

## WATERVILLE ESTATES VILLAGE DISTRICT

June 10, 2020 VILLAGE DISTRICT ANNUAL MEETING MINUTES

July 11, 2020 RESUMED VILLAGE DISTRICT ANNUAL MEETING MINUTES

Attendees: Judy Kinney, Matt Smith, Sean Tole, Andy Griffiths, Art Marks, Corey Smith, Karen Waters, Barton Mayer

Guests: See Voters List and Sign in Sheets

Called to order: Moderator Mr. Letvinchuk at 10:11 AM.

Pledge of Allegiance.

List of meeting rules. Only residents who Are registered to vote in Campton or Thornton may vote. Only voting residents may speak on Warrant Articles. Any speaker is limited to a maximum of 5 minutes and may do so only once until all others have spoken. All comments shall be directed to the Moderator. All comments shall be made in a civil tone, foul language and personal attacks shall not be permitted. People who don't adhere to this rule will be warned and if it persists will be ejected from the meeting.

**Move on to warrant articles.** The Moderator moved Warrant 12 to position 8 to allow for the statutory ballot process as the ballot box must be kept open for an hour. This allows us to conduct other business during the 1-hour period.

### **Warrant Article 1**

To choose one commissioner for the three year-term, Moderator for a two-year term, Clerk and Treasurer for the ensuing year.

Motioned, seconded, discussion. The Moderator asked Ms. Kinney if the vote was to be by ballot. She indicated that it could be. The Moderator stated that we would try it without. Mr. McElroy made a point of order requesting a discussion period to question the candidates. The Moderator did not allow this citing the Candidates Night that was held at the Ski Lodge indicating that was the opportunity for discovery. Mr. McElroy requested a vote on the matter and it was denied by the Moderator who then called for a vote for the role of Commissioner stating that the candidates were Art Marks and John Herlihy requesting a show of voting cards for each candidate alphabetically.

For commissioner, 24 for Herlihy, 25 for Marks. Art Marks was declared by the Moderator. Mr. Herlihy requested a recount. The Moderator polled the legislators who agreed by show of hands. The result of the recount was 28 for Herlihy, 25 for Marks. John Herlihy was declared by the Moderator. Mr. Marks requested a recount. The Moderator indicated he would honor the request. **The result of the recount was 30 for Herlihy, 29 for Marks. John Herlihy was declared by the Moderator.**

The Moderator called for a vote on Clerk for **Matt Smith, and declared him elected unanimously.**

The Moderator called for a vote on Treasurer for **Karen Waters, and declared her elected unanimously.**

The Moderator called for a vote on Treasurer for **Jack Letvinchuk, declared him elected unanimously.**

### **Warrant Article 2**

To see if the Village District will vote to raise and appropriate the sum of One Million Three Hundred Forty-Seven Thousand Two Hundred Seventy-Two Dollars and no cents (\$1,252,667) for general municipal

operations with an off set of Eighty-Four Thousand Six Hundred Ninety-Four Dollars (\$ 84,694) from unassigned fund balance. This article does not include appropriations contained in special or individual articles addressed separately.

Motioned, seconded, and discussion. Mr. McElroy 2020 budget has a line item for wells, how much money has been saved towards the \$1 million dollar goal? Mr. C. Smith stated there has been confusion on this issue all along. He stated the manner in which the money is raised goes against the unreserved fund balance which then falls back to the bottom line and carries forward every year and we keep extending the plan out. Mr. McElroy stated no money has been saved. The Moderator stated the question had been asked and answered. Mr. McElroy restated that the question had not been answered as a figure had not been provided. Ms. Waters stated that we had \$725,904 at the end of May, part unreserved fund balance, part appropriated money. Mr. Smith stated that after a review of budget reports from the village district, over \$600,000 had been appropriated for water infrastructure, \$70,000 had been spent, leaving \$530,000. He continued that at a recent village district meeting it was stated that the village has about \$850,000 in the unreserved fund balance, that \$500,000 was required to be kept to fund operations while awaiting the disbursement of tax revenues from the town to the village, \$123,000 was reserved to complete the work appropriated for in 2019 warrant article 3, leaves \$160,000 available for new wells. He stated the way we appropriated the money doesn't allow us to save up \$1 million for new wells and each yeas unspent appropriation falls to unreserved fund balance and goes to offset taxes or is re-appropriated. He concluded with the fact that there is no legal means to compel the commissioners to spend the money on new wells. The Moderator advised the body that water was part of warrant article 3. Mr. Spinney stated he was at the meeting Mr. Smith had described and that the \$500,000 reserve was because we don't raise enough money to pay our bills. He stated that it's a way to stay liquid. Mr. Spinney stated that most of the \$700 we have is for new wells and we are using it to operate the village. He concluded that it will come to a head when we need to use that money. Mr. C. Smith asked to make clarification, and the Moderator denied the request. The Moderator re-read the warrant and called for a vote.

