

**TOWN OF NEWMARKET, NEW HAMPSHIRE
TOWN COUNCIL REGULAR MEETING**

May 6, 2015 7:00 PM

PRESENT: Council Vice Chairman Gary Levy, Councilor Amy Thompson, Councilor Toni Weinstein, Councilor Larry Pickering

EXCUSED: Council Chairman Phil Nazzaro, Councilor Dale Pike, Councilor Amy Burns

ALSO PRESENT: Town Administrator Steve Fournier, Public Works Director Rick Malasky, Reverend Patti Marsden, Acting Chairman of the Board of Newmarket Community Church Dan Bilodeau, Attorney Eric Mahler, Chairman of the Board of Great Bay Kids Mark Paige.

AGENDA

Vice Chairman Gary Levy welcomed everyone to the May 6, 2015 Town Council Meeting and called the meeting to order at 7:00 pm, followed by the Pledge of Allegiance.

Vice Chair Levy announced that Chairman Phil Nazzaro, Councilor Dale Pike, and Councilor Amy Burns were all excused for personal reasons.

PUBLIC FORUM

Vice Chair Levy opened the Public Forum at 7:02 pm and asked if anyone from the public wished to speak.

As no one from the public came forward, Vice Chair Levy closed the Public Forum at 7:02 pm.

PUBLIC HEARING

Vice Chair Levy opened the Public Hearing at 7:03 pm, stating that two (2) Ordinances were being addressed at this meeting.

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

Vice Chair Levy asked if anyone from the public wished to speak to *Ordinance #2014/2015-03 Prohibiting the Feeding of Birds and Wild Animals on Public Property*.

No one from the public came forward to address the issue.

Ordinance #2014/2015-04 Regulating Raffles

Vice Chair Levy asked if anyone from the public wished to speak to *Ordinance #2014-2015-04 Regulating Raffles*.

As no one from the public came forward, Vice Chair Levy closed the Public Hearing at 7:04 pm.

TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES

Acceptance of the Minutes of the Regular Meeting of April 15, 2015,

Councilor Weinstein made a motion to accept the minutes of the regular meeting of April 15, 2015, and Councilor Thompson seconded.

Changes/Corrections: Councilor Weinstein stated that a reference on the first page regarding the cost estimated to repair the Church Steeple cited an amount of \$1,800 which should be corrected to \$18,000. She also questioned a statement on page 6 attributed to Vice Chair Levy regarding the monthly business meetings. The sentence was clarified to: "Vice Chair Levy said that Town Administrator Fournier had requested that the Council conduct two business meetings per month as he felt the Council was not taking action in a timely manner..."

Town Administrator Fournier polled the Council and the minutes of the regular meeting of April 15, 2015 were approved as amended, by a vote of 4-0.

Acceptance of the Minutes of the Non-Public Meeting of April 15, 2015

Vice Chair Levy asked the Council to wait to approve the Non-Public minutes until a full Council was present. All members were in agreement.

REPORT OF THE TOWN ADMINSTRATOR

Town Administrator Steve Fournier first addressed the **Spring Cleanup** which was to be held on Saturday, May 9th from 7:30 am to 4:00 pm. He stated that Newmarket residents could bring items to the Transfer Station during those times, and were limited to one (1) pickup load of bulky waste. He said that additional loads would require the purchase of a coupon at the Transfer Station. The only residents eligible for curbside pickup would be disabled or senior citizens at least 62 years of age, and all were required to arrange pickup times with the Department of Public Works at 659-3093. Information would also be available on the website. Town Administrator Fournier next addressed the **FEMA Reimbursement** and the declaration of the blizzard of January 27th as a disaster. He stated that as a result of the declaration, the Town would be eligible for reimbursement for some of its expenses during the storm, and had submitted the paperwork for \$39,975.97. He said that FEMA as well as the State would be

reviewing all the Town documents, and would be meeting individually with communities to go over what was submitted. Vice Chair Levy asked if the subsequent snow removal would be covered and Town Administrator Fournier replied that it would not as it was not considered to have occurred during the time period of the State of Emergency which was limited to a certain period, but added that snow removal from roofs would be covered. He then stated that a **Right to Know Workshop** had been scheduled for June 1st at 6:30 pm in the Town Hall Auditorium for Town and School officials. He said that the Town Attorney would be present at the workshop to answer questions, and that it was well-attended last year. He encouraged boards and members to attend.

