

**Merrimack Village District
Annual Meeting
March 27, 2018
(approved May 21, 2018)**

Present: L. Woods, J. Comer, G. Keller, T. Pellegrino, J. Balcom, Superintendent R. Miner and Business Manager J. Lavoie. Also in attendance were M. Holton (Finance/HR Director), K. Pratt (UEI), M. Metcalf (UEI), J. Emery (EGGI), K. Joyce (Bernstein Shur), and R. Tilsley (Bernstein Shur)

The Annual Meeting of the Merrimack Village District was called to order by Moderator Brian McCarthy at 7:18 PM at the All-Purpose Room of the James Masticola Upper Elementary School.

Moderator McCarthy led the attendees in the Pledge of Allegiance.

Moderator McCarthy explained the process to be used this evening.

Article 1: To choose two (2) Commissioners for a three-year (3) term of office.

Article 2: To choose one (1) District Treasurer for a three-year (3) term of office.

Article 3: To choose one (1) District Moderator for a two-year (2) term of office.

Article 4: Shall the Merrimack Village District vote to raise and appropriate a sum of up to one million three hundred thousand dollars (\$1,300,000) for the purpose of designing and constructing a water booster pumping station that will replace the District's existing Turkey Hill Booster Pump Station. Such sum to be raised by the issuance of Serial Bonds or Notes not to exceed one million three hundred thousand dollars (\$1,300,000) under, and in compliance with, the provisions of the Municipal Finance Act (NH RSA 33) and to authorize the Board of Commissioners to issue and negotiate such bonds or notes and to determine the rate of interest thereon, and to take such other actions as may be necessary to effect the issuance, negotiation, sale and delivery of such bonds or notes as shall be in the best interests of the Merrimack Village District; to additionally participate in the State Revolving Fund (SRF) RSA 486:14 established for this purpose, and/or to participate in existing or future economic stimulus funding (i.e., ARRA), and to allow the Board of Commissioners to expend such monies as become available from the Federal and State Governments and pass any vote relating thereto and to authorize the Board of Commissioners to take any other action or to pass any other vote relative to said purpose; and to raise and appropriate the sum of thirty thousand dollars (\$30,000) for the purpose of 2018/2019 interest on said Bond or Serial Notes? (2/3 ballot vote required; polls must remain open for at least one hour)

Moderator McCarthy noted that Article 4 requires that the polls remain open for 1 hour.

L. Woods introduced the Commissioners and the rest of the people sitting at the head table.

R. Miner announced that the MVD and St. Gobain Performance Plastics have reached an agreement to filter the water coming from Wells 4 & 5. This agreement includes the design and construction of a treatment facility. It also includes 5 years of operating costs for this facility. The final design for this facility will be completed in the winter of 2018 and construction will begin shortly after that. (See attached press release for full details)

A motion was made by L. Woods and seconded by J. Comer to approve Warrant Article 4 as printed.

W. Thomas, Wildcat Falls, questioned whether this booster would be used to move water to the development behind the Homestead. L. Woods noted that the current booster station is 30 years old and parts are no longer available to repair it when it goes down. This booster station is an integral part of the distribution system.

W. Thomas, Wildcat Falls, questioned whether the time is now to do this project. K. Pratt noted that this station is 30 years old and has been in the Capital Improvement Plan (CIP) since 2014. This was the target year for this project. This booster station serves the north and west end of town and serves about 20% of the ratepayers. The current station is difficult to fix. The new booster station will be a prefabricated above grade building. W. Thomas, Wildcat Falls, questioned whether the new development behind the Homestead would benefit from this booster station. K. Pratt noted that this booster station services the Baboosic Lake area, not the area along Route 3. There will be an issue when this station goes down and is unfixable.

K. Stack, Nolan Drive, noted she questions the ability of the current board to make good decisions. She questioned the judgement of the board.

B. Stilzer, Middlesex Road, questioned whether the funds from the MtBE fund would be used for this project. K. Pratt noted that the District sent in an application for pre-approval to use funds from the State Revolving Fund (SRF). The project did not make it high enough on the list to gain funding. When MtBE funds were obtained by the State the MVD was offered a low interest loan.

Moderator McCarthy declared the ballot boxes for the officers and Article 4 open at 7:35 PM. He stated that these ballot boxes would be open for a minimum of 1 hour.

