

#### **TOWN COUNCIL – AGENDA REQUEST FORM**

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information**, <u>8 days prior</u> to the requested meeting date. **Public Hearing requests must be submitted <u>20 days prior</u> to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION						
Date Submitted: July 7, 2021 Submitted by: Town Council Chair Tom Koenig and Vice Chair Finlay Rothhaus  Date of Meeting: July 15, 2021						
Department:				quired: 25 minutes		
Speakers:			Backgrou Supplied:			
	CATEGORY OF BU	<b>JSINESS</b> (PLEA	ASE PLACE AN "X" IN TH	E APPROPRIATE BOX)		
Appointment:			Recognition/Resi	ignation/		
Public Hearing:			Old Business:	$\boxtimes$		
New Business:		Conser		:		
Nonpublic:			Other:			
	<b>""</b>	TITLE	OF ITEM	THE THE PARTY OF THE PARTY OF		
Town of Merrimack and Merrimack Youth Association Agreement Review						
	Take I Walter Burger	DESCRIP'	TION OF ITEM			
The Town Council to consider the renewal of a 3-year agreement between the Town of Merrimack and the Merrimack Youth Association.						
5 5 5 5 5 5		Referen	NCE (IF KNOWN)	ALL STATES BY SAN		
RSA:			Warrant Article:			
Charter Article:	er Article: To		Town Meeting:	own Meeting:		
Other:			N/A			
EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)						
Projector:			Grant Requireme	ents:		
Easel:			Joint Meeting:			
Special Seating:			Other:			
Laptop:			None:			
CONTACT INFORMATION						
Name:	Tom Koenig		Address	6 Baboosic Lake Road		
Phone Number			Email Address	tkoenig@merrimacknh.gov		
But To Barre	AND THE PARTY NAMED IN	AP	PROVAL			
Town Manager:	Yes _⊠_	No:	Chair/Vice Chair	:: Yes _⊠_ No: _□_		

- 1 Chairman Koenig asked what SpecTek's warranty covers, considering most of the steel trailers don't
- 2 run into repair issues until the 11 year mark, in which Mr. Perrault replied that the running gears and
- 3 spring hangers would be covered under their warranty as they are always moving when lifting to dump
- 4 trash.
- 5 Councilor Healey then asked what a live floor is, in which Mr. Fox clarified that they are little slats
- 6 that hydraulically move back and forth next to each other. Councilor Healey then asked if there is some
- 7 type of rust treatment or preventative measures on the trailers when they are first delivered, in which
  - Mr. Perrault stated that the trailers are washed professionally twice a year and washed weekly to keep
- 9 them clean and prevent rust, but he will have to look into preventative measures to reduce rusting on
- 10 the inside.

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Councilor Woods shared that he agrees with the assessment that the steel body for the trailers is the better choice considering the various amounts of trash that are in the trailers and the damage the trash can cause.

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Councilor Hunter asked if the waiting period for the trailers to be made would create any challenges, in which Mr. Perrault stated that he is confident that the trailers they currently have will last that time and he is not worried about this. Councilor Hunter then stated that the form the Town Council has states that the budget for each trailer is \$70,000 and he is wondering if the extra cost would pose any issues, in which Town Manager Paul Micali stated that it would not as there is extra money in the budget for these. Councilor Hunter then asked if they knew what the discount is for buying two trailers at a same time versus buying one at a time, in which Mr. Micali stated that the bid was for two and not one so that information is not available.

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Councilor Harrington stated that she liked the way the information was presented to the Town Council and she appreciated having the pros and cons laid out to help the Council make a decision.

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MOTION made by Councilor Woods and seconded by Councilor Hunter to expend \$159, 994 to purchase two new steel body live floor trailers to replace two 2005 live floor trailers as part of the planned Equipment Replacement Program for the Solid Waste Division and to withdraw from the Solid Waste Capital Reserve Fund. MOTION CARRIES 7-0-0

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#### 4. Town of Merrimack and Merrimack Youth Association Agreement Review

Submitted by Town Manager Paul Micali

The Town Council to consider the renewal of a 3-year agreement between the Town of Merrimack and the Merrimack Youth Association.