Town Administrator Fournier next provided an update on the **Transportation Enhancement Project for Downtown**, stating that the pedestrian safety improvement project was moving forward. He said that the engineering firm had received some comments from the State DOT, and were working to update the designs. He stated that the project was slated to break ground in early July and should be completed in approximately 90 days. He pointed out to the Council and the public that DOT and Federal rules required the work be done with the least amount of impact possible, which would mean doing the work at night during the summer, which could get quite noisy. He said that they were trying to shorten the 90-day period, which including possibly shutting down the road for a night. Councilor Thompson asked Town Administrator Fournier to outline a few of the projects going on for the edification of the people, with some examples of what pedestrian safety was. Town Administrator Fournier stated that **Pedestrian Safety** originally included constructing a sky bridge from the Mill to the parking lot, but that after cost review and effectiveness analyses, they asked the State to change it to streetscapes on Main Street. He said the project included adding some bump-outs downtown, lowering the speed limit to 25 mph, straightening all crosswalks to shrink crossing time, and narrowing the north entrance to Town from Route 108 in the Elm Street area. He pointed out that there was a large asphalt area near the Library which encouraged speeding, which would be narrowed with some green space. He added that they were also looking at placing bollards in certain areas to discourage unsafe street crossing. Town Administrator Fournier said that the crosswalks would be inlaid with a brick-like material for better delineation and that additional signage would be added. Vice Chair Levy said that though green space was being added to the asphalt area they would not be changing its width, it being more of an optical illusion. Councilor Thompson felt that common sense needed to prevail with regard to the speed limit, as it was hard to go much faster than 20 mph through Town.

Town Administrator Fournier next addressed a **Letter from Stratham** which he had been in receipt of, requesting that Town Administrators from both Towns meet and discuss Fire and Rescue coverage for their town. He said that the conversation had begun earlier in the year, and that the Select Board was requesting that conversations on the subject be continued and stated that he would keep the Town Council abreast of any developments.

Town Administrator Fournier next addressed two topics not in his written report. He said that the **Air Conditioning Unit at the Dispatch Center** had failed a few weeks ago and a repair attempted. He said that the company they consulted had determined that it was an older system with parts no longer available. The cost to replace the unit was originally estimated to be \$15,000 but was now estimated at \$32,000. As the AC system was approximately 20 years old, Thermodynamics recommended a quote to replace the entire unit at \$56,000. Town Administrator Fournier stated that under his spending

authority, he would be recommending a withdrawal from the Building Improvement Capital Reserve Fund, and that a resolution would be brought to the Council at the next meeting. He then stated that Chairman Nazzaro had asked him to remind people of the **2nd Annual Armed Forces Memorial Day Golf Tournament** to be held on May 16th at the Pease Country Club. He said that anyone interested would contribute a fee of \$125, with all funds raised going towards the construction of a Veterans Memorial for Newmarket residents.

Town Administrator Fournier next addressed the **Town Clock/Steeple**, stating that he had been in communication with Reverend Patti Marsden of the Newmarket Community Church. He said that she had indicated they were conducting a capital campaign to refurbish the steeple on the church. He said that as the clock in the steeple was the Town's clock, they had asked for support for refurbishment from the Town. He said he had indicated that the Town might be able to help, but only for the portion that houses the clock, and that the Reverend was present at the meeting to discuss the issue briefly with the Council.

Mr. Dan Billodeau of 85 Shandon Drive, said that he was a long-term resident of Newmarket and was representing the **Newmarket Community Church** as Acting Chairman of the Board of Trustees and was responsible for all church facility finances. He said that Reverend Patti Marsden had been the Pastor of the church since October and he felt the church had a unique history with the Town in housing the Town Clock. He said that he was asking for help from the Town Council and the Town of Newmarket in renovating and painting the steeple to protect the clock. He then provided a synopsis of what the Newmarket Community Church does and the services it provides. Mr. Billodeau stated that the church was multi-denominational with approximately 157 members, of which 100 were active weekly with church activities. He said that the church had a budget of \$110,000 annually, 70% of which was to salaries, and that approximately \$70,000 came from weekly collections and fund-raising events. He said that they relied on invested funds of \$418,000 which was 31% restricted leaving only \$300,000 to cover shortfalls. He then reviewed the programs which benefitted the Town of Newmarket, including a thrift shop, food pantry, holiday baskets and a Love Offering which was collected monthly from parishioners for assisting people in need. He said that the church also had two partnerships with *End 68 Hours of Hunger* and the *One Heart Mission*. Mr. Billodeau stated that all their services were provided at great cost to the church, but benefitted the Town of Newmarket and resulted in a cost savings. He said that if the Newmarket Community Church did not provide these services, the Town Welfare budget would need to be higher. He stated that he had three (3) requests for the Town Council: 1) a commitment from the Town Council to support the steeple, 2) funds to help fix this steeple this year, and 3) a yearly allocation in the Town budget to maintain the steeple.