Article 5: To see if the Merrimack Village District will vote to raise and appropriate the sum of \$3,602,322 for general municipal operations for the 2018-2019 fiscal year with said sum to come from water related charges. This article does not include appropriations contained in special or individual articles addressed separately. (Majority vote required.)

A motion was made by J. Comer and seconded by J. Balcom to approve Article 5 as printed.

The article was declared passed by Moderator McCarthy on a hand vote.

Article 6: Shall the Merrimack Village District vote to establish a contingency fund by raising and appropriating the amount of \$20,000 to meet the cost of unanticipated expenses that may arise during the fiscal years 2018-2019 with said funds to come from water fees? This fund shall not exceed one percent (1%) of the amount appropriated exclusive of capital expenditures and amortization of debt by such village district during the proceeding year. This is in accordance with RSA 52:4-a, which requires a detailed report of all expenditures to be made in the annual report. (Majority vote required.)

A motion was made by T. Pellegrino and seconded by L. Woods to approve Warrant Article 6 as written.

W. Thomas, Wildcat Falls, noted that this is an appropriation every year, but there is no answer as to what this money is used for. L. Woods noted that there is no specific example. R. Miner noted that this money has never been used, but is "just in case" money. When the money is not used in the fiscal year it is returned to the general fund. L. Woods noted that this article for a contingency fund came into being under Superintendent McSweeney in 2004-2005.

L. Allen, French Court, questioned why this money is needed if the District has a surplus. L. Woods noted it is not the intent of the District to use the contingency fund. When this article was first created it was brought forward as a good business practice. This money is to be used for expenses for items which are not in the budget.

C. Dipiero, Cambridge Drive, questioned how much of this money is put away if it is not used. L. Woods noted that this money goes back into the general fund.

M. Holton noted the contingency fund must be appropriated through a separate warrant article

M. Thompson, Joppa Road, questioned why this is not a line item in the budget. M. Holton noted that there is not a specific line item for this money. Moderator McCarthy noted this money is used for something that is not in the budget.

T. Koenig, Danforth Road, noted there is nothing in the verbiage that says that this money goes back into the general fund. He questioned whether RSA 52:4-a states that this is what happens to this money if it is not used. M. Holton noted that if there is no expenditure from these funds then the appropriation lapses. If any expenditure is made from these funds RSA 52:4-a states that the District must let the ratepayers know the details of the expenditure and if there are no expenditures from this fund then RSA 52:4-a states that the money goes back into the general fund.

B. Amaral, Spruce Street, questioned why this is a separate fund. M. Holton noted that an appropriation would be needed and this money is to be used for an issue not anticipated. All expenditures must have an appropriation.

N. Harrington, no address given, noted that a contingency line item is not permitted. This money is to be used in case something happens.

W. von Schoen, Conservation Drive, questioned whether this money accumulates. M. Holton noted that this appropriation lapses at the end of the fiscal year and will need to be reappropriated for each following year.

W. von Schoen, Conservation Drive, questioned whether Capital Reserve Funds are for planned projects only. Moderator McCarthy noted that this is the purpose of Capital Reserve Funds. W. von Schoen, Conservation Drive, questioned whether the District does not have any additional money for unforeseen events. Moderator McCarthy noted that this is correct.

T. Mahon, Naticook Road, noted that NHDRA changed the rules about the time of Superintendent J. McSweeney. There is no ability for the District to have a contingency budget line item at this time. L. Woods noted that the real purpose of the contingency fund is to help keep the District out of trouble.

The motion was declared passed by Moderator McCarthy on a hand vote.

Article 7: Shall the Merrimack Village District vote to raise and appropriate a sum of forty-eight thousand seven hundred and fifty dollars (\$48,750) under provisions of RSA 35:1, I and II to add to the District's "System Development Capital Reserve" fund for the future system expansion and improvement of the existing system? This sum to come from the fiscal year 2016-2017 surplus fund balance; these are the system development charges collected during the 2016-2017 budget year. (Majority vote required.)

A motion was made by G. Keller and seconded by J. Balcom to approve Warrant Article 7 as printed.

M. Malone, E. Chamberlain Road, noted that there is development going on in town and questioned whether there are fees that developers must pay before a development project can begin. K. Pratt noted that the System Development Charge (SDC) was instituted 5-6 years ago. This is a charge for a development to hook up to the system.

M. Thompson, Joppa Road, questioned the total amount of this Capital Reserve Fund and a goal for this fund. G. Keller noted that with the approval of Article #7 the account would exceed \$500,000. K. Pratt noted that this fund is currently on the light side of what is recommended for a system of this size.