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Councilor Harrington wanted to announce that John Calabro, who is the head of the Merrimack Youth Association, was supposed to attend the meeting tonight, but he had emergency surgery and is not present for the discussion. Since Mr. Calabro has been working closely with Town Manager Paul Micali, he would be the best person to answer any questions the Council may have. Mr. Micali then gave a brief overview, stating that the MYA is looking to renew their 3 year contract, which is normally what has been signed in the past. However, the last few years have been 1 year contracts. Last year, the MYA asked if they could include out-of-town participants for football, lacrosse, and wrestling to help fill open spots on various teams. Because of Covid, some other communities were not participating in sports and there was a need for additional spots on these teams. The MYA was able to accommodate this without displacing any Merrimack participants and ensured they were placed first

- 47 48 and then the out-of-town children filled any remaining spots. The MYA plans to do this moving
- 49 forward as it worked out well. Mr. Micali then stated that this is only for children whose towns do not
- 50 have an active program, and there will be an upcharge for the children that come to play in Merrimack.
- Mr. Micali then wanted to highlight the payment of funds. Because the MYA has been meeting audit 51

deadlines, Mr. Calabro has asked for a 50/50 split regarding funding, with 50% being paid in July and 50% in December. Mr. Micali stated that he does not believe this would work out as 50% of funding is not doable for many programs. He then proposed a 60/40 split, where the MYA would give the programs 40% up front to be used as seed money, in which Mr. Calabro is in agreement with.

Councilor Harrington wanted to share that she was on the board and was very much behind making sure that the MYA understood what was required regarding the auditing criteria. She believes that in the past few years, the MYA has reflected on this and has improved. She feels comfortable with what Mr. Micali and Mr. Calabro have agreed upon. She also wanted to touch upon the out-of-town participants, particularly the safety of age requirements for sports. She shared that if there are not enough participants in the appropriate age brackets, then younger or older children get grouped into this bracket, which is a safety concern when the span of an age group is too wide. Councilor Harrington believes that the method of using out-of-town children helps refine the age groups and make the groups fairer and safer.

Councilor Murphy wanted to clarify the language on page 1 of the documents the Council was given regarding certain sports activities. Previously, it was only listed as football and lacrosse, but now the wording has changed so she is wondering if any program in the MYA will be open to out-of-town participants or only certain sports as it previously was. Councilor Harrington said it would apply to any sports that are in need of children to play in the appropriate age brackets. If there are enough in-town participants for a particular team, then there will be no room for out-of-town children to participate in. Councilor Murphy stated that the language makes it sound like it's only for certain sports rather than being based on the need for participants. Councilor Murphy also asked to have wording added to include that priority will be given to Merrimack residents and out-of-town participants will be secondary. Mr. Micali and Councilor Harrington are in agreement with this.

Councilor Healey questioned the word "balance" being used when discussing the need for out-of-town children on the rosters, stating that she believes that the word "balance" does not mean the same thing as to fill open positions on rosters in which there is no availability for Merrimack residents. She suggests removing the word "balance" and just leaving "as needed". Councilor Harrington is in agreement with this. Councilor Healey then stated that on page 3, there is a part that says "modified accrual basis". Seeing as the MYA is composed of volunteers and not CPAs or Bookkeepers, she is asking to clarify what this phrase means. Mr. Micali replied that it's basically auditing terminology for modified cash and it is used for the town's audits. Councilor Healey then wanted to clarify on page 4 where it says "a severe material weakness", particularly what this phrase means as "severe" could be interpreted differently. Mr. Micali stated that there are standards that any auditor who reviews internal controls will know if they are severe or not.