Discussion: Vice Chair Levy asked Town Administrator Fournier if this was the same clock the Town had helped fix in the past and that there had been a maintenance agreement established at the time. Town Administrator Fournier replied that it was, and that the same person was still servicing the clock. He clarified that it was the Town's clock in the church's building, and that the Town owned the face and the mechanism. Vice Chair Levy asked what the steeple needed specifically. Mr. Billodeau replied that the tower needed new flashing and new siding and that the wickets at the top needed to be replaced. Vice Chair Levy then asked if the prior bird issues had been ameliorated, and Mr. Billodeau replied that rubber roofing had been installed on the bell tower. Vice Chair Levy then asked whether carpentry

services were available in the Town to provide assistance. Town Administrator Fournier replied not at that level and skill, as repairing the steeple was very specialized. Vice Chair Levy asked if several quotes had been received and Mr. Billodeau replied that several Steeple Jacks had provided the estimates. Vice Chair Levy questioned whether roofers could complete the work, and Councilor Thompson felt roofers were limited due to their liability insurance and compensation. She said that over a certain number of feet the work went into "specialty" and became cost prohibitive for most conventional roofers. Town Administrator Fournier said that a town he had worked in the past had taken the tower off and repaired it at ground level. Councilor Thompson felt this was a good point that riggers could bring it down and carpenters could then work on it at regular rates, having the riggers put it back up. Mr. Billodeau said he expected that would cost more than the estimated \$18,000, and said that once the repairs were made the situation would be very manageable for the church and the Town.

Councilor Weinstein asked how the church capital campaign was going and how the Town's timeline would affect the project. Mr. Billodeau stated that the repairs needed to get started this summer and added that the costs would impact other church spending on Capital Improvements. Councilor Pickering asked if this issue would automatically be added to the agenda so that the Council could discuss it at the next budget cycle. Town Administrator Fournier replied that pursuant to the Charter, the budget was written by the Town Administrator and the Town Council. He said that when the next budget was presented there would be a line-item for contributions to the Town Clock Repair Capital Reserve Fund. He said that the Town needed to protect the clock and that continuing to work with the church would be part of his budget process. He also stated that if funds were not included in the budget, the members of the church has a right to file a petition. Mr. Billodeau asked that if the church proceeded with the repairs now, and the Town Council did decide to support the initiative, could the church be reimbursed. Town Administrator Fournier replied that legally they could not, as the current Town Council could not tie the hands of another Town Council. He said that if it were approved in the budget it would be in the hands of whoever was on the Town Council at that time. Mr. Billodeau asked whether there were any unallocated funds in the current budget, and Town Administrator Fournier replied that the \$8,000 remaining in the capital reserve fund would have to remain in case repairs were needed to the clock.

Vice Chair Levy recommended that discussions be held with the full Council present and to have the quote annotated for review. Town Administrator Fournier said that he would have the person who serviced the clock and the building inspectors review the quote provided. Councilor Thompson brought up that procedurally a process was in place within the town for all charitable organizations. Town Administrator Fournier stressed that he continued to specify "the housing of the Town clock" because the government could not provide financing to a church. He said "the church" also could not ask the Town for funds, and that funding provided was for the clock housing alone.

Vice Chair Levy thanked Mr. Dan Bilodeau and Reverend Patti Marsden for coming and asked if there were any other questions for the Town Administrator. Councilor Pickering asked if a Councilor could attend the meetings with Stratham to discuss fire and rescue coverage. Town Administrator Fournier recommended that he not attend, and explained that it had been specifically requested by the Town of Stratham that the Town Administrators meet to negotiate and bring their recommendations to their respective boards.

COMMITTEE REPORTS

Councilor Weinstein asked when the CIP committee would be starting and Town Administrator Fournier replied that it would commence in July.

Councilor Thompson reported on the last meeting of the Economic Development Committee (EDC), stating that Consultant John Connery had outlined potential zoning changes in the B2 and B3 areas. She said that he specifically addressed what types of zoning would and would not be allowed, and suggested going forward with the general recommendations from the EDC regarding types of businesses appropriate to both locations with minimal impact to the area. She said that Mr. Connery had done a lot of research and had met with consultants to pinpoint the types of developments which would be best for Newmarket, without changing the character of the Town and keeping the residential flavor. Vice Chair Levy added that recommendations had been made to change some of the permitted uses in the B3 area, and that the Planning Board would add their evaluation and then send the terms to the Town Council for discussion of possible zoning changes. He stressed that people needed to understand that any businesses already existing in these areas would not be impacted by any zoning changes. He said that the Committee wanted to do its best to surround the elderly housing in these areas with businesses that would fit and be consistent.