B. Stilzer, Middlesex Road, questioned the impact of the settlement money to be received by SGPP on the Capital Reserve Funds. K. Pratt noted that the preliminary recommendation from UEI was \$4.1M to construct a treatment plant. The settlement is for less than that amount as some of the work included in the \$4.1M is not related to PFOA and PFOS such as lime feed upgrades and a backup generator. The Capital Reserve Funds are for projects already planned by the District. There will be one

treatment plant for both wells 4 & 5. It was questioned whether the settlement changes the appropriation in Warrant Article 7. It was noted that this does not change article 7.

W. Thomas, Wildcat Falls, questioned whether the MVD is a for profit organization. It was noted that the MVD is a not for profit government entity.

The motion was declared passed by Moderator McCarthy on a hand vote.

Article 8: Shall the Merrimack Village District vote to raise and appropriate the sum of five hundred thousand dollars (\$500,000) under provisions of RSA 35:1, I and II to add to the District's "Equipment and Facilities Capital Reserve" fund for associated costs with existing storage, transmission and production of water? This sum to come from the fiscal year 2016-2017 surplus fund balance. (Majority vote required.)

A motion was made by L. Woods and seconded by G. Keller to approve Warrant Article 8 as printed.

L. Woods noted that this article allows the MVD to build a fund for maintenance and repairs to the system. This helps to keep the rates stable.

M. Thompson, Joppa Road, noted concern regarding the District's surplus. The suggestion was made that rates be adjusted and questioned how much was spent last year from the surplus to place in Capital Reserve Funds. M. Holton noted that the surplus was \$771,984. M. Thompson, Joppa Road, suggested that he would prefer to see this in a line item with lower water rates.

T. Koenig, Danforth Road, noted that the District has been holding \$548,000 since last year and is not allocating this money to a fund. R. Miner noted that the surplus comes from unanticipated revenue and unspent appropriations. He also noted the funds can not be transferred to Capital Reserve until voted on at the Annual Meeting.

L. Allen, French Court, questioned what will happen if there are unforeseen expenses associated with settlement with SGPP. She questioned whether money would come from this Capital Reserve Fund for these unforeseen expenses. K. Joyce noted that the settlement agreement addresses unforeseen events and developments. There is no assumption of unidentified costs in the future.

The motion was declared passed by Moderator McCarthy on a hand vote.

Article 9: Shall the Merrimack Village District, effective May 1, 2018, include one Merrimack Town Councilor as a member of the MVD Board of Commissioners, in addition to those elected at the MVD annual meeting, and amend the by-laws to reflect this as applicable. (Majority vote required.)

It was noted by Moderator McCarthy that this article was petitioned by Kathryn Stack.

A motion was made and duly seconded to approve Warrant Article 9 as printed.

An amendment was made by C. DiPiero, Cambridge Drive, and duly seconded. The amendment reads: **Shall the Merrimack Village District, effective April 1, 2018, add a non-voting ex officio member to the MVD Board of Commissioners from the Merrimack Town Council and amend the by-laws to reflect this decision.**

W. Thomas, Wildcat Falls, noted that there is a distinct divide between the MVD and the Town Council. This is an attempt to bridge that divide. She noted she is not seeing the progress between these two entities that she would like to see.

P. Kelly, Northpoint Road, noted that April 1 is not effective for the Town Council, he noted to make this work the Town Charter would need to be amended.

C. DiPiero, Cambridge Drive, asked to change the date, but Moderator McCarthy noted that the amendment must be voted on first before another amendment can be made.

C. Christensen, Greatstone Drive, noted he does not think this is necessary as the Town Council can designate one of its members to go to the MVD Board of Commissioners meetings if they wish to do so.

L. Allen, French Court, noted that an ex officio member is allowed to sit in on non-public sessions as well as public sessions.

D. Provencher, Wasserman Heights, noted that his understanding of the Article is that the Town Council can choose to send a member if they wish and that this would not require a change in the Town Charter. Moderator McCarthy noted that he has been told that a change is needed in the Town Charter to send a Councilor to the Board of Commissioners meetings.

S. Barnes, Lawrence Road, noted that a non-voting member of the Board can deliberate, but not vote.

T. Mahon, Naticook Road, noted that there is no official definition of an ex officio member. The only thing that an ex officio member can vote on is for officers.

