii. If a proposed Resolution requiring a public hearing is extensively amended following the public hearing and the Council wishes further review, or additional time is needed for the public to express its opinion

on the issue, it may be held and referred for action at a future meeting, on a simple majority vote of Council Members present.

7. **Meeting Protocol**

No person will be allowed to speak unless and until recognized by the Chair.

No Councilor will be allowed to address an agenda item twice before each Councilor wishing to be recognized has been recognized once.

No person will be allowed to respond out of order to any statement by any other person.

All comments will be addressed to the Chair.

The Chair reserves the right to rule persons, including Councilors, out of order for violating this Resolution, as well as any other applicable statute, ordinance, resolution, or Charter provision.

Any person ruled out of order three times at one meeting will be asked to leave the meeting.

Motions will be entertained at workshops only under extraordinary circumstances. Motions will only be entertained under new business only under extraordinary circumstances. Any matter discussed under new business that the Council wishes to consider further will be referred to the next available workshop.

8. **Filing with the Town Clerk**

Per Section 3.8.A of the Town Charter any ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Town Clerk shall distribute a copy to each Councilor and to the Town Administrator shall file a reasonable number of copies in the office of the Town Clerk, and post a copy in such other public places as the Council may designate.

In addition, copies of ordinances, resolutions and documents to come before the Council for consideration will be given to the Town Administrator's office by noon three (3) working days preceding the day on which the Council meets. All Town Council packets shall be made available for pick up on the Friday before the scheduled business meeting and workshop at the Town Hall.

9. **Motion to be Stated by the Recording Secretary**

Any Council member may ask the Recording Secretary to state the motion before the vote. The mover without the consent of the member seconding it may not withdraw a motion.

9. **Voting**

Each member present when a question is put shall vote either aye or nay by voice vote. If a member abstains, he/she shall give the reason for abstaining. All voting shall be by roll call vote except votes on procedural matters.

10. **Conflict of Interest**

Any member who has a financial interest, direct or indirectly, in any planning or existing contract, job, work or service to be performed by the Town or voluntary sale to the Town of any land, materials, supplies, equipment or other property shall make full disclosure of such interest to the Council prior to deliberating any such matter or transaction.

The member, or if a member's family member, as defined by Section 7.3 (B) of the Town Charter is financially interested in such matters or transactions shall not vote nor advise on nor otherwise participate in the Council's consideration of such matter or transaction.

11. **Anonymous Communications**

Unsigned communications shall not be introduced in Council meetings nor shall the Council entertain any review, discussion or action upon unsigned communications.

12. **Permission to Address the Council**

To encourage and allow ongoing input and feedback from citizens, Regular, Special and Workshop meetings shall include on the agenda an opportunity for citizens to address the Council. In addition to public hearings that may be scheduled for public comment on specific matters, the Public Forum will ensure citizens have the opportunity to speak to all other items on a meeting agenda and/or matters pertaining to the business of the Council.

- i. Speakers shall be residents of the Town of Newmarket, property owners in the Town of Newmarket, and/or designated representatives of recognized civic organizations or businesses located in the Town of Newmarket.
- ii. Speakers shall address their comments to the presiding officer and the Council as a body and not to any individual member.
- iii. Speakers shall first recite their name and address for the record.
- iv. Each speaker shall be provided a single opportunity for comment, limited to five (5) minutes with the five (5) minutes beginning after the obligatory statement of name and address by the speaker.
- v. Citizen Forum shall not be a two-way dialogue between speaker(s), Council Member(s), and/or the Town Administrator.

The presiding officer shall preserve strict order and decorum for and by all speakers appearing before the Council.

13. **To Suspend the Rules**

These rules may be temporarily suspended by a vote of two-third (2/3) of the votes cast.

14. **To Amend Rules**

These rules may be amended, or new rules adopted, by a majority vote of all members of the Council present. Any proposed amendments to these rules shall be submitted in writing at a business meeting, and shall be placed on the agenda under the order of "New Business". This requirement shall be waived only by unanimous consent with a recorded vote of all members.

15. **Roberts Rules of Order**

Roberts Rules of Order shall be used to decide all parliamentary questions not specifically provided for in these rules.

16. **Committees**

Budget Committee: As provided for in RSA 32:15, I(b) *Budget Committee Membership*, "One member of the governing body of the municipality...shall be appointed by their respective board to serve for a term of one year and until their successor are qualified. Each such member may be represented by an alternate member designated by their respective board, who shall, when sitting, have the same authority as the regular member."

Planning Board: As provided for in RSA 637:2, I-b(a) *Planning Board*, The council shall appoint "A member of the town council...of the town selected by the town council."

The Chairman shall have the power to appoint such advisory committees, as he/she deems necessary to serve him/her in an advisory capacity. The first-named person on each advisory committee shall serve as its chairman.