**Vote 34 yea 18 nay, Warrant 2 passes.**

### **Warrant Article 3**

To see if the Village District will vote to raise and appropriate the sum of Three Hundred Eighty Thousand Six Hundred Fifty-One Dollars (\$360,651) for the interdepartmental water department operations. With an off set of One Hundred Five Thousand Six Hundred Sixty-Four Dollars (\$103,200) from water fee.

Motioned, second, and discussion. Mr. McElroy expressed concern about \$90,000 for new wells and asked for the budget amount to be re-read. The Moderator stated \$360,651. Mr. McElroy stated the actual budget is around \$280,000 and the \$90,000 should be removed so that next year we could appropriate it is as intended to be saved for new wells. The Moderator stated that was for another meeting. Mr. M. Smith stated that, as a point of order, we are able to make a motion to adjust the budget amount. The Moderator stated yes you are. Mr. M. Smith made a motion to reduce the warrant article by \$90,000 since we can't legally compel the commissioners to spend money in the unreserved fund balance on new wells. The Moderator conferred with counsel and asked Mr. M. Smith to restate the motion. Mr. M Smith restated the motion to reduce the budget by \$90 reducing the new wells line item to \$0. The motion to amend was seconded. Mr. C. Smith said there was confusion in that people think we are raising \$90,000 every year and we are not; we are appropriating \$90,000. He asserted that we have only raised \$90,000 once and that we are not raising \$90,000 every year. Mr. Spinney asked if Mr. C. Smith could explain what would happen if the \$90,000 was removed from the budget. Mr. C. Smith said that if you leave it in, you can spend it on wells if anything that year is progressing with new wells. He stated that there's no downside as whatever you don't spend falls to the surplus so that when you re-appropriate the following year, you're not re-raising it again. Mr. Spinney asked where did \$750,000 we have now come from. Mr. C. Smith proposed that if we appropriate \$1.2 million but spend only \$1 million, \$200,000 falls to the unreserved fund balance. He said that, then in subsequent years, it can be

used to offset the proposed budget. Mr. Bertino asked why the governing body or the treasurer wasn't answering the questions. The Moderator stated we are here to approve or disapprove the warrant and the time for discovery and drawing down were over. That we are here to clarify misconceptions, move to vote on the amendment.

The amendment was motioned, seconded.

**Vote 27 yea, 29 nays, the amendment failed.**

The original warrant was re-read by the Moderator then was motioned, seconded.

**Vote 30 yay, 25 nays, warrant 3 passes.**

#### **Warrant Article 4**

To see if the Village District will vote to raise and appropriate the sum of Ninety-Six Thousand Five Hundred Forty-Three Dollars (\$96,543) for a new maintenance truck.

Motioned, seconded, discussion. Mr. Goodman asked if it had been out for bid. Ms. Waters said it had.

**Vote 49 yea, handful, nay, warrant 4 passes.**

#### **Warrant Article 5**

To see if the Village District will vote to authorize the Commission to enter into a lease agreement, with a non-appropriation clause, for the purchase of a new backhoe, for the total amount of One Hundred Thousand Dollars (\$100,000), and to raise and appropriate the sum of Twenty Thousand (\$20,000) for the first year installment payment.

Motioned, seconded, discussion. Ms. Waters stated that she had given the Moderator an update on a piece of paper. The Moderator indicated he stood corrected. There was an amended article. The Moderator read the amended warrant.

