

## **Monthly Meeting of the Board of Commissioners**

Emerald Lake Village District

**September 14, 2017**

Eastman Park, Hillsborough NH

Present: Diane Cunningham, Chairman of Commissioners (in person)  
Keith Huber, Commissioner (in person)  
Christine Haynes, Treasurer (in person)  
Kim Grondin, Clerk (in person)

ELVD Residents: Melissa Taber, Brett Taber, Joseph Feindel, Eileen Feindel, Bob Sewall, Linda Whiting, Richard Whiting, Steven Botana-Gumbs, Paul Botana-Gumbs, Spencer Morse, Mark Rodier, William Goren, Fred Ziegler, Lisa Boutessa, Jessica Vitkauskas, Erica Stevens and Tricia Stefanelli.

The regular Board of Commissioners Meeting was duly convened at approximately 6:09 pm at the Gazebo at Eastman Park, as noticed, with a quorum of two out of two commissioners in attendance. The commissioners would like to inform everyone that the meeting is for the purpose of conducting District business in a public format and on the public record. The main goal is for the District Commissioners to approve vendor payments, discuss issues that need attention and to make official decisions on the issues, in part to allow the District to continue to run, maintain our roads and properties, and deliver safe clean drinking water to our residents. The Board will be discussing and voting on many issues tonight, and only the board can vote on these issues. Any public comment on an issue at hand must be recognized by the Board and only during the public comment period. During the public comment session, the commissioners are asking residents to please raise their hands, be recognized to speak, introduce themselves by name and address, and only address the body of the board. In order for everyone to be heard, we have reserved the right to limit speakers to two minutes. Any resident that raises their voice, becomes threatening, lacking in good taste or causes violence, will be immediately asked to leave. Once the public comment session is over, we are asking everyone to sit quietly and observe the rest of the meeting or move to another location. Anyone who disturbs the meeting will be asked to leave. With that being said, the Commissioners would like to thank all residents for attending the meeting.

### **1. Approval of Meeting Minutes:**

BOC's reviewed monthly meeting minutes dating June 8, July 13, and August 10<sup>th</sup>, 2017. There are no changes to be made and minutes were signed and dated. BOC's reviewed workshop meeting minutes dating March 1, May 1, June 1, August 2, and September 6, 2017. There are no changes to be made and minutes were signed and dated. Motion was made, seconded and approved for final drafts to be posted of all minutes.

## **2. Finances:**

**Update of Accounts:** General Manifest, Water Manifest, and Bill Payments for all Vendors were handed out for all residents to view, as well as copies for commissioners for their personal files. All bills are paid and up to date.

**Payment of Manifest:** Water and general fund manifests were reviewed, signed and dated by two out of the two commissioners, as well as payment manifests. \$7,862.73 was paid out of the general account for bills. \$10,544.18 was paid out of the water account.

Diane Cunningham, Commissioner made a motion to accept and approve financial statements, seconded and approved.

## **3. Accept Resignation of Kate as Commissioner, as well as Debi as Deputy Treasurer:**

Diane Cunningham, Commissioner read aloud the resignation letters from both Kate and Debi resigning from their positions on the board of ELVD. Diane Cunningham, Commissioner made a motion to accept the resignation letters, seconded and approved.

## **4. Keith-Update on RCAP meeting with Kathy, zone meter installation:**

Keith Huber, Commissioner states that the meeting did not happen due to family conflict involving RCAP representative. WSO has responded to DES and gave a September 18<sup>th</sup> installation date for the zone meter at Huntington and Gould Pond Road, however WSO has still failed to respond to the multiple requests from DES regarding the equipment type, manufacturer information etc. but WSO has committed to the September 18<sup>th</sup> date for the flow meter. Keith Huber, Commissioner states “regarding the rest of the stuff, we have been approved, we are fourth on the list, nothing has changed, I don’t have anything back saying how or what we are going to get for monies, what we are going to get for rates, or when anything has to be turned in. They said we can get approval from the residents at the annual meeting, which is in April, so I am guessing that there is no time restraint on this, when we get the money or so forth. Once we get approved for it, then I know there are deadlines regarding spending it, how it is spent and how much is spent but I only know of them and not specifics.”

Diane Cunningham, Commissioner states when Plummer Wells fixed pump 11, completed the work, and ELVD paid them. Then BOC’s were informed, afterward, that there was a warranty on the pump that we had, so ELVD has a credit of \$3717 with Plummer Wells.

