Village District of Eastman

Special Meeting January 9, 2013
7:00 PM @ Grantham Town Hall

Meeting Minutes

Present:

VDE: Commissioners: William Sullivan, Robert Fairweather and Duncan Wood. Treasurer David Wright, Assistant Treasurer Bernard Conroy, VDE Manager William Weber, VDE Office Manager Amy Lewis, Moderator David Miller and Clerk Maggie Sullivan.

Appointed Ballot Tabulators: Lorie McClory, Phillip Webber, Charles McCarthy and Mary Lou Schaefer.

Supervisors of the Checklist:
Enfield: Nancy A. White, Robert Foley
Grantham: Sandra and Donald Noordsy
Springfield: Harriet Callaway, Cheryl Wood

Meeting Purpose: To see if the Village District of Eastman will vote to authorize the Commissioners to negotiate and proceed with the acquisition of the Eastman Sewer Company, and to then continue the operations of the Eastman Sewer Company as a newly created separate division of the Village District, with a separate budget for operation.

Moderator David Miller called the meeting to order at 7:15 PM.
Moderator Miller thanked all those attending, and explained the location of Town Hall was chosen by Commissioners in anticipation of large turnout. David thanked the Supervisors of Checklists from Enfield, Grantham and Springfield for being present, and then introduced the three VDE Commissioners and VDE Manager Bill Weber. It was explained that "Roberts Rules of Order" would be used, and that only registered voters in the three towns within the VDE would be eligible to vote on the two articles in the Special Warrant. All voters should have received a set of 2 colored "YES" and "NO" ballots for voting. Moderator Miller noted the Special Warrant had been posted as required, was made available at the VDE Office, and was posted on the Eastman and VDE web sites, as well as copies being available in this room.

The purpose of this special meeting is to see if VDE voters will support transfer of operations, assets and liabilities of the ESC from a wholly owned subsidiary of the ECA to the VDE, which is a municipality. Moderator remarked we are not here to make decisions relative to financial modifications of ESC or specific financing of the sewer improvements. If voters approve the transfer, those issues will be the subject of future meetings and discussions by the VDE. Debate will be limited to the pros and cons of combining into one municipality. It is the VDE's understanding that if Article #1 is defeated, the ESC will begin a request to create a separate and parallel municipality to the existing VDE. If Article #1 is defeated there will be no action on Article #2. Moderator Miller requested comments be kept to the article, and questions be addressed to the moderator.

Moderator Miller detailed the meeting procedure. A Commissioner will move to consider Article #1, Commissioners will each deliver prepared remarks, and then the public will be able to speak. All those wishing to speak will state name and residence, and will be limited to five minutes. No one may speak a second time until all wishing to speak had done so.

At some point someone may "Call the Question" on Article #1, and a 2/3 majority of those present is needed to carry the motion. Voting on Article #1 will proceed, by secret ballot, as the Moderator had received a written request from more than five voters, before the meeting, for a secret ballot. If Article #1 is passed, we will proceed to Article #2. If Article #1 is defeated, then the meeting ends.

Moderator Miller read Article #1: "To see if the Village District of Eastman will vote to authorize the Village District of Eastman Commissioners to negotiate and proceed with the acquisition of the Eastman Sewer Company, inclusive of all assets, liabilities and real property interests, and to then continue operations of the Eastman Sewer Company as a newly created separate division of the Village District, with a separate budget for that operation."

Motion to consider Article #1, Robert Fairweather
2nd, Duncan Wood

Commissioners' statements:

Duncan Wood First, I would like to thank you for coming out tonight to this Special Meeting. I hope you will mark your calendars and join us again on March 21st for our Annual Meeting, when we will vote on the budget for 2013, and depending on the outcome of the vote tonight, more discussion on this topic may continue.

Early last year, the Village District of Eastman was approached by the Eastman Sewer Company and asked if the District would consider taking over the assets and operations of the Sewer Company. This same idea was proposed approximately ten years ago and rejected at that time, but situations and requirements evolve, and renewed fair consideration was appropriate in 2012.