Councilor Weinstein said that she had attended a Visioning Master Plan Forum at which 31 people were present and remote polling was used to get immediate information from the audience. She said that is was a great morning and the crowd had been a quite diverse group of people. She said that the Planning Board had done a great job in getting the word out and attracting a lot of people on a Saturday morning. Vice Chair Levy noted that another session was scheduled for a weekday and Town Administrator Fournier stated the next session would be on May 30th. Vice Chair Levy said that though the group was diverse, the people were pretty consistent in what they wanted. He said that they wanted to maintain the character of the Town and have conservation and the environment respected, with quality of life a big emphasis. Town Administrator Fournier said that he would put the next meeting in the Town Newsletter and on the website.

OLD BUSINESS

ORDINANCES AND RESOLUTIONS IN THE 2ND READING

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

Councilor Thompson made a motion to approve *Ordinance #2014/2015-03 Prohibiting the Feeding of Birds and Wild Animals on Public Property*, and it was seconded by Councilor Weinstein.

Town Administrator Fournier stated that he would speak for Councilor Pike, who had requested the ordinance be put forward. He said that they had issues in certain parts of town with the feeding of ducks and other wild animals, especially on the boat ramp area. He said this made the ramp slippery and said that it also could become stagnant and cause health issues. He said the ordinance would allow the Town to give warnings and fines of up to \$50 for those abusing the law.

Discussion: Councilor Pickering said that he thought they already had an ordinance in reference to this, and Town Administrator Fournier said that they had discovered in doing the Codification that a lot of things they thought were backed up by an ordinance were not. Councilor Weinstein pointed out that there was a difference between a family with small kids feeding a few ducks and someone feeding a whole loaf of bread at one time. Town Administrator Fournier replied that they could not legislate everything and that it would be up to the officials enforcing the law to make the determination, adding that the person must also be caught in the act. Vice Chair Levy asked who was going to enforce the ordinance and Town Administrator Fournier replied that this just allowed the Town to do something they thought they already had the authority to do. Vice Chair Levy asked about people feeding birds in their own back yard. Town Administrator Fournier replied that the ordinance would only prevent feeding ducks on public property, and that the issue had been researched and was similar to ordinances in other Seacoast communities.

Town Administrator Fournier polled the Council and *Ordinance #2014-2015-03* passed unanimously, 4-0.

Ordinance #2014/2015-04 Regulating Raffles

Councilor Thompson made a motion to approve *Ordinance #2014/2015-04 Regulating Raffles*, and Councilor Weinstein seconded the motion.

Town Administrator Fournier stated that he had received a phone call asking how to get a permit for a raffle. He said that though we do not require it, they checked the law and found that the RSA states permits must be issued for charitable raffles in Town. He added that Chairman Nazzaro had requested the ordinance be put off for a 3rd reading, as he had a lot of questions which he wanted to discuss with the Council. Vice Chair Levy asked if the motion needed to be withdrawn and Town Administrator Fournier replied that it would. Councilor Thompson then withdrew her motion to approve *Ordinance #2014-2015-04 Regulating Raffles*, and Councilor Weinstein seconded the withdrawal of the motion.

Discussion: Councilor Weinstein said that she did not support the ordinance and felt it might put an undue burden on community organizations and people trying to do good for the residents of the Town. As the tickets were now required to be printed listing specific information, she questioned whether they could continue to use the rolls of pre-printed tickets. Town Administrator Fournier said that the rolls would be considered "printed tickets", and said that the ordinance stated that for 50/50 Raffles the rule did not apply. He stated that there was nothing they could do as State Law required the Town to issue permits for raffles. He said that the Town Hall and the Police Station received frequent calls questioning if agencies were fund raising, and said that there needed to be a record in order to verify the legitimacy of the organizations. He added that any organization having constant raffles can request a permit for the entire season, and stressed that there were no fees associated with the permits. Councilor Weinstein felt that if there were no sales of raffle tickets to children under 16 years of age, this would directly impact the School. Town Administrator Fournier suggested that the School look to the Department of Education regarding the law, as their raffles were not open to the public. Councilor Weinstein mentioned that the ordinance did not address the selling of raffle tickets and Town Administrator Fournier replied that there was no restriction on selling. Councilor Thompson stated that her concerns were similar, and that the ordinance was very specific in the requirements for information on the

printed tickets, which she felt was an undue burden. Town Administrator Fournier replied that the language could be amended. Councilor Thompson added that she was also not a big fan of the ordinance and thought that it was over-reaching for Newmarket. Vice Chair Levy asked what would happen if they continued as they had in the past and did not adopt the ordinance. Town Administrator Fournier replied that they did not have to adopt the ordinance, but that he was just trying to give structure to the issue so that individuals would not have to come to the Council every time a permit was requested. He said that the ordinance stated that he and Chief Cyr could sign off on the permits and provide copies to the Town Clerk. Vice Chair Levy then asked if State Law required that the Council pass the ordinance. Town Administrator Fournier proceeded to read the State Law to the Council. The law stated that any charitable organization wishing to conduct a raffle should first obtain a permit, which was nontransferable and expired at the time of the raffle, though it could be extended for a year. He explained that the ordinance was more of a protection for those holding the raffles to make sure they were legitimate organizations, and that the information was on file with the Town.

