WATERVILLE ESTATES VILLAGE DISTRICT

September 4, 2020 APPROVED MEETING MINUTES

Approved as amended on September 26, 2020.

Attendees: Judy Kinney, Matt Smith, John Herlihy, Sean Tole, Karen Waters, Corey Smith

Guests: Maureen Patti, Anthony Patti, Linda Ivers, Scott Ivers, Dave Ketchum, Joan Wood, Jaime Oldmixon, Steve Waters, Mary O'Brien, Harry Bertino, Ned McElroy, Rebecca McElroy, Ellen Witt, Jack Letvinchuk, Lauren Bennett, Terry Bennett, Jacqueline Herlihy, Tom Clarke, Gerry Pannozak, Lisa Culver, Ed Culver, Susan McDermott, Rischard Mayo, Stan Bujalski, Denise Bujalski, Gary Garber, Susan Spinney, David Spinney, Art Marks, others not on sign-up sheet.

Call to Order: Mr. Herlihy called the meeting to order at 6:00 PM.

Approval of Previous meeting minutes: Mr. Tole made a motion to approve the meeting minutes, from August 1th, 2020 with the addition of the meeting handout to the minutes, Mr. Herlihy seconded, passed.

Commissioner Vacancy: Mr. Herlihy indicated there was a vacancy on the board of commissioners. Mr. Tole nominated Mr. Ketchum. Mr. Herlihy declined to second and nominated Ms. Patti. He stated her qualifications including her experience as a lawyer and her participation on the records committee indicating both would be important given the historically poor record keeping and the pending Right to Know lawsuit. He Mr. Tole declined to second the nomination stating we'd be better off not having Ms. Patti have to focus on other village business, but rather solely focused on the records committee. Mr. Herlihy declared an impasse moved to the next agenda item.

WEA BOD Update: Mr. Marks indicated the WEA Board would be meeting 9/12. He indicated the BOD was continuing with the Ladies Locker Room updating using CIF and that the BOD was still reviewing how we could open. Mr. Herlihy asked if the BOD had any timelines. Mr. Marks did not provide a timeline.

WEVD Treasurer Report:

Update: No update needed on the main report as we are between bank statements and the report can only be updated after the statements are audited.. Ms. Waters indicated the Non-Lapsing work report has been updated to correct some formula errors and will be double checked before the next meeting.

Water Fee Policy: The policy needs a few more revisions as new information was discovered since the last draft. A new policy will be proposed at the next meeting.

Friends of Campton Mountain Account Update: The AG's office has indicated this falls under the rules of the Charitable Trust. Mr. Tole indicated that these monies *may be considered unanticipated* gifts *by the Department of Justice*. It is likely the money will need to be held by the Town of Campton or Thornton Town Trustees.

Other: Because of the closure we had to through some beer and liquor away. Mr. C, Smith arranged for

some of it to be returned, but one vendor refused to accept anything back. The value of the discarded stock was $5253.73. The cost of goods line item was reduced as this amount was moved to waste. Ms. Waters reported that Mr. M. Smith had advised that the commissioners had to approve checks. She is still refining the procedure to allow for taking advantage of early payment discount terns. Mr. Tole asked if she had confirmed the direction from the Clerk was correct. She indicated it was correct and she had reviewed the statute and knew it was correct when it was presented. Erica has suggested a ski ticket kiosk so bar service does not have to be disrupted for ticket sales. A proposal will be provided next meeting.

GM Update:
Backhoe: We have procured and are waiting for an accessory to arrive before we take delivery.

Plow Truck: The one we identified has been sold so we are trying to find another. We still have one working plow truck but may want to get the transmission replaced so we have a backup truck. Discussion took place around our ability and practice of outsourcing some of our plowing

Paving: Will take place the second week of October.