The Commissioners were informed of the challenges and constraints that result from operating under the Public Utility Commission rules. The Commissioners came to accept that transferring the sewer operations to a municipal entity, which is not subject to PUC regulations, made sense. The question was whether to expand the mission of the existing Village District or create a separate new municipal entity to provide the wastewater services.

The Commissioners agreed that before the District initiates the process to acquire the sewer system, the voters of the District should be asked to approve that expansion of our mission and responsibility. Tonight's Special Meeting is for that specific purpose. We are not here to debate the history of the Sewer Company, the proposed solutions to the regulatory requirements, or the merits and basis of those requirements. At this point in time those are the responsibility of the Eastman Sewer Company, a subsidiary of the Eastman Community Association.

If Article 1 is supported by this meeting, the District will start a negotiation and due diligence process that is intended to lead to the acquisition of the Sewer Company on or about July 1, 2013. If Article 1 is defeated, it is our understanding that the Sewer Company will approach the Grantham Selectmen and request that the Selectmen create a second Village District consisting of the properties served by the sewer system.

The Eastman community must move forward to upgrade the existing wastewater system to bring it into compliance with the NHDES discharge permit criteria. The entire community needs the wastewater operation, which serves roughly one-third of our homes, to be functionally viable and adequately funded. Speaking as one of the three Village District Commissioners, I support Article 1. I acknowledge that I changed my position on this issue between July and October of last year as more information became available. Each of my fellow Commissioners will also share with you their thoughts on this same question.

In recent weeks I have been asked whether I think the addition of the sewer system responsibility will be a direct significant benefit to the Village District of Eastman. The simple answer is NO. But I think it is right thing for the Eastman community to do. I believe there will be certain marginal benefits to the District in the future, and I believe the existing District's staff and structure can more efficiently serve the community than a separate parallel municipal entity. I do not think my oath of office as a Commissioner constrains me from voting to incorporate the sewer system responsibility into the Village District's mission.

I have been asked whether a new separate district for sewer services could hire the staff of the Village District on a contract basis to provide various services, such that the two utilities could operate in a coordinated manner, but remain as separate distinct entities. The simple answer is YES. But there are administrative costs that would need to be provided for the second entity, and these in my opinion result in redundant expense. They include the

costs associated with preparation for and holding Annual Meetings, the costs of CPA audits, and legal reviews of warrant articles and other formal paperwork. I also believe there will be legal review costs required to set up a new municipal entity. In an era when many people want less government expense, why create another municipal entity if an existing entity can do the job?

I have worked as a civil engineer for 35 years in the New England market and worked for or with many cities and townships. I am not aware of any other case where a service area as small as Eastman is served by two separate Village Districts, one for water, and one for sewer. In most communities there is one entity that has multiple operating divisions, and the employees and equipment are shared as needed between the divisions. That is the type of arrangement that would be set up if the Village District takes on the responsibilities of the Sewer Company.

I live in a condominium, and thus I am both a customer of the Village District and the Sewer Company. But most likely, the majority of the voters in the room tonight are not sewer users. The primary questions are why should a water user support this article, and will the water users end up paying for a portion of the costs to upgrade the sewer system under the single municipal District approach? In my opinion the integration of the two utility operations will reduce redundancy, provide for easier sharing of staff and equipment, and place the sewer operations within a larger established municipality. The existing District provides a larger group of voters from which to draw citizen volunteers, and a stronger financial footing when approaching lenders.

The sewer users have paid all the sewer system costs for the past 40 years and to the best of my knowledge no one at the Village District or the Sewer Company intends to change that. The water user's opportunity to make sure this funding approach remains the case is at the District's Annual Meetings. The Commissioners will recommend separate water and sewer budgets for each division's revenues, operating expenses, and capital projects. The voters will then consider, amend, and approve the budgets.

If Article #1 is approved tonight, what will happen next? I believe there will be a warrant article at our March 21st meeting for the funding required to purchase the Sewer Company. It is likely to be a very small amount, but we will need voter approval. We will also present a sewer system budget for July through December 2013 that will be contingent upon the completion of the transfer of sewer operations to the District. Thus I encourage all of you to attend the March 21st meeting. In closing, I ask that you support Article #1. I now pass the floor to Commissioner Bill Sullivan.