K. Joyce noted that unelected officials are not allowed to sit in on non-public sessions.

The amended motion was declared failed by Moderator McCarthy on a hand vote.

An amendment was made and duly seconded to change the date of the article to **May 1, 2019.**

The amended motion was declared failed by Moderator McCarthy on a hand vote.

The original motion was declared failed by Moderator McCarthy on a hand vote.

Article 10: Shall the district require that the Merrimack Village District and any successor organization ensure (1) the delivery of safe, clean and affordable drinking water, in adequate quantity to meet the needs of present and future consumers and (2) take measure for improving water quality including a source based solution for the presence of PFAS chemicals in our water and (3) maintain a focus on minimizing the impact of PFAS chemicals on consumer health in all challenges of water management by utilizing the body of knowledge currently available regarding water standards in other states, water system management and contemporary water technologies. (Majority vote required.)

It was noted by Moderator McCarthy that this article was petitioned by Laurene Allen.

A motion was made and duly seconded to approve the article as written.

W. Thomas, Wildcat Falls, noted that the intent of this article is to make sure that the MVD provides clean water to its ratepayers.

M. Thompson, Joppa Road, noted that this is a repeat of the MVD charter and is, therefore, unnecessary.

C. Dipiero, Cambridge Drive, noted that the MVD charter does not state “clean and free of contaminants”.

W. Thomas, Wildcat Falls, noted that the definition of “clean water” is a state definition. She asked why the MVD negotiated with SGPP for monitoring wells at 35 ppt when the MCL is 70 ppt. R. Miner noted that the MVD did not negotiate for private wells. He noted that the state is responsible for negotiating for private wells, not the MVD. There have been no negotiations between the MVD and NHDES regarding private wells; the MVD is not a part of the negotiations between NHDES and SGPP regarding private wells.

C. Dipiero, Cambridge Drive, amended the motion to change the wording to “...(1) the **delivery of safe, clean meaning under 20 ppt of PFAS and affordable drinking water...**” The amendment was duly seconded.

L. Allen, French Court, noted that other states have an MCL for PFAS chemicals of 20 ppt and lower. She noted that she is upset with the legislature for ignoring scientific research on this matter. She noted that science is clear on this topic.

W. Thomas noted that the State of Vermont lowered their standards based on research with children. She noted a cancer cluster in pets by vets.

The amendment was declared failed by Moderator McCarthy on a hand vote.

The original motion was declared failed by Moderator McCarthy on a hand vote.

Article 11: Shall the district, effective immediately, require that the Merrimack Village District (MVD) cooperatively engage in a transition plan with the Town of Merrimack government (Town Council, Town Manager, and their assigns); to meet all legal and ethical requirements required to both (1.) disband the municipal entity, the MVD, and the Board of Commissioners currently managing the Merrimack, NH water system; and (2.) transfer complete oversight and management of the Merrimack NH Water Municipality, to the Town of Merrimack, NH. The dissolution of the MVD and transfer of responsibilities for, and management of the Merrimack, NH Water Municipality, is to occur on or before April 15, 2019, specific date to be determined by the Town of Merrimack.

The transition plan will include immediate and unrestricted access for Town of Merrimack government (Town Council, Town Manager, and their assigns) to any and all MVD sites/facilities/records/activities; and oversight of, all Merrimack water system related matters/MVD affairs. The expectation is one of complete and thorough transparency into all business matter inclusive of those deemed non-public/private/confidential and/or any other term used to refer to protected information. This immediate transparency and oversight is to include full disclosure of the records and specifics of any and all legal matters MVD has engaged in, prior, at present, or anticipated; and for the Town of Merrimack, on behalf of its residents, to become a party to any legal proceedings related to Merrimack, NH water which they deem appropriate. (2/3 vote required)

It was noted by Moderator McCarthy that this article was petitioned by Nancy A. Murphy.

A motion was made and duly seconded to approve the article as written.

W. Thomas, Wildcat Falls, amended the article as follows:

Shall the district, effective immediately, require that the Merrimack Village District engage with the Town of Merrimack government to meet all legal requirements required to disband the municipal entity, the MVD, and the Board of Commissioners currently managing the Merrimack, NH water system for the purpose of creating a town of Merrimack self funded water department. The dissolution of the MVD and transfer of its responsibilities and management to the Town of Merrimack, NH is contingent on the Merrimack town government agreeing to accept such responsibility and after opportunity to complete a comprehensive review process, a decision to move forward in acquiring ownership of MVD assets. If the town of Merrimack chooses to proceed, details and disclosure of financial impact will be made to the Merrimack voters and a special election will be held to acquire ownership of the MVD assets. If the Town government declines to proceed with the establishment of a self funded Merrimack water department or voters do not approve such an establishment, the MVD will continue to be the municipal entity of the Merrimack, NH water system. This process will be completed by April 2020 with the timeline to be determined by the Town of Merrimack.