To see if the Village District will vote to authorize the Commissioners to enter into a lease purchase agreement, with a non-appropriation clause, for the purchase of a new backhoe, for the total amount of One Hundred Thousand Dollars (\$100,000), and appropriate the sum of Twenty Thousand (\$21,516.86) for the first year installment payment. The Moderator indicated a simple majority vote was required.

**Vote warrant 5 passed by a vast majority.**

#### **Warrant Article 6**

To see if the Village District will vote to establish a planning board under RSA 673:1.

Motioned, seconded, discussion. Mr. Bertino petitioned to request a secret ballot. The Moderator requested and received the petitions. Petitioners were roll called as Harry Bertino, Maureen Patti, Jackie Herlihy, Yvonne Moore, and Lauren Bennett.

A resident was asked why the warrant article was being proposed. The Moderator indicated he would not entertain the question because the warrant had been posted for some time. The individual persisted with the fact that the towns of Campton and Thornton had planning boards so the village did not need one. The Moderator thanked him for his concern and called for a vote. The moderator indicated we did not have the ballot box key and would move to the next item of business until the key could be located.

**Vote 29 yea, 28 nays, warrant 6 passes.**

## **Warrant Article 7**

To see if the Village District will vote to change its' name from Waterville Estates Village District to Campton Mountain Village District.

Motioned, seconded, discussion. Mr. Timms asked what is the cost associated with changing the name. The moderator asked Mr. C. Smith if he had a cost estimate. He indicated there was no cost estimate as it was not a warrant put forth by the commissioners and it should be asked of the petition author. Mr. Timms then stated that it would just be a name change which the Moderator confirmed. Ms. Waters pointed out that there would definitely be costs. The Moderator said there would be re-branding re-naming costs. Mr. M. Smith asked, as a point of order, and asked why discussion was being allowed on this matter when no discussion was allowed for Warrant Article 6. He stated that all the warrants had been out for the same time period so there was no difference. The Moderator thanked him and moved on. Mr. Bertino indicated the purpose of the warrant was to address the confusion around people not understanding they were buying into a village district. He stated he feels that clarifying what we are is beneficial for all. Mr. Hickle stated he felt considering a name change was a waste of time. Mr. Marshall stated he thinks it's an unnecessary expense when we are scrutinizing taxes and well expenses. Mr. Tole questioned how a name changes helps in any clarification when purchasing a home. He stated there would be costs to the village district citing re-branding, re-submitting deeds, re-submitting titles perhaps, working with a bank. He stated there is a lot of work for the district and all the home owners just for a simple name change that he felt would not eliminate any confusion. The Moderator re-read the warrant and called for a vote

**Vote warrant 7 failed by a vast majority.**

## **Warrant Article 12**

To see if the Village District will vote to establish an official budget committee under RSA 32:14. Three members at large are to be elected, the meeting shall either elect the initial members for a one year term by means other than by official ballot, or shall authorize the moderator to appoint members to serve until the next annual meeting, as provided in RSA 669:17.. Elections for staggered terms, as described in NH RSA 32:15 paragraph II, shall not begin until that next annual meeting, and shall be by official ballot if the municipality has adopted the official ballot system, as set forth in RSA 669.

Motioned, seconded, discussion. Mr. Bertino requested a secret ballot. The Moderator confirmed the presence of the seven signatories to the secret ballot petition. Ms. Tole expressed concern that the budget can only be adjusted by 10% it's too much power in the hands of three people. Mr. Bertino clarified, that the budget committee prepares the budget, confers with the governing body, other officers, and department heads relative to cost estimates, revenue estimates, and services performed. They provide four copies of the final budget to the clerk and two copies to the governing body at least 20 days prior to the annual meeting. They have the ability to review expenditures through comparative statements and meet periodically to review such statements. Department heads submit statements of operating expenses and receipts to the governing body. The governing body submits its' own recommendations to the budget committee including each purpose for which an appropriation is sought and each item of anticipated revenue. The group of three people don't have control of every dollar. Mr. M. Smith pointed out that Ms. Toles objection to three people having control over the budget is the condition that already exists except the three are the commissioners. Mr. Ivers stated he did not understand the need for it, but if it passes, he wishes to be on the committee. Ms. Waters requested that the Moderator consult with counsel. The Moderator stated that if the budget committee is approved, it has the opportunity to set the budget, then the commissioners can only increase or decrease by 10%. The Moderator then corrected the statement that only the people can increase or decrease by 10%. Mr. Bertino suggested that the commissioners can still do special warrant articles like the truck. The moderator said yes, at the annual meeting. Mr. Bertino suggested that still gave the commissioners latitude. The Moderator

