

**Town of Washington
Board of Selectmen**

Meeting Minutes

Dec. 9, 2023, Ashuelot Pond Dam Village District (APDVD) Expansion Public Hearing at 1:00 pm at Camp Morgan

Selectmen: Don Revane (Board Chair), Gary Kendall, and Allan Dube

Visitors:

APDVD Commissioners: Gary Carney (Head Commissioner), Gary Mahaffy, Rich Andrusiak

Treasurer: Peggy Carney

Clerk: Alisa Andrusiak

Bob Carter - NH Dams

Jim Weber – NH Dept. of Environmental Services, Dam Bureau

Town Moderator: Guy Eaton

Meeting called to order 1:03 pm

Introduction of the commissioners and selectmen

Overview of meeting agenda

Limit speaking to 3 minutes per person

Q: Question | **A:** Answer | **C:** Comment | **R:** Response

Q: Are we limited to questions we can ask?

A: No, but the Moderator will limit the redundancy.

Chariman Revane – Provided an overview of why the public hearing was called. Ashuelot Pond Dam Village District (APDVD) met criteria for and presented a petition for district expansion. This hearing allows people to ask questions. Explained that a decision will not be made today. The decision is 100% on the board of selectmen, and they are here to listen to all sides. We will not let it go into effect until deficiencies are up to date. Whether you should pay maintenance on a dam that you live on a body of water.

Gary Kendall – Explained the decision will not be based on history and will be based on facts. Stated that any questions going to the state are irrelevant, this is a town issue.

Lucian Bean – 68 Ashuelot Acres Rd. resident of Langdon, NH.

Q: What is the timeline of the redistricting approval?

A: No sooner than 45 days. There may need to be another public hearing.

Gary Carney – Explained that a petition was submitted to expand the boundaries to bring the dam into compliance with state safety standards and conditions outlined in letters of deficiency (LoD) sent by the NH Dept. of Environmental Services in 2012 and 2022. The petition was

based upon: a) financial hardship due to the current and future upkeep of dam maintenance, warranting an expansion of the district to those properties benefiting from the dam, b) non-APDVD members with water rights to Ashuelot Pond enjoy financial benefits that would not otherwise exist if the dam were to be removed, c) non-APDVD members with water access rights to Ashuelot Pond enjoy recreational benefits that would not otherwise exist if the dam were to be removed, and d) this also includes properties, in the floodplain, that are protected by the dam. The LoDs require that by August 1st, 2024, a submission of an application for the reconstruction or removal of the dam consistent with the findings and recommendations from an engineering analysis and approval from NHDES.

Jim Weber – Explained that currently, the APDVD is in compliance with the letter of deficiency. Next steps: Other work (an application for reconstruction or removal of the dam consistent with the findings and recommendations of the APDVDs engineering consultant) needs to be contracted out and completed in a year or more.

Mike Denofrio - 154 Ashuelot Pond

Q: Are you from the state?

A: Dept. of Environmental Services Dam Bureau

Bob C. – Explained the issues with the dam and other issues that were uncovered during inspection. The dam did not pass inspection and was upgraded to high hazard dam. It does not meet capacity for 2 and a half times the 100-year event. Options are to do overtopping protection. Prior to doing that there were issues with sink holes, and they had to confirm the gatehouse was structurally sound. To do that they needed to install a temporary gate. That happened this past fall. They found no issues with the gatehouse. Next, we need to survey dam/spillways and area to right next to boat launch. Additionally, we need to update the emergency action plan to notify downstream folks if there is a problem, it's a local issue. Goal is to put in overtopping protection so there is no damage to the structure of the dam itself so it doesn't erode and things stay in place. Once finished, a pedestrian bridge can be added to the near spillway so people can cross safely.

MaryAnn Turner - 419 Marlow Rd.

Q1: Which address should we use?

A: Your town address.

Q2: What company do you work for?

A (Bob): NH Dams

Q3: You talked about the deterioration of existing boards

A: Yes, the report for the boards.