Councilor Murphy then asked that since Covid has slowed down and many surrounding areas are resuming sport activities if there will be any stipulations or restrictions on out-of-town participants, in which Mr. Micali stated that he will have to double check with Mr. Calabro, but he believes the only restriction is that you cannot pilfer players from another town.

Chairman Koenig wanted to discuss the payment schedule, stating that in a three year cycle, if the MYA does not pay in time in the first year but then the second year rolls around, they get 40% with or without the audit. Mr. Micali stated that they can put language stating that if the preceding audit hasn't been received then no further payments will be made.

Councilor Woods stated that he has previously opposed this, but he feels somewhat comfortable now due to the changes in language and updates discussed tonight. Mr. Micali stated that he wants to work

with the MYA on tightening up the language and feels comfortable with bringing a final agreement to the July 15<sup>th</sup> meeting to review with the Council. The Council is in agreement with this.

#### 5. PFAS in New Hampshire Fact Sheet Discussion

Submitted by Town Councilor Barbara Healey

The Town Council to discuss how to promote the New Hampshire PFAS fact sheet.

Councilor Healey stated that the NH PFAS fact sheet was created by Laurene Allen, who is one of the founding members of Merrimack Citizens for Clean Water, to be used as a teaching aid. Ms. Allen has been working with others to collect this information and Councilor Healey wanted to show this to the Council to discuss using this as part of the expanded communication efforts discussed at the prior meeting. She stated that on the town's website, information on PFAS is mainly website links from DES. She then shared that there is a Facebook page called Town of Merrimack Town Hall, and she believes this could be shared on that page to bring awareness to the public. Councilor Harrington stated that this should be looked into, as this page looks like it's an official town page, but the moderators of the page are not a part of town hall. Councilor Healey then asked the Council what their preference is for sharing this, primarily to determine if it should go on the town's web page or not. Chairman Koenig thinks it should go on the town's website, and Councilor Harrington thinks it should go on the website but under a separate page from the DES web links. The Council is in agreement to this.

Councilor Murphy wanted to thank Merrimack Citizens for Clean Water, especially Laurene Allen and Carol DiPirro, for all their efforts to make sure that this information gets out to the community, as well as Dartmouth for putting this fact sheet together.

#### Minutes

Approve the minutes from the following Town Council meeting:

♦ June 10, 2021

# <u>MOTION</u> made by Councilor Healey and seconded by Councilor Harrington to approve the Town Council meeting minutes for June 10, 2021 as amended. <u>MOTION CARRIES 7-0-0</u> Amendments:

Councilor Healey: Page 4, Line 1 and 2- "Planning Board" should be capitalized.

#### **Comments from the Press**

None.

#### **Comments from the Public**

Ben Niles from 11 Fernwood Drive wanted to comment on the PFAS Fact Sheet, suggesting that the fact sheet be posed on the Merrimack Patch as he gets alerts on his phone when breaking news or new articles are posted on that page. He was wondering if the link to the website can be handed over to the Merrimack Patch and have Merrimack news get alerted through the Merrimack Patch. Mr. Micali stated that if residents want, they can sign up for news alerts from the town website. He also stated that they will hopefully have a Facebook page up and running soon as well. Mr. Niles stated that he does not use Facebook or Google, but he will go to the town website and sign up for those alerts. He also asked about MS4, stating that he thinks there is a way to educate the public on chemical fertilization versus organic fertilization which is much less harmless for the water. He thinks that at some point, residents need to be educated on improving the water supply by taking these small measures. Lastly, he wanted to inquire about the Transfer Station, asking if it is more costly to recycle versus the dumping station in Pembroke and educating the public on this.