consulted with counsel. Mr. Bertino asked if the plus or minus 10% included special warrant articles. The Moderator asked counsel to explain. Mr. Mayer stated that if we establish a budget committee, it is responsible for offering final budget to meeting. It will review all articles you people submit separate from the budget. If it doesn't support your article, then that's part of the 10% rule. The total amount of the budget and the articles the budget committee approves is allowed. The total amount of the budget and additional warrant articles the budget committee approves sets the basis of which the 10% rule applies. If additional articles are put forth that exceed, by 10%, the budget and articles approved by the budget committee, the cap kicks in. Mr. Bertino stated that the budget still needs approval by the residents and the budget committee can't just impose what they want. Mr. Marshall stated that a budget committee would be redundant over what we already have and made a motion to change the warrant from a committee to an advisory committee and asked for a second. His motion was seconded. The Moderator stated there was a motion to amend warrant article 12 changing the official budget committee to an advisory budget committee. He then asked for a motion and a second and invited further discussion. Mr., Bertino pointed out that it was a petitioned warrant article by the residents and the commissioners already have the power to establish an advisory budget committee and you don't need a warrant article for that. You need a warrant article for an official budget committee. The Moderator asked counsel for clarification. Mr. Mayer stated that the governing body can set up whatever committees it wants. Mr. Bertino asked why we had the ballots if we were still discussing the matter. The Moderator requested that we address the amendment. Ms. Bennett asked if the secret ballot was still in effect. The Moderator stated no, it was not and that we are voting amended warrant article 12 and read the amended warrant article as follows.

To see if the Village District will vote to establish an advisory budget committee under RSA 32:14. Three members at large are to be elected, the meeting shall either elect the initial members for a one year term by means other than by official ballot, or shall authorize the moderator to appoint members to serve until the next annual meeting, as provided in RSA 669:17.. Elections for staggered terms, as described in NH RSA 32:15 paragraph II, shall not begin until that next annual meeting, and shall be by official ballot if the municipality has adopted the official ballot system, as set forth in RSA 669.

The Moderator re-stated we were voting on the amended warrant article 12. Mr. Bertino called for a point of order that the commissioners can already appoint an advisory budget committee making this an incorrect act. He warned that we were giving powers of an official budget committee to an advisory budget committee. The Moderator stated again, that we are voting on amended warrant article 12 for an advisory budget committee. Mr. Bertino restated his position on advisory versus official and the Moderator sought counsel.

Mr. Mayer stated that there was a statutory provision for an advisory budget committee stating that the commissioners can appoint, but it can be a vote of the citizens as well. Mr. McElroy asked for clarification. The Moderator stated we are voting on the amendment on the floor. Mr. McElroy asked if it was by secret ballot. The Moderator stated that it did not require a secret ballot. Mr. Canfield stated the amendment is well intentioned but leaving the statute references is a mistake. He felt that was a great deal of benefit in people assisting these commissioners in evaluation the budget activity on an annual basis. Earlier discussion showed there was great confusion around the budget. Mr. Slattery expressed concern that the way the warrant was amended left the powers in place. The Moderator stated that it changes it from official to advisory. Mr. Slattery again asked if all powers fall away. The Moderator stated yes. Mr. M. Smith asked if the advisory committee would be subject to all the requirements of the right to know law. Mr. Mayer stated that any committee created by the government commissioners or this meeting is subject to right to know with proper meeting notice and meeting minutes.

The Moderator moved to vote on adopting the amendment.

**Amend Vote 28 yea, 25 nays, amendment to warrant article 12 passed.**

The Moderator moved to vote on amended warrant article.