Rec Center Roofing: Quotes were reviewed. References had been checked so Mr. Herlihy made a motion to select the low bidder Energy Shield at $12,450. Mr. Tole asked if full snow and ice shield would be advisable and Mr. C. Smith stated that our problem is mostly moisture exiting the building. There is a provision to replace roof substrate which make it a little open ended, but that is the nature of this type of work. Mr. Tole seconded and the motion passed. Mr. Herlihy asked what side was being done and Mr. C. Smith indicated it was the east side and some of the low small roof sections.

Boiler Issues: One of our three boilers needs replacing. The heating contractor, Granite State Plumbing and Heating, indicated that the pool equipment must be kept separate from the boiler equipment as chlorine gets in the air and is not good for the boilers. We've been told this by previous contractors. The commissioners authorized Mr. C. Smith to have DuBois and King to do an assessment of the mechanical room. Mr. Herlihy stated we should get two to three quotes for the boiler replacement.

Ski Lift Maintenance: With a couple of vendor created hiccups, new wheel liners are installed. It consumed some additional man hours, but the vendor paid to fix the items.

Pool Leak: Rowell's Sewer Service cannot find the leak.. The commissioners authorized Mr. C. Smith to see if DuBois and King can offer any advice.

Mowing of the Ski Hill: We are bringing the same crew back who did it last year for $3000. It depends on whether we have them do the dams as well. Sone years we can skip the dams. Mr. Tole asked whether it made sense to mow if, ultimately, we can't open the ski area because of Covid. Mr. C. Smith indicated that saplings come in pretty quick so it did not make sense to skip a year. Mr. C. Smith suggested we might use the same team to do some road side vegetation brush back. **Water System:** We have had 12 months of successful testing for E-coli so we may be able to drop the 4 log recording requirements that NH DES had enforced. We will reach out to them to get a ruling. Ms. Culver expressed that the water seemed like it had a high chlorine level and Mr. C. Smith indicated that it did because of the E-coli. He indicated that we may now be able to lower the chlorine level.

Other: Mr. Marks asked if Waterville Valley had contact us about selling ski tickets yet. The answer was they had not.

Old Business:

Court Sale: Mr. Herlihy indicated that we only netted $4288 for the sale of the court material. He stated that we paid about $19,665 for it making it a $15,377 loss. He indicated that we should report transaction this way moving forward.

Raft: Mr. Herlihy provided a final report on the cost of constructing the raft. It was approved for $3,000 but we spent $8,248 and that the cost overrun was a result of planning not happening before budgeting happened. Mr. Tole indicated the cost overruns were the result of being biased for safety as people kept attempting the flip the old raft as well as not being able to re-use components as originally planned as they were waterlogged and rotten.
Discussion took place around where the extra money came from and Mr. C. Smith indicated that he used his discretionary $10,000 CIF allowance to complete the project without additional tax money. Mr. Bertino asked to see the policy that established Mr. C. Smith's discretionary $10,000 CIF allowance. The $3,000 initial estimate was paid from the Recreation Revolving Fund. Mr. C. Smith stated that the long-term practice has been to replace assets in kind with tax dollars and to use CIF when an asset is improved. Mr. C. Smith stated that because kids were attempting to flip the raft it needed to be upgraded "right away". Mr. Bertino asked for a copy of the policy that authorized Mr. C. Smith to spend $10,000 in CIF and an accounting of the expenditures. Mr. C. Smith stated that "we just did it very openly and transparently". Mr. Bertino reiterated that he was asking for the policy not a verbal explanation. Mr. Herlihy observed it was the behavior that created the safety issue not the size of the raft.