Resolution #2014/15-50 Authorizing the Town Administrator to Enter into a Payment In Lieu of Taxes Agreement with Great Bay Kids Company

Councilor Thompson made a motion to approve *Resolution #2014/15-50 Authorizing the Town Administrator to Enter into a Payment In Lieu of Taxes Agreement with Great Bay Kids Company*, and the motion was seconded by Councilor Pickering.

Town Administrator Fournier stated that for the edification of the Council and the public, the Town had begun reviewing all non-taxable properties in 2013, a process which should be done annually. He stated they had asked that all those properties categorized as non-taxable provide information to determine if they still qualified for exemptions. He said that non-tax properties were not the same as being tax-exempt for IRS purposes, and that State and Federal tax exemptions operated independently. He said that though a charitable organization may be entitled to a Federal tax exemption, they may need to pay property taxes based on land use. Town Administrator Fournier stated that Great Bay Kids Company operated a Pre-School and Daycare center in Town and that prior to 2013 had paid no taxes. He said that after reviewing the operations, the Town Assessor had questioned the tax-exempt status of the Company. They had discovered that under State assessing rules, the educational portion was exempt though the daycare portion was not. Town Administrator Fournier said he then discussed the issue with Great Bay Kids and determined a Payment in Lieu of Taxes (PILOT) agreement between the Town and Great Bay Kids, which was also a payment in lieu of court proceedings. He stated that the current property tax value was \$349,300 and the estimated tax based on this assessment would be \$8,994.48 annually. He said that the PILOT as written would have Great Bay Kids pay the Town and County portion of the tax bill only, the rationale being they did not use the Town's educational system but did use the Town services. He said that the rate was determined to be \$7.32/1,000 which would amount to an annual tax bill of \$2,556.88 for a period of seven (7) years at which time the agreement would be reviewed and a new one negotiated. He emphasized this was a positive tax impact for the Town and would avoid costly court proceedings for the Town and Great Bay Kids. He said that he and the director of Great Bay Kids Company had negotiated and come up with the agreement which their board had approved, and that it was now before the Council for review.

Discussion: Councilor Thompson stated that she had a major question under *Miscellaneous: Section D* with regard to the termination of the Agreement following the final payment for tax year 2022. She said that she was concerned about what would happen while they were waiting for renegotiation, as things did fall through the cracks. She said that it was possible that the property could revert to no taxes being paid at all, and felt this might be a loophole after expiration. Town Administrator Fournier said that it would not, and said that at that time the Town would consider it a taxable property and starting taxing it if the agreement went away. Vice Chair Levy asked whether it was known what percentage of the business constituted Daycare versus Education. Town Administrator Fournier replied that this was difficult to determine as both services were provided in the same building. Vice Chair Levy asked what would happen if this were a home daycare which provided some educational work for kids. Town Administrator Fournier replied that a private home cannot teach and receive payment unless it is licensed by the State of New Hampshire, which triggers the exemption. Vice Chair Levy asked if most daycare centers were exempt, and Town Administrator Fournier replied that they were not as they were not educational. Town Administrator Fournier explained that the new assessors for the Town had requested the curriculum from Great Bay Kids to make sure it was all State approved.

Mr. Mark Paige, Chairman of the Board of Great Bay Kids Company, introduced himself to the Council. Councilor Weinstein asked a question regarding the situation of a child coming for Pre-School and also being provided with Daycare services. Mr. Paige said he would like to direct the conversation more towards what drives Great Bay Kids and their curriculum. He said that they used a rigorous curriculum based on individual cognitive research which was developed at UNH. He said that they emphasized a “creative curriculum” which was tailored more towards an educational model, much like a school setting, to prepare kids before they move up to school. Vice Chair Levy asked for the age ranges of the children, and Mr. Paige replied ages 2-3 and ages 4-5 in Pre-K and Kindergarten. Vice Chair Levy asked if they broke out education versus daycare, and Mr. Paige replied that they did not and said that they also offered music, art, etc. Town Administrator Fournier said that the assessors would be continuing to look at other properties in Town as well. Councilor Thompson said that in the end it was a business in a way that public education was not, and said she was glad the issue had been followed up and an agreement reached between the parties.