In order to make a current analysis of functioning the Town of Merrimack government and its consultants shall be granted access to all MVD sites, facilities, records, activities and business pertaining to all Merrimack water system related matter and MVD commissioners affairs. The expectation is one of full disclosure into all business matters inclusive of those deemed non-public, private, or confidential protected information and includes the records and specifics of any and all legal matters MVD has engaged in, is presently engaged in or is anticipated to be engaged in.

A motion to accept this amendment was made and duly seconded.

N. Murphy, Brenda Lane, noted that this article has been amended to incorporate the legalities that were not previously known and to clarify without changing this articles intent to give the Town the authority to review and after a review put before the votes whether it is in the best interest of residents to create a Town Water Department.

M. Malone, E. Chamberlain Road, noted that that he prefers the status quo. He noted that the last thing he wants is for the town to take over the water district.

C. Mower, Depot Street, noted that there is a conflict between the town and the MVD and that the MVD is culpable. He noted that people do not know where to go to get information. The concerns of the people are being dismissed. He noted that the MVD form of government is dead; he noted that it is not functioning and will not function.

W. Thomas, Wildcat Falls, noted that she and her family have a private well and are fortunate to be able to afford a whole house filtration system. She noted that private well owners need help.

The amendment was declared failed by Moderator McCarthy on a hand vote.

The original motion was declared failed by Moderator McCarthy on a hand vote.

The ballot box for Articles 1, 2, 3, and 4 was declared closed by Moderator McCarthy at 9:25 PM.

A motion was made by C. Christensen, Greatstone Drive, and duly seconded to restrict reconsideration. The motion was declared passed by Moderator McCarthy on a hand vote.

T. Pellegrino noted that L. Woods will be missed on the Board of Commissioners and presented L. Woods with a plaque of appreciation. L. Woods noted a thank you to all of the past and present Commissioners with whom he has served.

Election Results:

Article 1: To choose two (2) Commissioners for a three-year (3) term of office.

John "Jack" Balcom – 95 votes
Donald Provencher – 168 votes
Wolfram von Schoen – 119 votes

Article 2: To choose one (1) District Treasurer for a three-year (3) term of office.

Lynn Christensen – 89 votes
Kathryn Stack – 113 votes

Article 3: To choose one (1) District Moderator for a two-year (2) term of office.

Brian McCarthy – 165 votes
Dan Ricker – 50 votes (write in)
David Rutze – 2 votes (write in)

Article 4: To see if the Village District will vote to raise and appropriate a sum of up to one million three hundred thousand dollars (\$1,300,000) for the purpose of designing and constructing a water booster pumping station that will replaced the District's existing Turkey Hill Booster Pump Station. Such sum to be raised by the issuance of Serial Bonds or Notes not to exceed one million three hundred thousand dollars (\$1,300,000) under, and in compliance with, the provisions of the Municipal Finance Act (NH RSA33) and to authorize the Board of Commissioners to issue and negotiate such bonds or notes and to determine the rate of interest thereon, and to take such other actions as may be necessary to effect the issuance, negotiation, sale and delivery of such bonds or notes as shall be in the best interests of the Merrimack Village District; to additionally participate in the State Revolving Fund (SRF) RSA 486:14 established for this purpose, and/or to participate in existing or future economic stimulus funding (i.e., ARRA), and to allow the Board of Commissioners to expend such monies as become available from the Federal and State Governments and pass any vote relating thereto and to authorize to said purpose; and to raise and appropriate the sum of thirty thousand dollars (\$30,000) for the purpose of 2018/2019 interest on said Bond or Serial Note?

173 votes for passage
42 votes against passage

Moderator McCarthy declared the motion passed.

A motion was made and duly seconded to adjourn the Annual Meeting of the Merrimack Village District. The meeting was declared adjourned at 10:15 PM by Moderator McCarthy.

Respectfully submitted,
Rita Pointon
Recording Secretary to the Board of Commissioners

Clerk *Jill Lavoie* *5/21/18*
Jill Lavoie Date
MVD District Clerk