Right to Know Request Forms: Mr. Herlihy discussed the right to know requests to date and asked if there were any outstanding that we were working on. Ms. Kinney indicated that there had been a process in place but it was dropped and staff was instructed to respond to verbal requests. She related a recent verbal request that audio difficulties made impossible to address. She asked the individual to put it in writing and to date she has not received a written copy of the request. Mr. Tole stated that the village had received a "flurry of right to know requests, one after another, almost meant to trip them up". Mr. Tole sates that there was a form approved in 2016 which would have alleviated all of these issues. He stated "we need to make sure this is followed on a go forward basis, when we get the next flurry of right to know requests". Mr. M. Smith stated that he did not think the village district could dictate the method that a citizen used to make a right to know request. Mr. Herlihy stated the issue was on how to put a policy in place where the village could act promptly and professionally. Mr. M. Smith reiterated that the village couldn't dictate the language a citizen uses. That citizens need not use the form letter provided to make a valid right to know request. There was confusion as the form submitted was two part. One for the citizen and one for the commissioners. Discussion took place about when to adopt and how to approve. The process was referred to as the two pages. The approval passed. Ms. Patti attempted to clarify that the first page of the form was for the person submitting the request. Mr. Herlihy stated that the form could be modified. Ms. Patti stated that if we are going to ask requestors to fill out a form it needs to be posted on the website. Mr. C. Smith confirmed it was the form used in the past, was approved in 2016, and had been reviewed by legal, but maybe legal should review it again. Ms. Kinney indicated the form used to be on the site but got dropped

and she didn't want to cause friction by putting it back on website without "you guys discussing it".

New Business:

Liquor Commission Affidavit: Mr. Herlihy indicated that an affidavit needed to be signed but he would not sign the document until he better understood our practices and procedures because he was signing that "he had control of the process". Mr. C. Smith stated that most of our processes our overseen by the state.

Right to Know Lawsuit: Mr. Herlihy asked if we had heard from the village attorney. Mr. C. Smith indicated that it was a discussion for executive session.

Budget Advisory Committee: Mr. Herlihy indicated that the committee would meet in the next week or so.

Roads and Water Committee: Mr. Herlihy indicated that the DuBois and King contract is being reviewed by the village attorney. He will follow up. He discussed a water line agreement with a new owner and the need to have a process. Discussion took place about the Hodgeman Hill contract. Mr. Herlihy indicated that the existing water line may be insufficient. It is appropriate for that line to be evaluated as part of the master plan. He stated a betterment assessment might be required if the line to Hodgeman Hill needs to be upgraded. Mr. Bertino questioned whether Hodgeman Hill would be billed. Mr. Herlihy said he did not know, but it would have to be negotiated. Mt. Bertino asked how come roads were not paved using a betterment assessment. Mr. C. Smith said
that often they were. Mr. Bertino asked how it's determined which upgrades are done through taxes and which are betterment assessments.

Planning Board: Mr. Tole advised a planning board only has the authority to develop a master plan. And that a village could only establish zoning ordinance by approval from the state legislature. Mr. Bertino, Mr. O'Hara. Mr. M. Smith, and Mr. Leblanc were nominated, seconded, and passed to be the board members with Mr. Herlihy representing the board of commissioners. Mr. Tole provided qualifications for Mr. O'Hara and Mr. LeBlanc.

Records Committee: Ms. Patti provided a report (see attached). Ms. Waters asked if she was on the committee. It was reported that she was as required by statute. Ms. Patti recommended that the commissioners make her their delegate on the committee to free them up for other tasks, the commissioners agreed. Ms. Patti provided information about the number of line items of types of records as well as the retention period for those records. Ms. Witt asked the be on the records committee. It was motioned, seconded, and passed.

Post Office (Cluster Box Unit) Committee: Ms. Patti provided a report on the status of the committee's work. Our current mailboxes are not in compliance. Cluster box units required consist of 5 mail boxes and 1 parcel box. Mr. Tole reviewed some CBU vendors. She indicated there will be more info next meeting. She relayed that the northeast regional postal manager sent us a letter stating that we are the only association in a three-state area with an insufficient number of mailboxes. There was discussion as to whether this was a WEA or WEVD responsibility. Ms. Patti indicated that the USPS looks at who owns the land but the committee is still evaluating how it might work but needs to know the IRS guidelines that the WEA BOD is using to evaluate whether CIF can be used. It was recommended that Mr. Ken Michaud join

the committee. Mr. Tole made the motion to that effect, Mr. Herlihy seconded, and the motion passed.

