

Minutes of Meeting of the Board of Trustees of
Village of West Hampton Dunes
August 18, 2007
914 Dune Road, West Hampton Dunes, NY

Present: Mayor, Vegliante, Laura Dalessandro, Village Clerk, Trustees, Bob Strecker, Charlie Brown, Gary Trimarchi & George Asem, Aram Terchunian, Commissioner of Wildlife Protection, Village Attorney's Joe Prokop & John O'Connell, Chief, Don Zlatniski, Officer Hennig, about 35 residents

Mayor opens meeting: 9:35 a.m.

John O'Connell, Attorney for the Oceanfront Litigation for the Village, explains the litigation from the beginning.

He explains how the original class was certified with all of the oceanfront homeowners and that as part of the agreement the federal government would restore and maintain the beach for 30 years.

- In the Spring of 1995, all of the paperwork was signed, sealed and delivered and the state and the county was to have it recorded with the county clerk's office against all of the oceanfront properties.
- In September of 1995, the project started.
- August, 2003, paperwork was recorded with the County Clerk.
- None of the oceanfront owners other than those who owned as of the date of the settlement, are bound by the terms of the settlement agreement.
- By the property owner owing to the high water mark of the Atlantic Ocean, the United States cannot put sand on that beach because it is private property. Because the paperwork was not filed timely, all of the ocean front owners who acquired title prior to August, 2003, now own to the high water line. They have acquired the property free and clear of any of the restrictions of the settlement agreement and own to the high water line, which poses an enormous problem now to getting the re-nourishment of the beach.
- Village demanded a meeting with all of the agencies involved.
- Possibility of re-certifying the class on both the ocean and bay front residents.
- All of the homeowners would have to agree to re-certify the class. If there are any homeowners who chose to "opt out" of the class recertification, the Village would then have to consider condemning easements on those properties.
- In order for the village to continue with the re-nourishing in 2008, this problem needs to be solved within this calendar year, by the end of 2007.
- Possible provision for an easement to Village for the sole purpose of continuing project for as long as the project is ongoing.
- Include in negotiations with Federal, State and County Agencies releases of liability co-extensive with the length of the project. If in fact they don't continue the project beyond the 20 years that is currently in the agreement, then people who own the property at that time, can re-institute the litigation to force a longer term for re-nourishment.

- If erosion problem re-asserts itself somewhere down the line, which it inevitably will, property values will go down. What would be the value of the properties if there were no re-nourishment project.
- It has been expressed to Mr. O’Connell by some of the current residents that they would like to see in any revised document, no general releases by any current new owners, as well as old owners who still currently own the property, of the Army Corps of Engineers, or the State or the County.
- By the property remaining privately owned, the FWLS will also be affected. They will not be able to string fence because it is not public land. They would have to get permission from each and every property owner in order to put the string fencing on that property. Therefore, there will definitely be an issue in the negotiations in to how to handle endangered and threatened species. In the past, the FWLS have taken advantage of the original agreement, and put string fencing virtually everywhere on the beach, regardless of where they found nests previously. The Village will be working to negotiate more discretion as to where the string fencing will be allowed.
- Mr. O’Connell encourages anyone who would like to read the proposed draft, to please do so. He encourages everyone to let him know if they do not like something in the draft. The draft proposal was put together to reflect a fair way to resolve this problem. It was sent to the County in the beginning of June, 2007 and have yet to be responded to.
- They are going to want ownership back.
- They are going to want general releases from each property owner that no one can ever sue them. The last group of property owners agreed to this.
- They are going to want to do as they need with regards to endangered species.
- A lawsuit had to be filed to get everyone’s attention. We have given them a drop-dead date of September 17, 2007.
- A “Class” means that the Village is suing on its own behalf and on behalf of all other people who are similarly situated, all of the property owners, that will be certified for settlement purposes. All those in the class will be getting the tax roles, any agreements that have been worked out between the Village, the Federal, State and County Agencies. If you like it, do nothing, if you do not like it you would “opt out”. If you do not like it, but want to stay in, you would show up at a hearing and tell the judge why it is an unfair resolution to the matter.
- If there are ten people on the ocean that opt out, there are a few ways for this to be handled. The Village can condemn an easement on those properties, so that the project can go forward.
- Albany Trip – Met with Army Corps of Engineers. Army Corps has recognized from a recent visit this past spring, that our beach is in better shape and at a higher level than anticipated originally in the settlement.
- Financing for the litigation. We are up to what we budgeted for the litigation. Village is going to need a possible a Budget Note or a Tax Anticipation Note for both litigation matters.
- September meeting possible resolution to Bond for the legal fees.

- Village is still working on the \$550k that is owed to the Village for the relocation of the houses in the village.
- Engineers report was completed for putting the Lipa poles underground. Would like to look into getting other pricing on putting all of the utility poles underground.
- Suffolk County owned - abandon house at 794 Dune Road – Engineers Report done, basically ready to collapse. Very unsteady. SC looking into knocking it down and leaving the platform as a bird watching area.
- With the efforts of Claire Tevere-Vegliante, the Village Treasurer and Joe Prokop, our Village Attorney, we now have a new landmark regarding the title “Police Constable”. It’s the 1st in Suffolk County.
- Walkway Law Discussion – Old Law was maximum height 18” in the Coastal Erosion Hazard Zone, without a rail. The Law has now changed to a maximum height of 30” high, without a rail. This creates a problem on the bay side. Currently, anyone who got a permit can build with rails on the bayside. The new law would be to maintain the elevation of 18” above grade, but not higher than 30”, without railings. However, there are sections that the DEC is the regulatory agent. They don’t want it lower than 34” and it must have a rail. The new law will include were any other regulatory agency has jurisdiction, we will comply with those regulations. Also, the walkway needs to be set back at least 25’ from Dune Road.
- Discussion of a party law and rental law. The owner of the house is responsible for violations, even it is rented.

Resolution to submit all submitted and audited vouchers to be paid:

Motion by	Trustee Strecker
Seconded	Trustee Brown
All in favor	Unanimous
All opposed	None

Resolution to approve minutes from last months meeting:

Motion by	Trustee Brown
Seconded	Trustee Strecker
All in favor	Unanimous
All opposed	None

Motion to close meeting: 12:15 p.m.