William E. Sullivan I am the dissenter. The Commissioners' vote was 2 in favor and 1 against the proposed merger. I am the lone dissenter. My reasons are: I have been a Commissioner for the Village District of Eastman for eight years, and it is my sworn oath to represent the best interests of the VDE customers and to provide fair water rates for all customers, and to protect the financial interests of the VDE. The ESC is a "for profit" entity, under the auspices of the PUC, not much profit there, and that is why they want us to take them over. Ninety percent of Eastman does not know of the ECA purchase of the ESC, unless they were on the ECA Board or were a sewer user. I have lived here for fifteen years and the feeling in the community is one of a lack of transparency on the part of the ECA Board.

During the first meeting regarding the possibility of merging the VDE with the ESC, on February 12, 2012, I asked for a comparison of fairness of rates regarding construction and maintenance of septic systems and sewer. According to comparison figures, it would take approximately seventy-five years for sewer user costs to catch up to the funds septic owners expend. I don't think anyone will be here for seventy-five years! The New Hampshire Department of Revenue previously said "no" to the ESC request to merge with the VDE, and said the two could not be operated under the same roof. It is amusing that then the cash strapped ESC hired a lawyer to put a different spin on things. The ESC needs to get out from under the PUC. It is suggested the best route to this is to have 2 separate Village Districts.

Recently a long time Eastman resident, in is eighties, had to replace his septic system to the tune of $18,000. Did he get help from the ECA – no! Everyone out there on septic will face the same thing down the road – they don't last forever. Does anyone know of a lawyer that will give you a rate of two for one? They are on the clock. I see no advantage to this proposed merger.

I am concerned for the hours spent in volunteering to for the VDE. I spend some part of three days each week, at the VDE office, signing payroll, signing liens, etc. That will double with a merger. I don't have that much time and don't know anyone else who has that much time to volunteer. In the long run, if we combined we might end up paying more administrative costs.

There is a disadvantage to the VDE accepting all financial responsibility for a deteriorated sewer system. The VDE is regulated by the New Hampshire department of Revenue Administration, as to what it can borrow. The VDE can borrow up to 1% of the gross value of the entire community, which is about $344 million dollars; therefore we can borrow 3.4 million. Already the VDE has a 2.3 million debt, so this leaves 1.1 million more we could borrow in the future. The ESC debt is $400,000 dollars so that would take our borrowing power down to $700 thousand. Existing engineering plans for the ESC call for a new filter or drip system and the cheapest cost would be $800,000 for the project. This figure would put the VDE over its capacity to borrow funds. If the VDE has any type of catastrophic occurrence or large project going on, we won't be able to fund it. The state would not let us borrow. I am not just thinking of today, but am trying to look after the best financial interests of the water district. I urge you to "no" on the proposal to merge the VDE and ESC.

Robert Fairweather I thank Commissioners Wood and Sullivan for their remarks, and I thank you for coming out tonight for this very important special meeting of the VDE.

I wear four hats in the deliberations over the sewer acquisition. First I own a condominium in East Lake and hence am a sewer customer and pay sewer fees. Second, I own a house in Eastman in which I reside, not serviced by sewer, and it's fun to pay two sets of ECA assessments. Third, I have been a Commissioner of the VDE since 2007 sworn to serve the needs of VDE customers. And fourth, I am a citizen of Eastman, and concerned with the impact of an aging sewer system on our lake and our community. You may recall an incident last summer when raw sewage from a sewer manhole near South Cove overflowed onto the road necessitating temporary suspension of swimming in the lake. This should serve as a warning. In the greater sense, as residents of Eastman, the health of the sewer system is our problem. The sewer system needs to be fixed period!

This needs to be accomplished over the next five to seven years. I feel that the sewer users, even though I am one, should bear the cost for continued operation of the sewer system and for needed sewer capital improvements which are estimated at $1.3M, (as presented in the November Forum), over 5-7 years. If financed wholly by user fees this would result in an increase in sewer fees from $370/year to around $650/year. We are not alone in being customers of an old sewer system. According to an article in the Valley News last year, in 2013 the city of Lebanon is facing "a 5 year plan for water and sewer fee increases. The annual increases - 5% for water and 9% for sewer - would add about $600 per year to the bill of an average 4 person household" in Lebanon.