17. **Councilor Development**

All newly elected Council members shall, within the first year of their election, attend at least one workshop or educational seminar for local officials offered by the New Hampshire Municipal Association, Local Government Center, or comparable local agency.

All other Councilors are also encouraged to attend at least one workshop/seminar during each remaining term year with particular emphasis upon the Right-To-Know Law, municipal budgeting, and/or other matters pertaining to local government.

18. **Annual Review and Adoption**

Consistent with Section 3.2 of the Town Charter, this Resolution shall be in effect until the next organizational meeting of the Council, at which time, the Council shall renew, amend, and re-adopt or otherwise act on this Resolution.

19. **Councilor Stipend**

Consistent with Resolution #2009/2010-08, Pertaining to the Disbursement of Town Council Member's Annual Stipend, Councilors stipend shall begin with the start of the Town's fiscal year with payment made in July, September, December and March.

RECEIVED

MAR 31 2015

TOWN OF NEW MARKET
ADMINISTRATOR'S OFFICE



Handwritten note: Hall
for
New

APPLICATION FOR APPOINTMENT TO A BOARD,
COMMISSION, OR COMMITTEE POSITION WITHIN THE
TOWN OF NEWMARKET

Applicant's Name: Jonathan Kiper Kiper

Address: 169 Main St. Newmarket MA Phone/Cell 603-686-0915

RSA 669:19 Newmarket Registered Voter: Yes No # of Years as Resident: 4
RSA 91:2 Are you an American Citizen? Yes No

Email address: JonathanKiper@icloud.com

Full membership (3 year term) position applying for Zoning board

State what the new term expiration date is: _____

Alternate position (3 year term) position applying for _____

State what the new term expiration date is: 2017

I feel the following experience and background qualifies me for this position: I live in Newmarket and have recently opened a restaurant called Jonny Boston's International. I have read the zoning laws and I am aware of the complexity of the law.

(need more room, please use the back)

[Signature]
Signature

3/31/15
Date

You are welcome to submit a letter or resume with this form. Applicants are requested to attend the Council meeting to address the Town Council prior to the decision making process. Applicants will be notified of the time and date of this meeting in advance. Thank you for your application and interest in the Town of Newmarket.

RESOLUTION #2014/2015 - 50

AUTHORIZING THE TOWN ADMINISTRATOR TO ENTER INTO A PAYMENT IN LIEU OF TAXES AGREEMENT WITH GREAT BAY KIDS COMPANY

WHEREAS Great Bay Kids Company, doing business in the Town of Newmarket at 3 Simmons Ln, has been determined as exempt from property taxes pursuant to RSA 72:23, IV, and

WHEREAS The Town and Great Bay Kids Company agree that Great Bay Kids Company shall make payments in lieu of property taxes to the Town in an amount equal to the of the annual municipal and county portions of the tax rate for seven years, pursuant to RSA 72:23-n

NOW THEREFORE LET IT BE RESOLVED BY THE NEWMARKET TOWN COUNCIL,

That the Town Council approves an agreement between the Town and Great Bay Kids Company for a term of seven years to provide for a voluntary payment in lieu of taxes and to authorize the Town Administrator to enter into the agreement.

ORDINANCE NO. 03-2014/2015

AN ORDINANCE AMENDING CHAPTER 4 OF THE CODE OF THE TOWN OF NEWMARKET, NEW HAMPSHIRE; PROHIBITING THE FEEDING OF AQUATIC BIRDS AND WILD ANIMALS ON PUBLIC PROPERTY

THE TOWN OF NEWMARKET ORDAINS:

1. Purpose

The purpose of this ordinance is to protect water and other public property by making it unlawful to feed any aquatic bird (including but not limited to ducks, geese, sea gulls or swans) or wild animals on public property

2. Amendment

Chapter 4 is hereby amended by adding the following article:

ARTICLE III FEEDING OF DUCKS AND WILD ANIMALS

Sec. 4-36. Purpose: Unlawful Acts

The following regulations are adopted for the protection and the purity of water and other public property of the Town of Newmarket, such being undertaken pursuant to the powers vested in the town. No person or persons shall on any public property feed any aquatic bird (including but not limited to ducks, geese, sea gulls or swans) or wild animals.

Sec. 4-37. Posting of Provisions

The Town of Newmarket shall have the right to post a notice of this ordinance on property that is open to the public.

Sec. 4-38. Violations and Penalties

Any law enforcement officer, health officer, or any employee of the town designated by the Town Administrator may issue a notice of violation. Such notice shall impose upon the person a forfeiture of fifty dollars (\$50.00) which must be paid to the Town of Newmarket within thirty (30) business days of the date and time the notice is given, in full satisfaction of assessed penalty. In the event such penalty is not paid by to the Town of Newmarket within the time limitations specified, a summons shall be issued in District Court and any person found guilty of violating the provisions of this ordinance shall be guilty of a violation and shall be fine no more than one thousand dollars (\$1,000.00.)