Town Administrator Fournier polled the Council and the motion to approve *Resolution #2014/15-50* passed by a vote of 4-0.

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

Councilor Thompson made a motion to approve *Resolution #2014/2015-51 Relating to Replacement Doors at Recreation Center*, and the motion was seconded by Councilor Weinstein.

Town Administrator Fournier explained that the doors at the Recreation Center had been an issue for some time as they were installed in 1993 with a usual lifespan of 22 years. He said that at this point they needed to be replaced as they were constantly used, especially during the summer. Vice Chair Levy asked if the replacement doors were electric, and Town Administrator Fournier said they were just aluminum doors. Public Works Director Rick Malasky came forward to address the issue. He explained that the all-steel doors, which were rusted and rotted, would be replaced with aluminum doors like

those installed in the Town Hall 5 years ago. He said that as they had no issues with the new doors for the Town Hall, were familiar with them and had parts available, they had decided to go with the same company Portland Glass. He said that though the doors from the other companies were the same, the mechanics to open the doors were different. He added that the mechanics for the old doors were on the outside and could no longer be repaired, but would be on the inside with the replacement doors. He stated that six (6) doors in total needed to be replaced as they could no longer be repaired.

Discussion: Councilor Thompson questioned why Portland Glass was chosen over Kamco. She said she realized that parts for the doors were already available from Portland Glass, but wondered if this justified the increase in costs. She stated that Portland Glass was in Exeter and Kamco in Londonderry and wondered why they were not going with the lowest bidder. Public Works Director Rick Malasky replied that the biggest thing was that the doors could now be “dogged down” and only un-dogged when they were closed which saved a great deal on wear and tear. Councilor Thompson asked if the Kamco doors were not like that and Public Works Director Malasky replied that the doors were similar but the mechanics for the mechanisms were not the same. He said the main reason for going with Portland Glass was that they had good luck with the Town Hall doors and that Troy from H&H, who helped maintain the doors, highly recommended that they stay standardized. Councilor Thompson said that they had not had to do anything on the Town Hall doors in the 5 years since installation and that they were wearing well. Public Works Director Malasky agreed and said he had also considered the nearness of Portland Glass in Exeter as sometimes travel fees were charged, and said they hoped to stay with what they had. Councilor Thompson asked if Kamco had been used in the past, and Public Works Director Malasky said they had used them for a different kind of door.

Town Administrator Fournier stated that procedurally, if the Council wanted to switch the companies, they could just amend the resolution. Vice Chair Levy asked if there was a reason New Hampshire Glass or other local companies had not been contacted, and Public Works Director Malasky replied that the RFP had also been sent to All Doors & Locks. Vice Chair Levy said he would agree if the Kamco product was not of good quality, but that unless there was some compelling reason to go with Portland Glass they should not spend approximately \$3,500 more. Public Works Director Malasky explained that just the mechanism to open the doors was different. Town Administrator Fournier offered that as they had not repaired the Town Hall doors, he assumed that repairs would be required at the end of the lifespan of the doors and not at the beginning. He therefore felt that having parts available did not amount to a cost savings, and said that his recommendation would be to amend the resolution and go with Kamco. Councilor Pickering pointed out that the doors at the Recreation Center were used much more than the Town Hall doors and said they certainly needed replacement. Vice Chair Levy said that in theory both companies could be selling them the same door, and asked if someone else sold the same product as Portland Glass. Public Works Director Malasky said that he did not know that information, and Town Administrator Fournier said that all the information should have been provided to the Council. Public Works Director Malasky stated that he had been told the quality of the doors for both companies was the same, and that only the mechanisms were different. Vice Chair Levy asked if they could get a service contract with Portland Glass and save money. Town Administrator Fournier clarified that the Council was not approving the agreement, but approving the withdrawal from the Capital Reserve fund. He specified that any service contract would need to come out of the operating budget. He said that if the

Council wanted to amend the resolution to Kamco all they needed to do was to make a motion to amend the resolution to Kamco for the doors at the Recreation Center.

Councilor Thompson made a motion to amend *Resolution #2014/2015-51 Relating to Replacement Doors at Recreation Center* to replace **Portland Glass** with **Kamco**. Councilor Weinstein seconded the motion.

Town Administrator Fournier polled the Council to approve the amendment only, and the amendment passed by a vote of 3-1.

Town Administrator Fournier stated that the amendment now read that the Council authorized the Town Administrator to enter into an agreement with *Kamco* for replacement doors at the Recreation Center. He then polled the Council and *Resolution #2014/2015-51* passed as amended by a vote of 3-1.