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	Wrestling	30	31	20	31	36		
	Softball	252	312	120	312	249		
	Soccer	1,705	1,998	1,930	1,998	1,908		
cai aveiage	Lacrosse	180	160	210	160	178		
IVITA FALLICIPATIOS - 4 YEAR AVELABE	Football	125	250	280	250	226		
	Basketball	605	700	009	700	651		
	Baseball	397	495	400	495	447		
	Year	2021-2022	2020-2021	2019-2020	2018-2019	Average		

This Agreement entered into this \_\_th day of \_\_\_\_\_\_ 2021, between the Town of Merrimack, a municipal corporation of the State of New Hampshire with a mailing address of 6 Baboosic Lake Road, Merrimack, New Hampshire 03054 ("Town") and the Merrimack Youth Association, Inc., a not-for-profit corporation organized in accordance with the laws of the State of New Hampshire with a mailing address of PO Box 153, Merrimack, New Hampshire 03054 ("MYA").

Whereas, the Town is desirous of making certain recreational programs available to the youth of Merrimack with the addition of out of town participants. In addition, any program must give priority to Merrimack Youth Residents and no Merrimack Youth Resident will be turned away from participating in a sport over an out of town participant and whereas, the MYA proposes to provide and supervise such programs;

Now, therefore, it is mutually agreed as follows:

- 1. That this Agreement shall be effective for the three-year period beginning on July 1, 2021 and ending on June 30, 2024("Term").
- 2. That, for the Term of this Agreement, the MYA shall provide the following annual recreational programs for Merrimack youth residents (residing in Merrimack except as mentioned above) and any other recreational programs which generate a significant amount of interest on the part of Merrimack youth residents and which the MYA is capable of providing: baseball, football/spirit (cheerleading), soccer, basketball, lacrosse, softball and wrestling ("Programs").
- 3. That the MYA shall provide full and adequate supervision of the Programs and all equipment needed to operate the Programs.
- 4. That the MYA at their sole expense will hire a bookkeeper to perform the accounting function for all programs listed in item 2.
- 5. That the MYA shall not obligate the Town for any debt or expense nor hold itself out to the public as having the ability or authority to do so.
- 6. That, without the express written consent of the Town, the MYA shall make no material alteration or improvement to any Town property made available for MYA use. The MYA shall not add any additional advertising signage in any park other than what existed July 1, 2021 (see attached photos) without the express written consent of the Town Council or their designee.
- 7. That the Town shall be responsible for the cost of any utilities, refuse disposal services, and portable toilets, which are determined by mutual agreement to be necessary at Town-owned recreational facilities used by the MYA.

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- 8. That, in accordance with Article 6-1, C, of the Town Charter, the MYA shall annually recommend to the Town Council, a representative to serve on the Town's Parks and Recreation Committee.
- 9. That the Town, in accordance with Article 142, as amended, of the Town's Administrative Code, has final authority over the use of all Town-owned recreational facilities, including but not limited to the Youth Center, the Bise Fieldhouse, and all athletic fields; and that an MYA representative shall coordinate with the Town Manager or his/her designee for any use of said facilities that is required in conjunction with the Programs.
- 10. That the Town Manager or his/her designee has final authority over the maintenance of all Town-owned recreational facilities, including but not limited to the Youth Center, the Bise Fieldhouse, and all athletic fields; and that the MYA's representative shall meet monthly with the Town Manager or his/her designee to coordinate any maintenance of said facilities that is required in conjunction with the Programs, whether or not resources of the MYA will fully or partially finance such maintenance. Financial responsibility for such maintenance will be determined by mutual agreement.
- 11. That the MYA will be responsible for the following maintenance tasks as outlined below. Materials for normal field preparation shall be provided by the Town, as well as field preparation equipment, equipment maintenance and appropriate storage for the equipment. The Town of Merrimack will groom each baseball and softball infield with the same frequency that each field is mowed. The scheduling of the grooming will be done at the sole discretion of the Town of Merrimack. If severe weather occurs, the Town is committed to providing additional grooming assistance to restore playing fields to their pre-storm condition subject to available resources.