In Feb 2012, as mentioned, the VDE Commissioners met with the Eastman Sewer Company (ESC) for the first time. In my opinion they made a strong and cogent case for getting out from under PUC control, and possibly "merging" sewer operations into the VDE. The VDE Commissioners had further meetings with ESC representatives and discussion amongst ourselves about a merger. Another option, that of forming a separate village district for sewer operations, was discussed. By either merging with VDE or forming a separate sewer district, long overdue improvements to the sewer system could be made in a timely manner and financed thru a combination of increased sewer user fees, borrowing, and if needed, special assessments only on sewer users. This could not be accomplished under PUC regulations.
The legality of a special assessment on sewer users was questioned by the VDE Commissioners and input from the Department of Revenue Administration (DRA) in Concord was sought. In August, 2012, at ESC expense, ESC representatives and their attorney met with the DRA Director of Municipal Services, the DRA's Counsel, and several other DRA officials. The opinion from that meeting, based on law and precedent, was that "it is legally possible for the VDE to acquire the stock or assets of ESC, to finance capital expenditures through special assessments taxed to sewer customers and to bill sewer customers for operational expenses." So the legal basis exists to be able to open up that sort of financing, we feel, is sound. It was reviewed by the DRA and the ESC.

Following this legal opinion, in October the VDE Commissioners voted: (1) to proceed with further discussions with ESC; (2) to request the ESC to hold a public forum for all ECA residents (held in November); and (3) based on the response to that forum, to hold this special meeting of the VDE tonight. The vote of the Commissioners in October was 2 in favor (Commissioners Wood and Fairweather) and 1 opposed (Commissioner Sullivan). Throughout the VDE Commissioners' deliberations on the sewer acquisition, the meetings have open to the public and minutes of the meetings available to the public. The process has been totally transparent and open.

What is the best way to accomplish a new sewer structure? First, get out from under PUC control. Then, either establish a separate municipal sewer district, or merge sewer with VDE. What are the pros and cons of a merger with VDE? Here's how I view them:

PROS:
1. VDE is an established municipal entity (since 1981) and has served our customers in Grantham, Enfield, and Springfield. Incorporation of sewer operations would have the support of our administrative and billing structures, to make an easier transit. The Commissioners would appoint a voluntary sewer advisory board to oversee sewer operations, report to the VDE Commissioners, and recommend a sewer budget.
2. There would be savings of a merged municipality over a separate sewer district, as enumerated by Commissioner Wood. These savings could ease the financial burden on sewer users under a merged district. {est. $10,000/yr} Depending on how you add up the various costs of legal fees, meetings, etc., it could amount to one audit instead of 2. Parallel nature of 2 districts does have some costs associated and would have to be borne by sewer users.
3. The debt limit of the VDE under DRA rules is 1% of the assessed valuation of properties in the district which, in the latest valuation by DRA, is approximately $3.44M. The current debt of the VDE is $2.25M. Thus, the reserve borrowing power of the VDE is $1.2M that the VDE can use. What would be the borrowing power of a separate municipality? This is likely more than 1% of the assessed valuation of sewer user properties under a separate municipality. Since there are fewer sewer customers and most sewer users are condos the DRA debt limit on a separate sewer municipal district would be around $500,000 to $600,000. In addition, commercial lending rates and special state and federal loans for a merged municipal district would be more favorable than separate districts. The VDE enjoys a very good relationship with our banks, and has ability to get funds.

CONS:
1. VDE has run well for over thirty years, and we cannot fully anticipate all possible detrimental effects on water operations of a merged district. That being said, expenses, revenues, field operations and capital funds of water and sewer operation would be kept separate.
2. There might be difficulty in finding sufficient volunteers for a sewer advisory board, which could make the job of a Commissioner of a merged district more difficult.
3. The use of the reserve borrowing power of the VDE for sewer, of 1.2 million, capital debt could jeopardize future needs of the VDE for water capital projects. There is a mechanism at DRA for emergency needs for loans, so the 1% limit can be exceeded.