ORDINANCES AND RESOLUTIONS IN THE 3RD READING

Ordinance #2014/15-02 Adopting the Codification of the Ordinance Book

Councilor Thompson made a motion to approve *Ordinance #2014/15-02 Adopting the Codification of the Ordinance Book*, and Councilor Weinstein seconded.

Town Administrator Fournier stated that Attorney Eric Maher, who was present at the meeting, had been the lead on this project with the Town codification company. He said that he wanted to preface his remarks with an explanation of what exactly codification was. He stated that all they had done was to take all the ordinances already adopted, and that pursuant to the Town Charter this should have been done on a regular basis. He explained that when he started as Town Administrator he had asked for the Code Book for the Town and was told by the Clerk that they did not have one. He said that he had then gotten approval from the Town Council to start this project and had hired Municipal Code Corporation. He said that stacks of ordinances existed in no particular order, which needed to be codified into a Law Book. Town Administrator Fournier stressed that no substantive changes were made to the code, but that it had been revised, put in proper order, assembled into chapters, and they had verified that all ordinances complied with State Law. He stated that they could not adopt an ordinance if the State had not given them the authority to so, and vice versa. He said he hoped that in the future they would consult the Law Book to determine if an ordinance already existed, and that they were amending the ordinances already included. He added that this would also make it easier for the public to look up laws, and that the code book would also be available online.

Vice Chair Levy asked if the ordinances referenced the meeting in which they were adopted or where they would look to find the minutes. Town Administrator Fournier replied that there were two (2) separate things here, and that this was not a record of the meeting, but a record of the law and what had been adopted and on what date. Attorney Eric Maher explained that it now reflected whether an ordinance had been repealed and provided the resolution number. He said that when they looked at the ordinances that had since been repealed but were still on the books with the Town, they had made sure a citation reflected that it had been repealed. Vice Chair Levy questioned the use of the term "repealed"

when the Council had actually “closed” the Downtown Tax Increment Financing (TIF). Town Administrator Fournier explained that by resolution the Council *closed* the Downtown TIF by *repealing* the ordinance that authorized the creation of it, so that you could not make another one without adopting an ordinance. He said that was why they differentiated between ordinances and resolutions, as a resolution was a policy but an ordinance was a law. Vice Chair Levy also mentioned that the Historical District Commission had been established by one Council and then not initiated by the next Council, though the footnote reference said that the Commission was “repealed” by a later ordinance. Attorney Maher explained that specifically regarding the Historical District Commission in the original draft of the codification, questions had come up from Municode as to clarity. He said that he had then gone to the Town Clerk and she had been able to produce the actual decision of the Town Council, which said “repealed”. Vice Chair Levy asked if this was annotated as a footnote in the Code Book and Attorney Maher replied that it was.

Town Administrator Fournier stated that at the end of the code the prior ordinance number and date of adoption was cited. Attorney Maher said that Municode had wanted to strike certain provisions but that as an attorney and a citizen he had wanted to make sure that someone reading the Code Book would know what had been done in the past. Councilor Weinstein said that there was a memo in the Town Council packet from the last meeting from the Town Administrator which included a list of several pages of things in which Mr. Maher did not agree with Municode, and asked if these items had been fixed. Attorney Maher replied that there had been a variety of back and forth between himself and Municode, and that he had discussed some of the more controversial aspects with Attorney John Ratigan. He said that he always ran these by Town Administrator Fournier to make sure he was comfortable with them before sending them to Municode, and that when he received the Code Book he had specifically checked to make sure all the changes he had requested had been made. Vice Chair Levy then asked if they would be updating the Code Book yearly with ordinances they passed, and Town Administrator Fournier said that they would be. He added that as the project turned out to be bigger than expected, Municode had refunded approximately \$3,000 to the Town. Attorney Maher stated that the Code Book was intended to be a living document, and that he had included a list of ordinances the Town could adopt and should adopt. Vice Chair Levy thanked Attorney Maher for coming to the meeting.

Resolution #2014/15-49 Town Council Rules for Proceedings

Vice Chair Levy stated that he was going to ask the Council to hold off on the approval of *Resolution #2014/15-49 Town Council Rules for Proceedings* until the whole Council was present, and the Council was in agreement.

Councilor Weinstein said that she would not be attending the next meeting, as did Councilor Pickering.

ITEMS LAID ON THE TABLE - None

NEW BUSINESS/CORRESPONDENCE

TOWN COUNCIL TO CONSIDER NOMINATIONS, APPOINTMENTS AND ELECTIONS

Zoning Board of Adjustment, Alternate: Candidate Steve Minutelli Term Expires March 2017.