TASK	PARKS MAINTENANCE	MYA/Adult Athletics		
Line Striping	Initial layout and application for each season	All striping after initial layout, including initial layout should lines not be maintained		
Striping Materials purchasing responsibility	Initial applications by Parks Maintenance only. Purchase of striping materials	Materials to be purchased by the Town		
Infield Grooming	Initial leveling, de-vegetizing, and as needed major regrading/repair	Minor raking and mat dragging before games/tournaments		
Goal placement	Initial placement per User field use plan	In field relocation and relocating at other fields differing from User field use plan		

- 12. That all permitted use of Town-owned recreational facilities by the MYA shall be in strict adherence to applicable provisions of Article 142 of the Town's Administrative Code, as amended.
- 13. That the MYA, at its own expense, shall provide: broad liability coverage in the amount of \$1,000,000 to protect the Town, MYA and its officers, coaches, agents, and volunteers against any claims for money damages resulting from the operation of the Programs and the related and permitted use of properties owned by the Town and others; and property coverage in a sufficient amount to protect against the loss of, or damage to, any MYA equipment and supplies that are stored in Town facilities.
- 14. That the MYA, at its own expense, shall provide injury/accident insurance in the amount of \$5,000 for each participant in the Programs.
- 15. That, within thirty calendar days of a request by the Town, the MYA shall make available for review any available records that may relate to this Agreement.
- 16. That this Agreement shall be deemed to be made, and shall be interpreted and construed, in accordance with the laws of the State of New Hampshire. This Agreement shall be binding upon each of the parties, their successors, and permitted assigns. Any disputes that may arise relative to the terms and provisions of this Agreement shall be submitted to the American Arbitration Association for resolution, and related hearings shall be bound by the rules of the American Arbitration Association.
- 17. That the MYA shall provide by each December 31st audited financial statements, including a review of internal control procedures, prepared on a modified-accrual basis by a certified public accountant including, but not limited to: a balance sheet as of the preceding June 30; a statement of revenues, expenditures, and changes in equity for the year ended on the preceding June 30; a statement of estimated revenues and expenditures for the current fiscal year (July 1 through June 30); a schedule of revenues and expenditures by Program for the same period, and a detailed report on the status of all internal control procedures and any recommended modifications thereto. Notwithstanding, the Merrimack Town Council shall have the right to require that a forensic audit be conducted at the MYA's sole expense if there are reasonable grounds to suspect irregularities in financial management, controls, balances or oversight.
- 18. That payment of approved town funding will be paid twice a year. The first will be 40% of the funding on or about July 1st, and the second will be the remainder of the funding on or about January 1st. The second payment is predicated on MYA providing the Town a completed, successful Audit by no later than December 31st. If audit is delivered after December 31st, a 10% reduction, per month, will occur from the second remaining funding value until the audit is received by the Town.

If no Audit is received by June 1<sup>st</sup>, then the MYA will forfeit their remaining funding. In addition, if the Audit Management Letter indicates severe "Material Weaknesses" as they relate to internal controls, then the MYA will forfeit their remaining funding. If an audit is not received by June 30<sup>th</sup> of a certain budget year, payment will not be made in the following year on July 1<sup>st</sup>, and will be distributed by mutual agreement.

- 18,19. That the MYA shall provide by each October 15th, the following final budget information: a proposed MYA operating budget by Program for the succeeding fiscal year that includes a schedule of the estimated revenues to be received from donations, fund-raising activities, concession sales, contractual payments by the Town, and other sources; and schedules of proposed capital improvements and proposed increases in programs, facilities, fields, or Paragraph 9 costs, which could materially impact the anticipated payment from the Town.
- 19.20. That the MYA shall provide by each October 15th, an *estimated* number of children participating in MYA activities. Each child shall be counted once. (A child participating in more than one sport shall only be counted once, not one for each sport they participate in.)
- 20.21. That, within thirty calendar days of a request by the Town, the MYA shall make available for review any available records that may relate to this Agreement.
- 21.22. That notwithstanding any of the provisions hereof, the parties hereinafter may mutually agree to written modifications of this Agreement.
- <u>22.23.</u> That this Agreement may not be assigned without the express written consent of the Town.
- 23.24. That the waiver by the Town of any breach of any term contained in this Agreement shall not be deemed to be a waiver of such term for any subsequent breach of the same or any other term.
- 24.25. That each term of this Agreement is material, and any breach by either party of any one of the terms herein shall be a material breach of the entire Agreement and shall be grounds for the termination of the entire Agreement.
- 25.26. That, if, in the judgment of the Town, the MYA's manner of operation or the quality of its services does not meet the requirements of this Agreement or in the event that the MYA shall otherwise violate, or shall fail to perform in accordance with, the terms and provisions of this Agreement, the Town shall submit to the MYA a written notice of such unsatisfactory performance or default. If the MYA fails or refuses to remedy said unsatisfactory performance or default within thirty calendar days after receipt of the Town's notice, the Town may