Athletic Court Committee: Mr. Ketchum provided an update on the evaluation process for fixing the athletic courts. Discussion took place around vendors being pursued and short term plans to repair cracks to prevent further damage. Mr. Ketchum indicated that we could hire out crack repair or perform it ourselves and that based on last years outsourced repairs versus the village repairs, our work fared better. Mr. Ketchum proposed assembling a volunteer group to deal with drainage and cutting back trees. Mr. Marks observed that there was $50,000 in non-lapsing funds for the tennis court. Ms. Waters stated that they lapse if not used by the end of 2021, but that $50,000 was not going to do the job. Mr. Bujalski observed that the tennis net posts were in need of repair and that the courts surface should not be repaired without addressing the posts.

Constant Contact: Mr. Tole indicated that the work on the mail list is ongoing with Ms. Canfield. Mr. Herlihy said we need a committee. Mr. Tole said it should be put on the agenda for the next meeting. Mr. C. Smith stated that constant contact is paid for through the recreation revolving fund and as such any decisions about it's use could have implications for the recreation management agreement that the commissioners should consider. Mr. Herlihy indicated that there was a request to Mr. C. Smith to have our meetings broadcast via Zoom or some other means. Mr. M. Smith pointed out that the audio difficulties from the June Zoom meeting constituted a right to know violation per the NHMA handbook. Ms. Waters indicated she had cancelled the contract the village had with Zoom.

Commissioner Chair Vacancy: Mr. Tole indicated that with his business interests, Mr. Herlihy would be a suitable chair. It was motioned, seconded, and passed.

Next Meeting: Mr. Griffith indicated the next meeting would be Saturday, September 26th at 8:00 AM.

Adjournment: Mr. Herlihy motioned to adjourn, Mr. Tole seconded and adjournment passed unanimously at 7:25AM.

Executive Session: The commissioners entered executive session.
Report for WEVD Meeting 09/04/20

The Records Committee met on August 26th. The meeting minutes are posted on Watervillesestates.com under Updates from WEA at bottom of home page as well as Ownership Portal page.

The committee has started work on an action agenda. The first prong is Establishing Consensus on What is a Waterville Estates Village District Record. Toward that end, the Committee has prepared the following description of New Hampshire law.

1.The New Hampshire Constitution reads, in part:

All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them. Government, therefore, should be open, accessible, accountable and responsive. To that end, the public's right of access to governmental proceedings and records shall not be unreasonably restricted.

2.New Hampshire Statute 91-A reads, in part:

Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people.

3.New Hampshire Statutes require the following:

Meetings of public bodies must have proper notice and must create minutes. Public bodies include any legislative body [voters at an Annual or Special Meeting], governing commission of a political subdivision, and any committee or advisory committee (of the Village District).

4.New Hampshire Statutes provide definitions which are helpful:

Governmental records consist of any information created, accepted, or obtained by or on behalf of, any public body in furtherance of its official function whether at a meeting or not. Governmental Records include written communication whether in paper, electronic, or other physical form.

Municipal records consist of all records, reports, minutes, tax records, ledgers, journals, checks, bills, receipts, warrants, payrolls, deeds and any other written or computerized material that may be designated by the Records Board.

5.The statutes which govern record retention by a municipality (Village District) cover 85 separate categories of records. These include easements, dam inspections, budgets, equipment maintenance, contracts, property inventory, job applications, and complaint logs.

It is a challenge for WEVD to capture existing government records and identify the category or categories into which each belongs. WEVD must also develop a system to ensure records created in the future are properly identified and maintained. Finally, WEVD must contract with a vendor to retain municipal records in accordance with New Hampshire Statutes.

The cost of compliance with New Hampshire Right-to-Know Law (RSA Chapter 91-A) and Disposition of Municipal Records (RSA Chapter 33-A) is considered part of the cost of government operations. The New Hampshire legislature has determined the benefits of open government outweigh any inconveniences and costs imposed by the Right-to-Know Law.