Peggy Carney – Provided the APDVD with overview of the Treasurer's report. She has been Treasurer since the present dam project began. She referred to the number of owners and properties on the map. She also stated that the map was on the website. Presently APDVD has 530 acres with 356 properties, and 322 owners. Value is \$89,000,000. The proposed addition is 994 acres, consisting of 129 properties, with 72 owners. Value \$16,900,000. Based on new

evaluations from this year. Many of the proposed properties are in current use. Handouts containing the historical record of what we have spent on the dam to date were distributed at sign-in. As of 12/8/23, we have spent \$87,360 for work on gate. An actuator is being built with an estimated additional cost of <\$10,000. The original estimate for the entire project, 5 years ago, was \$92,000. Last year, at this time, a new estimate of \$200,00 to \$250,000 was given to us. To date, \$192,160 has been spent to make repairs. Our capital reserve fund has been slowly depleted to pay for repairs. There is now \$13,914 left in capital reserve, checking has \$10,032, and the donation trust account has \$6,495. Donations have come from present APDVD members, the church camp, and a woman who used to come here as child. Ray Britton purchased and donated the bridge to go over the spillway. Normal expenses are dam registration fee with the state, liability insurance, Post Office Box, printing, postage, etc. We continue to look for grants. FEMA came out the other day. They will give out 1 for the state, but we will apply. I follow the Grant Watch webpage website but don't meet criteria for any to date. Anything will help.

James Mann - 569 Marlow Rd

Q: How much is dam insurance per year?

A: Last year it was just under \$2,000

Tom Cross – 15 Huntley Mountain Rd.

Q: Is the religious group required to go into the district?

A: Yes, they are.

MaryAnn Turner - 419 Marlow Rd.

Q1: What is the amount of the donations? Did the town give funding?

A: Only town funding is from collected taxes from APDVD members. Roughly \$10,000 and a bridge have been donated.

Q2: I'm assuming he donated a ROW of some sort?

A: He said he will donate the bridge; we are waiting for future plans. APDVD has not officially accepted.

Lucian Bean – 68 Ashuelot Acres Rd. resident of Langdon, NH

Q: What was the date you used to come up with the values?

A: The new tax assessments were obtained from the town and used to create the values. Yes, based on current values. Everything is in the letter that was mailed.

Rich Andrusiak

C: Provided an overview of the letter you received. The tax rate per \$1000 of assessed value for a \$140,000 budget, like this previous year, based upon the proposed expansion, would be about \$1.32. Whereas, the rate per \$1000 of assessed value for a potential future budget ask of \$60,000 would be about \$0.57. You can apply these rates to your individual circumstances, but the average property value of the 129 proposed new properties at a total assessment of \$16.9 million amounts to about \$131,000 which equates to an average ask of about \$75 on an annual tax bill for a year with a budget of \$60,000.

Lucian Bean – 68 Ashuelot Acres Rd. resident of Langdon, NH

C: Your basing this off of assessed values. My numbers don't match yours. In APA we created our own list taking the lots that you show in the new proposal, the church, dam, other properties owned by the town etc... There were tax map numbers we couldn't find that were on your list.

A (Rich A.): You would need to specify which numbers. We used the online town municipal tax map which show all the values. Its easy to miss properties if you don't zoom in close enough.

Lucian Bean

C: Sullivan county has a grant writer

Q3: You are required to produce an annual report, was it presented to the selectmen referencing financial hardship?

A (Selectmen): Yes, we received it.

Tom Cross - 15 Huntley Mountain Rd.

Q1: Is the religious group tax exempt?

A: Yes, as of now. They are included with the same criteria. If the property is sold, it could become taxable.

Q2: Is the dam tax exempt?

A: Yes. All information is on the website.

MaryAnn Turner - 419 Marlow Rd.

Q1: Can you elaborate on reserve funds? How much money is planned for maintenance of this dam?

A: Annual maintenance can vary \$3,000-\$5,000. The money comes out of taxes taken each year. Money is placed in the reserve fund annually.

Q2: How much money has APDVD district been collecting? What has this group put aside other than the \$192,000 for repairs that have been spent, leaving \$13,000?

A: Since I have been treasurer, traditionally they have put in \$10,000 per year into the capital reserve account.

Q3: Do you think it started in 2007? Do you have old reports?

A: I can look.

Q4: Can we meet offsite to go through that info?