The vote tonight on Warrant Article #1 is non-binding and allows the Commissioners the ability to perform due diligence, anticipate problems, and devise a final acquisition plan with acquisition coming perhaps six months or more in the future, if all conditions are met. So the vote tonight is not to acquire the ESC, but to allow us in a non-binding way to pursue the issue. If we find problems we will act in the best interests of the VDE and in your best interests.

In closing, I am in favor of a merged district. I welcome your views and input on this question.

Moderator Miller opened discussion to the floor. He asked people to come forward and use the microphone in the front. After everyone who wishes to speak has had a chance to do so, we will go to a second round, if needed. Moderator asked people to raise their hands and be recognized.

Robert Lagassa, Eastman
See Exhibit #1

Michael Lorrey, Enfield I am looking at this and asking what is the worst case scenario if the VDE takes over the ESC, and given the trying economic times we are in, I've noticed a lot of contractors defaulted on their projects. One happened just a few years ago in the Lebanon-Hanover area, and was a large expense. What would happen if the VDE took over the ESC and went forward with planned improvements and the contractor defaulted on things? Then we could wind up in a situation, I am not a lawyer, maybe someone is and could correct me on this if I'm wrong but it seems to me that would put us in a situation where you'd have all the sewer users turning around and suing the VDE and the rest of us for this of default. And that is a big liability that is not even mentioned.

Moderator Miller What is your question or are you making a statement?

Michael Lorrey I just wanted to make a statement and ask if anyone has considered that situation.

Response, Commissioner Fairweather There is a mechanism by which if you are doing improvements, any contractor is bonded. They have to post bond that would cover defaults. That is the way it's taken care of. I'm not a lawyer either but our District Manager is familiar with this, and I think that is the answer.

John Zentis, Grantham This is kind of personal for me I put in my "sewer system" at the time that Eastman put in its sewer. You may say septic system, but it's a sewer. And things change. My situation changed twice. It changed when the house next to me was built and my water table changed, therefore my water table came up. Also, rules changed. If I want to sell my house, I want my sewer right, and it is not adequate for my house, according to New Hampshire's changed rules. Therefore, I had to replace my "sewer system". I am totally responsible for this. The way I feel, if the present sewer system, after we take it over, if it fails, all of us in Eastman right now, are responsible for that, because we cosigned the loans that they have now. Is that right?

Response, Commissioner Fairweather ECA owns it wholly.

John Zentis WE own it! And it's just like a college loan. If you kid defaults on a college loan, you still have to pay it. I want to know, in purchasing the sewer system, how are we immune for this responsibility, as the 60 % of us are going to support the other 40% of us? How is that? And the other thing, and its common too, if they go separately, and there's what, 400, and most of them don't live here, well just declare them as college students. They can vote anyway. Vote NO on article #1.
If the VDE takes over the ESC, and the sewer has problems, we all "own it". How are 60% going to support 40%. Most sewer users are not residents. Vote "NO" on Article #1.

Phillip Schaefer, Grantham
See Exhibit #2

Response, Commissioner Wood I believe I need to respond to that direct question. As I stated in my opening remarks, my position has changed, as I looked into this more and more. And I believe that, first of all you have to understand that in most municipalities there are multiple ways to pay potential sewer costs. Different tools are used. It depends on whether you think the added value of having a sewer is proportional in some way to the assessed value of the property, or the value of having a sewer is equal for all properties. If you think the added value varies with the market value of the property then some sort of taxation makes sense. Do you think being connected to the sewer should cost exactly the same cost for someone who is a 2 bedroom condominium occupant 4 weeks a year, when compared to a 4 bedroom house that is occupied 52 weeks a year. Should it simply be a flat fee or a flat fee and then a water usage fee for the first 1000 gallons, just to use a round figure, then go up incrementally based on water use? So, we don't have an answer at this juncture. I'm not on the Sewer Committee at this point. We don't have an answer exactly what the combination of funding will be, but in my belief the sewer operations the VDE is still the best long-range plan.
Now, why did I change my mind? Because the question at that time was whether we should have our Annual Meeting set tax rates for sewer users. I said o.k., that means that a water user living at North Cove could potentially set the tax rate per sewer user, which I did not think was fair.
At this point in time, my response is, the sewer users can come to our Annual Meeting and it would have to be enough, if the sewer users felt they were being mistreated and unfairly taken advantage of by the water users,

and all the sewer users showed up, and I just learned there are 180 of them, I think that the water users would probably listen to them. And I decided that the nature of our Annual Meeting process would solve this possible problem, and I was making too much of it.