## **5. Updates:**

Diane Cunningham, Commissioner thanked all volunteers that helped with the horseshoe pits, painting picnic tables, putting together doggie night at the beach, and installing camera’s. Commissioners state they appreciate these residents immensely.

## **6. Trunk or Treat:**

Diane Cunningham, Commissioner states that she would like to do Trunk or Treat for the kids around ELVD, as she feels it will be fun. Bill Goren, resident states that this was his wife's idea, as where they used to live, they did this for the safety of the kids being out at night. Bill Goren, resident states that ahead of time people will sign up stating that they want to participate, bring their car to a designated area, everybody would decorate their car and the kids would have a safe area to collect candy. Diane Cunningham, Commissioner suggested running the movie projector at the same time and show Charlie Brown's Great Pumpkin. Residents feel the weekend before Halloween would be best dating October 28<sup>th</sup> or 29<sup>th</sup>. Bill Goren, resident has volunteered to organize this and will update residents on the date.

## **7. Update on Fox Situation:**

Diane Cunningham, Commissioner has contacted Fish and Game about the foxes and residents losing their cats and chickens. Fish and Game responded with a letter stating, "Thank you for contacting Fish and Game, I have attached a list of trouble trackers but no of them will be able to help the land owners with the situation". Diane Cunningham, Commissioner states residents are basically on their own.

## **8. Northpoint update:**

Diane Cunningham, Commissioner received an email back from them, which states "we had a successful meeting with DES shore land review staff and they concurred that a shore land permit by notification is applicable to the project, which is what our authorized scope of work includes", along with additional comments. Northpoint is still waiting to hear back from WSO about the water main depths, and viability of lowering Hummingbird Road. Northpoint states "as soon as I have some definitive answers, I will cycle back with you on how to approach and establish a target timeline to complete the design".

## **9. Fred Ziegler, 55 Hummingbird Lane:**

Fred Ziegler states "I have built a rock wall. About four or five years ago, I spoke with Bob Hutchinson, former commissioner and asked what I needed to do, as I was losing ground every year. Neighbor did a survey about eight years ago and I had one done recently, which shows I have lost over two feet of land on my waterfront on one side. So, I built a rock retaining wall on top of the existing one, raised it up a little bit because the water level goes up and down so much, which just keeps taking all the dirt and soil. I have saved at least two to three trees on my property, which probably would have been down without me doing this. At this point, I have received a letter from DES stating that if you can get written permission from BOC's of ELVD, they are fine with it. I am asking for a letter to be sent to DES stating the district is fine with the wall as it is." Fred Ziegler begins to read aloud the letter from DES stating "by October 6<sup>th</sup>, please either obtain sign written permission from the ELVD and David J and Carolyn J Coomber, (who they think still own the lake, according to DES). Fred Ziegler, resident states that if they don't actually own it, then commissioners would just say that the Coomber's no longer own it and that will satisfy DES."