**Vote amended warrant 12 passed by a vast majority.**

### **Warrant Article 8**

To see if the Village District will vote to change the treasurer's position from 1 year to 3-year position.

Motioned, seconded, discussion. No discussion.

**Vote 46 yea, 8 nay, warrant article 8 passed.**

### **Special Warrant Article 9**

To see if the Village District will vote to ban the use of district drinking water for snowmaking.

Motioned, seconded discussion. Mr. McElroy recapped the details around the 2019 warrant article 3 amendment that passed but was later deemed unenforceable as proper notice had not been conveyed. Mr. Canfield stated that he felt last year's vote was invalid due to improper notice. Mr. McElroy asked what the difference was between last years' warrant article three amendment and this years' warrant article 12 amendment. Debate ensued. Ms. Tole expressed concern that drinking water is used for pools and this warrant could lead to further restrictions. She asked the voters to think about the children. Mr. Spinney seconded Ms. Toles concerns and added other uses for district drinking water that could be affected. The Moderator asked that we stick to the details of the warrant article. Mr. Bertino cited a study that suggested that snowmaking required a separate water source and a 200,000 to 300,000-gallon reservoir. Mr. Herlihy stated that he supports Campton Mountain but a more thorough analysis is required. He referenced the NH DES approval for limited use of treated water in small amounts for snowmaking. Mr. Slattery asked if another water system assessment had been done since the one referenced by Mr. Bertino. Mr. Tole said yes and the results were the water system supported snowmaking. Mr. O'Hara said he supported snowmaking and we'd be better served by fixing leaks in the overall water system. Mr. Canfield expressed support for the warrant stating that water for homes was smore important than water for snowmaking. He suggested we look at water sources dedicated to snowmaking. Mr. Bertino observed that the snow gun wasn't connected to the water system during the testing that was referenced by Mr. Tole and it occurred in August. Mr. Patti asked Mr. Tole. If he was saying the water or water system was adequate and if the water system, what is it based on. The Moderator advised Mr. Patti to address all comments to the Moderator and restrict his comments to support either in favor or against. The Moderator re-read the article and called for a vote.

**Vote 25 yea, 28 nay, warrant article 9 failed.**

### **Warrant Article 10**

To see if the Village District will vote to authorize the board of commissioners to accept gifts or real estate or any interest in real estate, after a public hearing, in the name of the village for any valid purpose. The authority shall be limited to undeveloped land, or any interest on such land as having a fair market value of ten thousand dollars (\$10,000) or less, and shall remain in effect until rescinded or modified by further vote of the village district.

Motioned, seconded, discussion. No discussion.

**Vote warrant 10 passed by a vast majority.**

**Suspension:** The meeting was suspended by rain at 12:01 PM.

**Swearing in of Treasurer:** Mr. Tole administered the oath of office to Ms. Waters prior to the resumption of the annual meeting.

**Resumption Called to order:** Moderator Mr. Letvinchuk at 8:30 AM.

Pledge of Allegiance.

List of meeting rules. Mr. Letvinchuk re-read the meeting rules that had been previously been adopted.

Mr. Tole made a motion to restrict consideration of previously passed warrant articles. The motion was seconded. Mr. Bertino raised a point of order asking for discussion. Mr. Letvinchuk stated that he had been advised that there was no need, but that he would allow it. Mr. Bertino asked if it was improper for that motion to occur at the beginning of the meeting. Mr. Letvinchuk answered no and called for a vote. Mr. M. Smith raised a point of order that attendees were voting without a proper registered voter card. Ms. Kinney stated that the Supervisors of the checklist had run out and went to get more. Mr. Bertino raised a point of order stating that since people didn't have cards how were voters and non-voters being segregated. Mr. Letvinchuk indicated that we would get the required cards and we would not be segregating voters and non-voters, but using cards to identify voters. Ms. Kinney returned and attempted to distribute said cards. Mr. C. Smith and Mr. M. Smith raised a point of order that only the supervisors of the checklists could distribute voter cards. Mr. Letvinchuk stated that voters without cards needed to be sent back to the supervisors to re-check in and obtain cards. Mr. M. Smith raised a point of order stating that Mr. Canfield was introduced at the last meeting as the assistant moderator and asked why Mr. Marshall was acting in that capacity. Mr. Letvinchuk stated that Mr. Canfield was unavailable so he had appointed a replacement. Mr. M. Smith stated he believed the appointment needed to be approved by the commissioners in public session. Mr. Letvinchuk was advised by Mr. Mayer that it was not required.