Robert Mahoney, Grantham I'm very concerned about all the details as we go along here, and yes the commissioners understand what's happening, but the large majority of residents do not understand the details. I think what we need to understand, might be what has been happening is that the Sewer Company, originally owned by the Hanslins, and owned the last ten years by ECA, has been severely neglected. There has been no maintenance, no management, and it works, but that is good luck. And now we are being asked to assume that responsibility. I just think that is not the consensus of the group. We can talk about the details, the finances, but I think that is not the consensus of the group. I believe you said at one point, when you feel its ready, you can call for a vote. I would like to do that.

Motion: Robert Mahoney " Move to Call the Question"
2nd, Kevin Cheever
Vote to "Call the Question."

Moderator Miller Announced that a 2/3 majority of those present and authorized to vote is needed for the motion to carry. Ballot counters totaled the number of standees.
Moderator Miller announced the results of the vote.
"YES" 138 votes
"NO" 66 votes.
Total 204 votes. 67.64 % affirmative, which is greater than 2/3. The motion to "Call the Question is carried. There is no further debate on the issue. "

Moderator Miller clarified procedure on the upcoming vote by reading aloud Article #1. He further clarified that a "YES" vote means acceptance of the merger, and a "NO" vote means defeat of the merger. A simple majority is needed to article to carry Article 1. The blue "YES" or "NO" paper ballots were cast and placed into 3 locked voting boxes. Ballot Counters adjourned to the kitchen to count the votes.
Results of the vote on Article #1:
"YES" 110
" NO" 99
Total of 209 votes cast. Moderator Miller announced the result; "The vote for Article #1 is affirmative, therefore it is carried and so ordered".

Moderator Miller announced we would now turn to Article #2, and proceeded to read aloud Article #2.

Article 2 "To see if the Village District of Eastman voters will adopt New Hampshire Revised Statutes Annotated 149-1 in its entirety." (A majority vote is required.)
Motion - Commissioner Fairweather "I move we adopt Article #2"
2nd Commissioner Wood.

Commissioner Fairweather addressed Article #2
Currently the Commissioners are not authorized to acquire "real estate interests." To proceed with this acquisition, the VDE voters need to authorize acceptance of this statute. It is a long statute. There are copies of it in the back of this room and it has been posted on our website. Our District Manager, Bill Weber is an attorney and has been invaluable to us. Maybe Bill can help us understand this.

Moderator Miller asked if it was acceptable for Manager Weber to explain Article #2 149-4 to the gathering. The response was a unanimous "YES."

VDE Manager William Weber gave the Article #2 Summary. RSA #149-I is long and convoluted. It amounts to that it authorizes village districts, towns, incorporated municipalities and cities to take over storm water systems, sewer systems, etc. As Commissioner Fairweather said, a lot of the statute does not pertain to what is occurring here. What is transpiring here relates to section 149-I-4, etc. Section 149-1-4 is projected on the screen at the front of this meeting hall. Mayors and Aldermen are synonymous with Selectmen and Village District

Commissioners, so the law applies for Commissioners if you adopt the statute. The second portion regards the application of its permission Commissioners have the same power as Selectmen would have in a comparable situation. That is the basic version. The remainder of the statute goes into duties, etc. Most of it is not pertinent and deals with storm water systems, etc.

Commissioner Fairweather I will ask two questions. 1. Please confirm that we asked our attorney if we could adopt this one section only, and that is not possible. The entire statute needs to be adopted by the Village District. Question #2, What are the "real estate interests" that we may acquire? Perhaps Manager Weber could respond to this. I understand there are no real estate and/or properties that would be acquired, but it is the leases under which the ESC leases the land from ECA, correct?