A: If I can find it.

Lucian Bean – 68 Ashuelot Acres Rd. resident of Langdon, NH.

Q1: Was the capital reserve fund established by the warrant article?

A (Gary C.): I don't know I wasn't here at that time

R (Treasurer): Reserve is created through the trustees of the trust fund. It was voted at meeting that we would do that.

R (Rich Andrusiak): Warrant articles are approved by the NH Dept. of Revenue. You could contact them for historical articles.

Q2: Is the capital reserve account specific to repair and maintenance? Not included in regular budget for maintenance, insurance etc...?

A: The donation account is for the dam, the other account was established before our time.

R (Selectmen): AVDVD does not control the warrant articles

Q3: What is the advice?

A: It is established. It had to be approved by DRA so same standards need to be followed. Selectmen would give same advice.

A: Since I've been treasurer only repairs have been taken from the reserve account.

A (Selectmen): Trustees hold the fund. There is a set of checks and balances to release fund

John Balliro - Presidential Drive

Q: The church is exempt, and they contributed?

A: Yes, and yes, they contributed.

John Rankin - 52 Lincoln

Q: For Jim at DES: There are still deficiencies but we're in compliance, what happens if we're no longer in compliance and we don't have the money for the repairs?

A: If not met, there a process to adjust the timeline if there is a rational reason. Lack of money is not a reason not to comply. We would move to order to force you to comply. We rarely go through placing a fine, we try and work with owners, and avoid fines. We are reasonable and try to be flexible with dates.

C: It feels like the other side is blaming current board and I want to thank them for doing a great job

MaryAnn Turner - 419 Marlow Rd.

Q1: Was your CIP account considered a separate tax? Did you tax members a separate CIP? And did you projects for plan?

A (Treasurer): We work w/dept of revenue, we proposed warrants, then goes to dept of revenue, we work back and forth about plan for maintenance, payroll (none have taken a cent since we took jobs), insurance, NH municipal are different line items, then add, then separate item for cap reserve, this yr. in July we voted to add 100k which increased taxes.

Q2: Are you saying you had to have separate tax to APDVD group?

A: It's not a separate tax, if you combine the total amount, present APDVD people, divided up is \$132,000

Q3: Was this the first year that you put money aside and assessed your people?

A: No

Q4: Why haven't you had CIC money in the past? If so, where is it?

A: We did and it was used over the year, refer to your handout, that money was used to pay for work on the dam which came from capital reserve.

C: I'm surprised that the commission doesn't have access, the fact that you're in a funding problem sounds self-afflicting.

Bob Thompson – Harrison Rd.

C: I was one of the commissioners for the dam. All information is filed with state every year. Warrant is voted on, then goes to state, tax from state, it includes the capital reserve. In 2005, remember the floods? Then, 2007 flood, after that we increased reserve fund, I stopped involvement with the district in 2009, my memory goes back to what was done, I've seen the reserve fund grow... Submit an MS35 which will detail everything.

Deb Ribose – Ashuelot Dr.

C: All we're discussing is what's going on in past.

Elaine Kay – Van Buren Circ.

Q: People attending from other side, why do you feel like you aren't responsible for any of the fees?

Tom Cross - 15 Huntley Mountain Rd.

Q1: Mr. Weber, you're saying APDVD is doing what they can at best at this point and you try to work with people, correct?

A (Jim): Yes, they have met the criteria.

Q2: Will you issue letter of deficiency in Aug. 2024?

A: Not if they meet the criteria.

Deb Ribose – Ashuelot Dr.

Q: How likely is it to have to shut down the dam?

A (Jim): Not sure what's going to happen but no reason to think they can't make the deadline. If they had good reason, we would work with them. Not having enough money is not an excuse. We want public safety to be met.

Chairman Revane

Q: To APDVD, how much per year do you collect now from taxes and how much of that is for yearly maintenance, and how much goes into capital reserve for future? After adding to the district, what will be the new amount? The cost of everything has gone up. How are these additional funds going to be spent? Is there a cost from the contractor on the average cost to maintain the dam? Is it adequate? Please explain.