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declare this Agreement to be immediately terminated. The decision of the Town relative to such matters shall be final.

Approval Signatures TOWN OF MERRIMACK:	Witness
X	
Town Manager (or Designee)	
Merrimack Youth Association:	
X	
John Calabro President	
Rick Greenier Vive President	
Holly Golden Treasurer	
Rebecca Hayes Secretary	



Bise Field Left Field



Bise Field Right Field



Bise Field Concession Stand



Bise Field Bullpen



Bise Field Scoreboard



Veterans Park



Veterans Park Scoreboard

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- 22. That notwithstanding any of the provisions hereof, the parties hereinafter may mutually agree to written modifications of this Agreement.
- 23. That this Agreement may not be assigned without the express written consent of the Town.
- 24. That the waiver by the Town of any breach of any term contained in this Agreement shall not be deemed to be a waiver of such term for any subsequent breach of the same or any other term.
- 25. That each term of this Agreement is material, and any breach by either party of any one of the terms herein shall be a material breach of the entire Agreement and shall be grounds for the termination of the entire Agreement.
- 26. That, if, in the judgment of the Town, the MYA's manner of operation or the quality of its services does not meet the requirements of this Agreement or in the event that the MYA shall otherwise violate, or shall fail to perform in accordance with, the terms and provisions of this Agreement, the Town shall submit to the MYA a written notice of such unsatisfactory performance or default. If the MYA fails or refuses to remedy said unsatisfactory performance or default within thirty calendar days after receipt of the Town's notice, the Town may declare this Agreement to be immediately terminated. The decision of the Town relative to such matters shall be final.

Approval Signatures TOWN OF MERRIMACK:	Witness
<u>X</u>	
Town Manager (or Designee)	
Merrimack Youth Association:	
X	
John Calabro President	
X	
Rick Greenier Vive President	
Holly Golden Treasurer	
	5
X	
Rebecca Hayes Secretary	



Bise Field Left Field



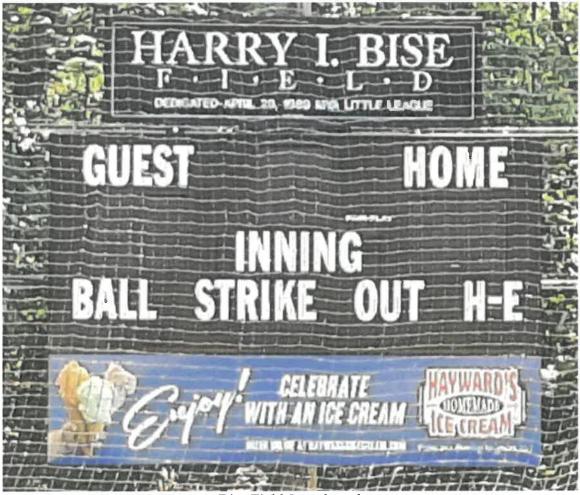
Bise Field Right Field



Bise Field Concession Stand



Bise Field Bullpen



Bise Field Scoreboard



Veterans Park



Veterans Park Scoreboard