VDE Manager Weber That is correct. The statute allows Commissioners to enter into agreements that would have "real estate interests." This is not a "deed simple" transaction. We don't buy a deed. There is no land involved with this, it would be Eastman's rights of way, for sewer pipes in the road, for pump stations on the land. Legally these are considered "Interest in real estate." The only hang up is it's not a "deed simple" transfer. So, Commissioner Fairweather is correct.

Moderator Miller asked if there were any further queries from Commissioners before we open to the floor.

Commissioner Fairweather This is an enabling adoption of a statute that allows us to proceed. You cannot operate the ESC without being able to negotiate a lease of the lands on which the sewer sits. This will enable the VDE Commissioners to enter into those negotiations. Then they will acquire the ability to run the sewer. If we didn't have this authority we would have no way to negotiate with the current holder of the property on which the facilities sit.

Commissioner Wood The stated warrant article could have been deferred to March, but in my mind it is a housekeeping matter we need to complete. We still will have to vote, in March, on whatever amount of money is proposed, to go forward with the actual purchase. Now, based on this vote, we could move the process forward. Our legal counsel advised, if we are going to do this, you need to accept the entire statute.

Comments from the floor

Kevin Toombs, Eastman What are the ramifications if this ends in a "NO" vote tonight?

Response, Commissioner Wood We would have to do a better job of getting voters to pass it in the future. If this does not pass then we are in a conundrum.

Larry Schulman, Burpee Hill We all need to express our thanks to the Commissioners and staff for the hard work they have done on behalf our community (a round of applause from the floor ensued).

Gail Schmidt, Anderson Pond Road What's at stake, potentially, for all residents of the community? That is to say the lake is the most important asset the community has. If the sewer system is not well managed, and there are indications there are deficiencies there, or if we were to change how that is managed, and operate separately, would we need volunteers or would we pay some one, whatever. The VDE is responsibly run, and as a property owner I would feel quite comfortable leaving the decisions about sewer system to them.

Randy Britton, Greensward Quick technical question for you. This authorization allows you to get the property for the sewer system. Does this authorize you for future things, say if the sewer system were to be extended to the Heath property, for example, would you require another vote like this in the future or does this authorize future acquisitions?

Response, Commissioner Wood When the sewer organization under the VDE happens, and goes forward toward a solution of the current regulatory problem, there will be a meeting. We will be voting on a plan that will be laid out and describes exactly what the plan is. That is when we need to get the authorization to put something on the Heath land. What this statute allows us to do is in a generic way, to take real estate interests,

which are basically leases, leases on the existing properties. Or if what was put forth at the Forum in November, if the ECA or whoever bought the alternate site, and we chose to use that site, we would then need to lease a portion of that site for a disposal specifically. So this Article provides the ability to enter into leases. Right now, as we understand it, the VDE does not have that authority. We need that authority if you want to go forward with this idea. This statute is what the state uses to give these certain authorities to Selectmen or City Commissioners or whoever.

Commissioner Fairweather I believe the Town of Grantham, like most towns, has the right to buy real estate, so that property that is bought and sold I done so under the statute.

Michael Lorrey, Eastman Perusing this RSA, seeing this also authorizes storm water utilities, is this something that, and it mentions authorizing approval by majority vote of the legislative body in the municipality. Would that be you folks or us?

Response, Manager Weber You are the legislative body. They are the government.

Michael Lorrey O.K., now, second question, relates to last year, with entering without permit, any person who digs or breaks up the ground in any street, highway, lane or alley in any city for the purpose of laying or altering any main drain for storm water treatment plants, etc., etc., etc., shall be guilty of a violation. We're not laid out like a city, we're a very wild area, and a lot of us have a lot of water around our property. Is this something where, if we're dealing with a water issue on our own property, we will be charged with a violation?