Keith Huber, Commissioner asks Fred Ziegler, resident “when did you do this work?” Fred Ziegler replies “two years ago and DES has been dragging their feet the whole time”. Keith Huber, Commissioner asks “did you apply for a permit when you did it”? Fred Ziegler, resident replies “I did not because I was told that I did not need one by Bob Hutchinson, former commissioner because it was a replacement wall”. Keith Huber, Commissioner states that Bob Hutchinson, former commissioner has not been a commissioner in a long time. Fred Ziegler, resident explains that he brought Bob down there, “explained what I was thinking about doing to try and save the dirt and erosion, as I get it coming from two ways to include coming from the road, my roof and it goes down and every time there is a big rain storm, there are piles of dirt in the lake coming from my property”. Fred Ziegler, resident states “I am just trying to fix what is there and Bob Hutchinson, former commissioner told me that as long as I use natural stone, it will be fine”. Keith Huber, Commissioner states “I don’t know what Bob said, what year you are presenting it as that would-be hearsay, the issues that you are presenting are not specific to you and I cannot see signing any letter to give any permission”. Fred Ziegler, resident states “if there is no letter, then I am going to end up having to bring an excavator in there and tear out everything that is there”. Keith Huber, Commissioner replies “whatever DES tells you it is that you have to do”. Fred Ziegler, resident responds “DES is fine with what it is currently”. Keith Huber, Commissioner states “he does not approve it.” Diane Cunningham, Commissioner states “this is why we need a third commissioner”. Brett Taber, resident states “as you are presenting, you are looking for, DES is saying it is acceptable with what is already there to prevent the erosion into the lake and to continuing to stop the erosion, which can cause more damage to the lake, so if there is a natural retaining wall protecting the lake and/or property, is that not in the interest of the district as well or whether the work was completed after the fact and if that is the case, DES or another partying engineer say yes it is acceptable and it works, does that satisfy what the commissioners are looking for to say yes it is good but it sounds to me trying to protect to lake from further erosion would be at the districts interest as well, not necessarily having every resident around the lake building a wall but it is a known issue and wouldn’t that make sense to support and I am bringing this as a suggestion”. Diane Cunningham, Commissioner reads what it says from DES “Please either obtained signed written permission from the ELVD and David J. and Carolyn J. Coomber to retain the impacts associated with the rock retaining wall and submit those letters of written permission, along with a Wetlands Permit application to NHDES to request to retain the rock wall via “after-the-fact” approval, OR, if written permission is not obtained from either party, please retain a Certified Wetland Scientist to prepare and submit a restoration plan to NHDES for review. The restoration plan should include all information requested in Administrative Order No. 16-023 WD issued to you on September 22, 2016, under E. ORDER, number 3. Please note that NHDES would not permit the area behind the wall to be backfilled with gravel. Although unpermitted, NHDES will allow the recently-constructed wood retaining walls to remain. Any further work of this nature will require a Shoreland Impact Permit from NHDES.” Diane Cunningham, Commissioner states “so, if we don’t give you the letter, you will have to dig it all up and redo it”? Keith Huber, Commissioner states “the rock wall is inside the high-water mark of the lake, so that tells me DES is right and it has to go because the lake belongs to everyone in ELVD, as up to the high-water mark is public property”.

Fred Ziegler, resident replies "I have lost at least two feet of land". Mark Rodier, resident states "everyone has that lives on the lake". Keith Huber, Commissioner states "I grew up along the south shore of Massachusetts and every storm people lose land to water". Fred Ziegler, resident states "two feet in ten years". Keith Huber, Commissioner states "there are people who lost a lot more in 24 hours". Bob Sewall, resident states "the wall is beautiful, I have watched his land erode over the years and the wall is saving the land". Many residents spoke on Fred Ziegler's behalf. Diane Cunningham, Commissioner states "the problem is he was given the wrong information to start with, so that is not his fault". Bill Goren, resident states "my question would be, where he said he built up a wall that was there, was the wall there and some of it had deteriorated naturally, so we should take into consideration that it was already there". Mark Rodier, resident states that "the problem is he built out past the water line". Fred Ziegler, resident states "I went where the wall was already there". Mark Rodier, resident states "anything on any lake in NH, you have to file for a permit first". Fred Ziegler, resident replies "I was told that I did not need too and I thought the commissioner would know this, which is why I asked him". Jessica Vitkauskas, resident states "I have recently renovated a portion of my basement and went to the permitting class from the town and yes, if you build something in your house and you don't get the right permit and they come do an inspection years down the road and it's not on file, they usually give you a slap on the wrist and tell you not to do it again, get a fee and get the permit retro but what I personally don't understand why this matters to everybody else, as he built a wall to protect his land and what harm is it doing to all of us, I just don't get it." Mark Rodier, resident states "it's a state law". Bill Goren, resident states "he didn't just build a wall, he rebuilt a wall that was there and that makes a difference". Brett Taber, resident states "part of the data that you would have to present to DES on their argument to either get rid of it and start over or you have it and whatever survey information you have from 10 years ago showing natural erosion. Now whether, they take that into consideration that the lake can grow and the property can shrink, whatever DES deems appropriate for them but if your rock wall or line matches that survey information from 10 years, in my general knowledge, it sounds reasonable to a reasonable person, that line should still be able to be sustained or repaired". Fred Ziegler, resident states "that is why they are allowing me to keep it because they see that the data shows I'm losing ground. All I know is that I need to get a letter; otherwise, I am going to have to bring in some heavy equipment and start digging stuff up." Diane Cunningham, Commissioner states that she is concerned what that will disturb and make the situation worse. Melissa Taber, resident states "Why doesn't he just get the permit". Diane Cunningham, Commissioner states "because he needs a letter from us, which is what this is about". Mark Rodier, resident states "I don't know why they want a letter from us when we don't own the lake or the shores". Brett Taber, resident states "if DES information on file is that the property owners before the separation forty to fifty years, now does the district need to prove through a title search that these people do not own it because in turn now, is DES going to look for proof that the information they have is not valid; otherwise find these people". Many people spoke over each other at this point. Brett Taber, resident states "we either formulate a vote or table it for further findings". Diane Cunningham, Commissioner states "we do not have that much time because today is the 14<sup>th</sup> and DES needs it by October 6<sup>th</sup>." Diane Cunningham, Commissioner states "I would rather write the letter, so that resident does not have to disturb anymore land by the water, as I am concerned to what that will do to the lake itself".