**31 yea, 16 nays. Motion passes.**

### **Warrant Article 11**

To see if the Village District will vote to rescind the authority of the commissioners to accept ownership of such properties of the Waterville Estates Association as they deem prudent.

Motioned, seconded, discussion. Ms. Patti asked the moderator to clarify whether passage of warrant article 11 would invalidate or rescind warrant article 10 passed at the beginning of the meeting. Additional discussion took place. Mr. Mayer stated that if the legislators were concerned about warrant 11's impact on warrant 10, they could add language to the warrant to clarify their will. He stated that he could not advise the legislators as he did not know their will. Ms. Patti asked for a minute to consult with someone as she had the floor for five minutes. Mr. Letvinchuk stated that we had to move on. Mr. M. Smith made a motion to append the warrant as follows. Precluding any past warrant, with proper statutory language, that authorized the village district to accept money, property, or real estate. Mr. Letvinchuk requested the amendment in writing so that he could read the proposed revised warrant before calling the vote.

The amendment was motioned, seconded, discussion. Ms. Tole expressed concern that the warrant article seeks to restrict, inhibit, and shackle the ability of our governing bodies to work in tandem. She stated that Waterville Estates Village District and Waterville Estates Association are meant to work cooperatively. She expressed concern about a drive this voting season to restrict the abilities of our board and our association. She stated that if you don't know why this warrant article is being put forth. She was interrupted by Mr. M. Smith calling for a point of order stating that there should be no electioneering going on attempting to influence peoples votes and if she had a point to make, she should do so. Ms. Tole stated that she should not be suppressed and that she had civil liberties to, not just you Matt. Mr. M. Smith called for a point of order stating Ms. Tole was singling him out and that the meeting rules did not allow personal attacks. Mr. Letvinchuk reminded the legislative body that personal attacks were not allowed, even in the heat of the

moment. He stated that we should be civil and comments should be addressed to him and called for other comments. Mr. M. Smith stated that the village district had already passed warrants. . with proper statutory language, that were still in effect today that allowed the village district to accept donations of money and property as well as real property. He said therefore, the warrant and his amendment don't prevent the Waterville Estates Village District from accepting assets from Waterville Estates Association. He said it simply removes the ability of the commissioners to not hold a public hearing citing warrant 11 versus warrant 10. Mr. Letvinchuk then read the proposed amended warrant article.

To see if the Village District will vote to rescind the authority of the commissioners to accept ownership of such properties of the Waterville Estates Association as they may deem prudent, except as allowed under previous warrants passed that included proper statutory language.

**Amend Vote 23 yea, 26 nays. Amendment fails.**

Mr. Letvinchuk re-read the original warrant article 11.

**22 yea, 25 nays. warrant 11 fails.**

Mr. Bertino requested a point of order. He protested the fact that the secret ballot requested for warrant article twelve during the initial meeting was not honored. Discussion took place around Ms. Patti's withdrawal of her signature. Mr. Mayer stated that when Ms. Patti removed her name as sponsor it dropped the request below the minimum number of signatures. Mr. Bertino stated that Ms. Patti was not the sponsor of the warrant or secret ballot and that even with her withdrawal from the latter, there were still more than the required number of signatures. Mr. Mayer then stated that the time for challenging this matter had passed when the moderator declared the vote and that therefore it was too late to be raising the issue. Mr. Bertino stated that he disagreed as the reasons cited were incorrect regarding sponsorship and the number of signature and also the fact that the annual meeting was still in session.

Mr. Patti asked when budget committee would be appointed. Mr. Letvinchuk stated that it would be Monday after the commissioners appoint the ex officio officer.

**Motion to adjourn:** Mr. Letvinchuk asked for a motion to adjourn. Motioned, seconded, and adjourned at 8:58 AM.