Manager Weber "NO"

Bob Logan, Burpee Hill On the point we're now discussing seeing we ought to get a legal opinion to understand exactly what the powers are that we're being asked to give the Commissioners, and I ask that be done before a vote. I don't think it appropriate we be ad-libbing this and giving opinions. Legal opinions are appropriate for something such as this, that we are being asked to vote on here. I also think it premature, we do not have, I've not seen anything on what the due diligence process is going to be. I'm not sure how we're going to evaluate the situation, how we're going to appraise the situation, and given that, it seems to be enabling people to have some power that they may utilize, depending on the interpretation, in a way that it isn't intended and would not be in the best interest of the community or the VDE. So obviously I am opposed to this, and I am very concerned that we don't have a time line for a due diligence process in our possession. What's going to be done in order to make this decision about two months from now, because in my experience due diligence is usually 90 days or more, sometimes 180. And I'm seeing what appears to be a very rapid process and no information. To me it would be irresponsible to even do the process. So I guess the question is are we rushing to make a decision without knowing the details? It doesn't seem like we have enough detailed information.

Response, Commissioner Wood My response on the legal opinion – It was the District's Attorney who, when we asked what steps to take and go through, for this possible acquisition of the Sewer Company, told us that we needed to adopt this statute. I consider this, myself, that that is the opinion. The opinion was, if you're going to do this you need to adopt the statute.

Commissioner Fairweather In the interest of the VDE members, we did not feel at this stage in our deliberations that we wanted to spend what we view as an excessive amount of money on legal opinions, entering into this. We did inquire, and we were told we needed to adopt the entire statute, not just section 149-1-4, and that the entire statute was lengthy. But we felt that since we were looking to control expenditures, that we would not go further, and ask for detailed information, ask our attorney to speak at the Meeting. So I think that was done in the spirit of keeping costs down, of something that may not go very far. That was our reasoning.

Robert Logan I understand the logic, but I think there's too much liability here, I like to save money just like the next person. On the other hand, I don't like to set myself up from suspected results, and in this case if we're empowering you with broad sweeping powers, I think that would be very inappropriate, and that may not be

the intent. I think the way the question was answered was specific to enabling you to purchase the sewer company, which is a very specific activity. What I'm asking is that's much broader ramifications than that specific activity. In that case the legal ramifications are quite substantial to the community, and saving one thousand or two thousand dollars seems to me like the wrong thing to do.

Robert Lagassa My concern about this power you are seeking, it would provide, in perpetuity to execute all of this article 149 – I 4, which means down the line we have one of the options, which was a fix with the irrigation system which would look for a suitable site or the Heath property. Or, on the drawing of the Underwood Study, shows current private property owned, actually outside the District of Eastman, adjacent to Bog Brook, that is privately owned. So it would seem that you could then have the power without further voting or approval, to negotiate and purchase that.

Commissioner Wood We can't spend one thin dime without this legislative body giving us a budget, it is that simple! I mean we can't vote money here tonight because it's a Special Meeting without a court order. We can only vote money at the Annual Meeting on March 21, 2013, unless we get a judge to allow us to have a Special Meeting for money and such.

Commissioner Fairweather A little anecdote – how many of you, when you go on line and accept terms of an agreement, how many of you read everything that you just signed away? So I think there is a common sense issue here, if it makes sense to you now, vote in favor. If it does not make sense to you now, vote against it. But I think we will have to come back in two months at our Annual Meeting, if its voted down, and have an attorney here and check the box to accept the terms. Lets be reasonable about this. If you want to control every last thing vote no, but I urge you to vote yes.

Motion, Russell Clark, Eastman "Move to Call the Question."
2nd, Morris McInnes
A vote by voice, of AYE or NO was taken.
Results of voice vote was declared by Moderator Miller "The Ayes have it", the motion to move the question is carried."

Moderator Miller then reread Article #2 for clarity. "To see if the Village District of Eastman voters will adopt New Hampshire Revised Statutes Annotated 149-I. A simple majority is needed to carry Article #2."
Ballot Counters collected the pink "YES" or "NO" votes into the locked metal boxes, and proceeded to the kitchen to count the votes.
Result of voting on Article #2, announced by Moderator Miller:
YES – 106
NO – 54
TOTAL votes cast 160.
Moderator Miller declared " Article #2 is carried and so ordered"
Motion, John Zentis "I move we adjourn this meeting"
2nd Commissioner Bill Sullivan

The meeting was adjourned at 9:20 PM.

Respectfully submitted,

Margaret E. Sullivan
Clerk, Village District of Eastman 2.21.13

William E. Sullivan 2/21/13
2/21/13
Simon W Ward 2/21/13