Diane Cunningham, Commissioner made a motion to write the letter to DES for Fred Ziegler because he has already built it. Keith Huber, Commissioner states "the wall is below the high-water mark of the lake and the wall is in the lake and I will not second any motion to write a letter". Diane Cunningham, Commissioner states "it is not like he built a wall Keith, it was already there". Bob Sewall, resident states that "where the wall is now, is the same place it has been for the past 13 years and the wall does not go any further into the lake, which is where it was before they even moved here. These residents cannot be held accountable for misinformation given to them from a former commissioner". Keith Huber, Commissioner states "since you had it surveyed, the surveyor didn't tell you that you were inside the high-water mark"? Fred Ziegler, resident states "I have proof that he could not find a pin on the Booths' side of property and I am actually losing land to the lake. Surveyor states the side that I am on, my wall is inside of where he can survey, so there is nothing out into the lake but on the right-hand side, he is showing that (going by the old property boundaries, where you have x amount of feet here and x amount of feet there) everything is in range; except where the Booths side is and I am actually down, as the lake crept in on my land by two feet". Mark Rodier, resident asks "you did the survey, after the fact of you building the wall"? Fred Ziegler, resident replies "yes I just had this done". Diane Cunningham, Commissioner made a motion to write the letter, which was not seconded, so it died on the floor. At this point, Bill Goren, resident asked about volunteering to be a commissioner. Keith Huber, Commissioner states that is for a non-public session and needs to be done with the commissioners. Mark Rodier, resident asks, "so if you get this letter, you are clear to leave it all the way it is but get a permit now". Fred Ziegler, resident states "I don't know, DES has been hard to deal with". Mark Rodier, resident states "Keith Huber, Commissioner does not want to sign it because he is on the high-water line, which I agree with". Diane Cunningham, Commissioner states "the wall was already there". Mark Rodier, resident replies "it was not a wall like that and that is the problem". Tricia Stefanelli, resident asks "How did DES find out about this anyway". Mark Rodier, resident states "somebody complained to DES". At this point, more residents start talking over each other. Brett Taber, resident states that he does not feel that this is going to be resolved at this meeting and should table the discussion. Diane Cunningham, Commissioner states "I don't understand what the issue is, as it was already there before". Again, residents start to talk over each other and defend writing the letter Fred Ziegler, resident. Resident had asked why are we going to penalize them for getting the wrong information from a ELVD official at the time. Fred Ziegler, resident states "if someone told me that I needed to call DES, I would have called them, I wasn't trying to get away with anything". Diane Cunningham, Commissioner states that "he made a mistake and how many of us have made mistakes in our lives"? Fred Ziegler, resident states "I have to have that letter, apply for the permit and then DES will put their stamp of approval on it". Residents begin to over talk each other. Tricia Stefanelli, resident states "my question for Keith is, if DES is saying it is okay and he is not breaking any laws, then why wouldn't we write the letter". Keith Huber, Commissioner states "I don't understand why we are we still talking about this, whether it was permitted or not, whether he was told something by someone who said a lot of things, the wall is in the lake". Diane Cunningham, Commissioner states the wall was already in the lake and he still must get the permit. Bob Sewall, resident states "I don't think the board should penalize him for misinformation".

At this point, Keith Huber, Commissioner turns in his resignation as Commissioner to Diane Cunningham, Commissioner stating, "I understand where Mark is coming from". Diane Cunningham, Commissioner states "Fred, you got your letter now". Diane Cunningham, Commissioner made a motion to write the letter, which was seconded by the public and Christine Haynes, Treasurer.