3. Repeal

This ordinance shall repeal any previously adopted ordinances, rules, or regulations

4. Takes Effect

This ordinance shall take effect upon passage and publication of notice as required by RSA 47:18

Sponsored by: Town Councilor Dale Pike

ORDINANCE NO. 04-2014/2015

AN ORDINANCE AMENDING CHAPTER 18 OF THE CODE OF THE TOWN OF NEWMARKET, NEW HAMPSHIRE; REGULATING RAFFLES

THE TOWN OF NEWMARKET ORDAINS:

1. Purpose

The purpose of this ordinance is to regulate charitable raffles and other games of chance in the Town of Newmarket pursuant to RSA 287-A

2. Amendment

Chapter 18 is hereby amended by adding the following article:

ARTICLE III RAFFLES

Sec. 18 - 112. Purpose: Unlawful Acts

Pursuant to the terms of RSA 287-A, the purpose of this chapter is to enact provisions for the permitting and regulation of Raffles.

Sec. 18 - 113. Permits Required

It shall be unlawful for any person conducting a raffle within the town of Newmarket without first obtaining a permit.

Sec. 18 - 114. Definitions

- a. "Raffle" means a lottery in which each participant buys a ticket for an article or articles put up as a prize with the winner being determined by a random drawing.
- b. "Charitable organization" means:
 - i. Any person or entity that is that is determined by the Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code, as that section now exists or may hereafter be amended; or
 - ii. Any other person or entity that is or holds itself out to be established, in whole or in part, for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, social, sporting, recreational, or other charitable purpose which has been in existence for at least 2 years, or political committee or political party which has been in existence for at least 2 years, or any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation. "Charitable organization" is not limited to those

organizations to which contributions are tax deductible under section 170 of the Internal Revenue Code.

- c. "50/50 raffle" means a raffle conducted by a charitable organization whereby moneys collected by sale of raffle tickets are split evenly between the prize winner or winners and the charitable organization after the raffle drawing.

Sec. 18 - 114. Application

The application for a Raffle permit shall include the following information:

- a. The name of the organization and contact information of a representative of the organization applying for the permit including name, daytime telephone, address, and electronic mail address.
- b. The beginning and end date(s) of the sale of tickets.
- c. The date(s) and place of the drawing.
- d. The prize(s) to be awarded.
- e. Cost of ticket.
- f. Other information deemed necessary by either the Town Administrator or Chief of Police.

Sec. 18 - 115. Approval of Permit

- a. The Town Administrator (or their designee) and the Chief of Police (or their designee) must approve any permit prior to the sale of tickets.
- b. A copy of the permit will be presented to the applicant, placed on file with the Police Department and the Town Clerk - Tax Collector.
- c. If the charitable organization wishes to conduct more than one raffle, the permit may be extended for no more than one (1) year expiring on June 30.
- d. Permits are non-transferable

Sec. 18 - 116. Conduct of Raffle

- a. Raffle tickets shall be sold only to persons sixteen (16) years of age or over.
- b. Only members of the organization or an individual authorized by the organization shall sell tickets.
- c. No one shall receive financial remuneration from the sale of tickets.

- d. All raffle tickets shall comply with the provisions of RSA 287-A:3, and shall be printed with the name of the charitable organization, the date and place of the drawing, the prize or prizes to be awarded and the amount of the donation (price of ticket.)
 - i. This is not required of 50/50 raffle tickets.

Sec. 118 – 17 Violations and Penalties

- a. The town may revoke a permit issued pursuant to this chapter at any time due to a violation of this ordinance or state law if it is discovered that any false information was knowingly submitted as part of the application process.
- b. Any person, firm or organization violating any provisions of this chapter shall be guilty of a violation and be subject of a fine of up to one thousand dollars (\$1,000.00) and criminal prosecution.

3. Takes Effect

This ordinance shall take effect upon passage and publication of notice as required by RSA 47:18

TOWN OF NEWMARKET, NEW HAMPSHIRE
By the Newmarket Town Council
 Resolution #2014/2015-51
 Relating to Replacement Doors at Recreation Center

WHEREAS The Recreation Department in conjunction with the Public Works Department of the Town of Newmarket solicited proposals for replacement doors at the Recreation Center, and

WHEREAS The three companies were contacted and two submitted proposals, and

WHEREAS The cost proposals were as follows:

Door Type	Bidder		
	Kamco (3 quotes totaling:)	Supply Portland Glass	All Doors and Locks
Aluminum	\$12,048	\$15,592	No proposal submitted
Steel	\$8,065	No proposal Submitted	No proposal submitted

WHEREAS The quality of Portland Glass's product is known to the Town, which it has been installed on Town Hall.

NOW THEREFORE BE IT RESOLVED, that the Newmarket Town Council does authorize the Town Administrator to enter into an agreement with Portland Glass for replacement doors at the Recreation Center.