Councilor Weinstein made a motion to nominate *Steve Minutelli Term to Expire March 2017* as an alternate to the *Zoning Board of Adjustment*. Councilor Pickering seconded the motion, and the motion passed the Council by a vote of 4-0.

Macallen Dam Committee: Peter Wellenberger Term Expires March 2018.

Councilor Weinstein made a motion to nominate *Peter Wellenberger Term to Expire March 2018* as a member of the *Macallen Dam Committee*. Councilor Thompson seconded the motion, and the motion passed by a vote of 4-0.

Vice Chair Levy stated that he wanted to thank both Mr. Minutelli and Mr. Wellenberger for serving, and said their service in the past was much appreciated.

ORDINANCES AND RESOLUTIONS IN THE 1ST READING

Resolution #2014/15-52 Authorize Town Administrator to Enter into Agreement with Northeast Earth Mechanics to Install 16-Inch Water Main from Route 108 to Great Hill Water Tower

Vice Chair Levy read *Resolution #2014/15-52 Authorize Town Administrator to Enter into Agreement with Northeast Earth Mechanics to Install 16-Inch Water Main from Route 108 to Great Hill Water Tower* in full.

Councilor Pickering questioned the Newmarket Department of Environmental Services, and Town Administrator Fournier replied that it was another name for Water & Sewer.

Resolution #2014/15-53 Relating to the Town's Investment Policy

Vice Chair Levy read *Resolution #2014/15-53 Relating to the Town's Investment Policy* by title only, as it was quite lengthy and could be accessed online.

Ordinance #2014-2015-05 Update the Town of Newmarket Building Construction Regulations

Vice Chair Levy read *Ordinance #2014-2015-05 Update the Town of Newmarket Building Construction Regulations* in full.

CORRESPONDENCE TO TOWN COUNCILORS

Vice Chair Levy said that they had received some correspondence from a couple of constituents in regard to downtown parking and asked Town Administrator Fournier if they should be forwarded to him. Town Administrator Fournier replied that correspondence to the Town Council, using hard copies and not digitized, related to non-constituent concerns.

CLOSING COMMENTS BY TOWN COUNCILORS

Councilor Thompson stated that she had two (2) closing comments, and that the first was regarding a memo from Finance Director Matt Angell dated April 22nd regarding impact fees. Town Administrator Fournier replied that it was the memo was just an FYI in the monthly report, and that business items like that were not put on the agenda. Councilor Thompson said that the second related to a letter she had received from State Senator Martha Fuller Clark congratulating her and inquiring when would be a good time to meet with her and her colleagues. Town Administrator Fournier explained that the letter was just a courtesy.

Councilor Pickering asked when an email was received by a Councilor and copied to the Town Administrator, if the information was sent to all the other Councilors as well. Town Administrator Fournier explained that there were two (2) different situations, and that an email to an individual Councilor which he received was a constituent concern. He said that he had to triage these emails, and that if the issue was a one-time thing he would deal with it, but that if it was a large issue he would send out a memo. He explained that any email he received was public record, and that he liked to be copied so that he could reply on behalf of the Town. Councilor Pickering stated that his second concern was regarding the Carpenter property which was owned by the School. He said that the blight in that field was beyond belief and that the Newmarket Town Dump was more organized. Town Administrator Fournier replied that the Department of Public Works was meeting with the School Department to address the issue. Councilor Pickering said that he was specifically referring to the debris left by the former owner when the School purchased the property. Town Administrator Fournier said that he had talked with the School in the fall about using the property as training for the Police and Fire Department, but that he had heard nothing back, adding that he would speak to the School Superintendent. He said the Town had put up barriers as it was thought by some in the public to be a public dumping spot.

Councilor Weinstein said that she had two announcements, the first being that the Litter Cleanup of Roadways was scheduled for May 16th. She said that last year volunteers had collected 30 bags of trash in 1 ½ hours and that they hope to double that this year. She said that secondly she wanted to give a shout out to the Sunrise Sunset Center as she had attended a marimba activity which was held for all adults and children. She said that it was multigenerational and a ton of fun, with the first class free and then a charge of \$15 per class.

Councilor Thompson said that she had attended the memorial service for Martha McNeil and that Councilor Pickering and Chairman Nazzaro had also attended. She offered congratulations and thanks to Martha on the wonderful job she had done and the wonderful sendoff.

ADJOURNMENT

Councilor Amy Thompson made a motion to adjourn the meeting, which was seconded by Councilor Weinstein. The meeting was adjourned at 9:21 pm.

Respectfully submitted,

Town Council
May 6, 2015 - Regular Meeting

Patricia Denmark, Recording Secretary