**10. Public Comment:**

Mark Rodier, resident states the porta-pottys will be picked up the first week of October and dropped off the third week of May. Brett Taber, resident asked if they are automatically dropped back off because American Guardian has better prices than what the district is paying now. Diane Cunningham, Commissioner will consider this and get back to residents.

Mark Rodier, resident also checked in with Coagswell Springs in Henniker, since putting in their water meters and they state the first day was a little high but it was the correct calculation and since that first day, they have seen a huge reduce in water usage, which is a big thing for us. They have different ways of recording, so you can have meters on every house, meters on every road or a meter at every junction and we can run the numbers of flow and triangulate where we can be, as you can almost pinpoint to a house. Mark Rodier, resident also asked if they would be willing to come to some meetings and educate us on how their meters work for them. Their meters were installed about 3 years ago and they have been watching numbers and seeing how things go for the last two years, and they started utilizing them the last quarter of last year and states they are working very well and everyone is paying their fair share. They still pay a base fee and an allotment of water per billing cycle, for us, it would be monthly not biannually. Seasonal would pay the base fee and then pay the usage after the fact. The money that ELVD would generate from those bills would automatically be rolled into a CIP account to fund future projects, upgrades, etc. They state that the quote of five and a half million dollars is about correct to redo all the roads and have meters.

Mark Rodier, resident is asking for volunteers to help fix the dry hydrant at Red Fox Crossing and extend the pipe out to the lake at the inlet. Mark Rodier, resident states that PJ, resident will help; along with Bill Goren, resident but is asking for more volunteers.

Mark Rodier, resident states it is time to pull the rafts in, dismantle the ladders, etc. Mark Rodier, resident states Dick Morency, resident will help with the use of his Pontoon boat but we need two people to help pull the anchors up. Mark Rodier, resident will pull something together on the Facebook page for the last weekend of September.

Mark Rodier, resident states that he is going to pull two cameras' after the meeting to get to PJ, resident. Bill Goren and Mark Rodier, residents have asked Diane Cunningham, Commissioner if we can acquire more camera's, cage mounts, batteries and SD cards, as well as if there are any ideas from the residents about a website that we can download all these pics and video's. Erica Stevens, resident would like to know who is monitoring the camera's and would like them to have a criminal background check for whoever is monitoring these videos and pictures.

Bill Goren, resident states that there is a google pics app/ google drive that can be used and it will have a password for the commissioners and if a commissioner leaves, then we change the password. Diane Cunningham, Commissioner will consider this and get back to residents.

Mark Rodier, resident states that he really wanted to talk to Keith Huber, former commissioner about this but the guardrails that got thrown away, should not have been. Mark Rodier, resident states “when I found out about this, I was pretty upset because they were a lot of money and we are a municipality and we throw nothing away, I am trying to get a hold of the town to get them back”. Joe Feindel, resident states “I received permission from the board to get rid of them”. Mark Rodier, resident states “you don’t get rid of anything that is district property”.

Mark Rodier, resident states that there were two negligent water usages. There was a leak on Emerald Drive, which texts were sent to Diane Cunningham, Commissioner between resident and Mark Rodier, resident. The texts state that the resident knew about the leak at the guys house and stated that he would fix it himself but never did. Diane Cunningham, Commissioner states that they will be fined and states that “if we don’t start fining people, then they will not take us seriously”. There was another situation on Ellen Brook Road of negligence of the water, which Diane Cunningham, Commissioner states she will be sending a fine out to as well. Diane Cunningham, Commissioner was going to make a motion to fine the residents but as to where there is only one commissioner, she was unsure how to go about this. Brett Taber, resident suggested “waiting till the next monthly meeting until volunteers have been sworn in as commissioners, does it hurt to wait till the next meeting until making that decision”. Diane Cunningham, Commissioner agrees to wait.

**11. Next Monthly Meeting:**

Next monthly Board of Commissioners meeting is **October 12, 2017** at 6:00 pm at the ELVD office on Main Street in Hillsboro.

Next workshop meeting is **October 4, 2017** at 6:00 pm at the ELVD office on Main Street in Hillsboro.

Whereupon there being no further business before the Board at this time, it was moved, seconded by public and unanimously voted the Meeting be adjourned.

**Adjourned at 7:42 pm.**

**Diane Cunningham, Chairman of Commissioners**

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**Linda Whiting, Commissioner**

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**Bill Goren, Commissioner**

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**Board of Commissioners.**

**Certified by the Clerk: \_\_\_\_\_ 09-18-17**