A: Two years can be pulled. In 2018 prior to improvements other than general maintenance, \$12,000 but dam \$5200. 2021, covid total expenses were \$7,000 and dam was \$3600.

A: Additional information is on our website showing both total expenses and dam expenses and the ratio of these expenses from 2018 until 2022. The average ratio of dam expenses to total expenses over that time period was about 0.61. In 2022 that rose to about 0.94. We can do regression analysis and extrapolate for future projections.

Q3: Average yearly collection?

A: Yes \$32,000 for expenses, and all general dam maintenance.

Q4: Current mil rate taxed is what?

A: Will have to look and get back to you.

Q5/C: If roughly collecting 32,000 at 50 cents per thousand, how much more money based on 16 million?

A: Ask of \$50,000-\$60,000

Q6/C: Making certain you're planning for future, and if we go along with redistricting, is it being distributed properly?

A: Yes, agreed, once the project is done, we need to figure out how much to put into the fund for future planning.

MaryAnn Turner - 419 Marlow Rd.

C: They have enough money to take care of it... there's no long-term plan.

R (Chairman Revane): You're making assumptions.

Deb Ribose – Ashuelot Dr.

C: What make people think they don't have to help with maintaining?

Bret Bouma – Ashuelot Acres

Q: Is the proposal remaining in the town?

A (Selectmen): Yes, can only tax in town

C: We get taxed a huge amount of money. FD comes from Marlow, maybe town should maintain the dam, if valuable make part of the town, don't dig deeper.

Tom Burt – 116 McKinely Dr.

C: Both raise taxes to cover operation and adjust as needed to cover. It comes out as user tax.

They are getting use, why aren't they required to pay? They have been asked to join and refused. If you want to stay, then join and you will have a say even though they have same use.

Bob Thompson - Harrison Rd.

C: What do you get out of it? You get the value of your property, you know what it will look like if dam is removed. If it fails, we have no choice, right?

Jim Weber

C: If the dam failed, by law you need to remove or reconstruct. It's illegal to have a dam in disrepair.

John Balliro – Presidential Dr.

C: I'm a taxpayer for 37 years and have no problem paying my fair share.

Mike Donofrio - 148 Ashuelot Pond

Q1: If we are part of this, do we have any say?

A: If you are registered town voter you can run for APDVD positions. It's hard to find volunteers, we would like to have commissioners on other side of lake for safety issues.

Q2: For people not in support, do you want the removal of dam? I would like to hear how you don't benefit recreationally or from property values. Why don't you assume responsibility?

We're invested in safety downstream.

Donna Kask - Ashuelot Acres Rd.

C: Donna expressed she is not in favor of the expansion and her comments are enclosed with these minutes.

Bob Thompson – Harrison Rd.

Q: Do you have to be a resident to be elected?

A: You have to be a registered voter in the town.

Tom Burt - 116 McKinley Dr.

C: It is public water but they're using for a short time, gaining value of property are people who own property vs. people coming for a day.

Laure Rankin - 52 Lincoln

C: If the lake is public and LAE residents all pay for the dam the access is on the other side then why does LAE have to pay?

Donna Kask - Ashuelot Acres Rd.

C: Public record says its owned by APDVD and I think the property owner is responsible for maintenance.

Laure Rankin - 52 Lincoln

C: What about all you that have property, but you don't pay for the dam?

Dan Neaton - 30 Van Buren Circ.

C: I'm in the real estate business – 1. Thank you to APDVD commissioners for volunteering without pay to maintain this asset. I looked at assessed property values and just within LAE lake front properties tend to be two to three times the value of non-lake front properties. Evidence is clear that property values are increased by the lake. No one on the south side of the lake has said they do not benefit from the lake. I hope we can get the vote passed and enjoy a constructive partnership.

Tom Cross - 15 Huntley Mountain Rd.

C: 1962 state expanded landing to 3 times the size. Road to public water doesn't say road to APDVD waters or LAE waters.

Jenny Gilligan – 67 Lang Rd.

Q: I own 7 parcels on the south side and 3 have no water parcels. What's the reason to include?

A: If you believe you don't qualify, you can bring that forward.

Jenny comment: Lake isn't important, I live on hill on farm.

Chris Keith - Russell Mill Pond Rd.

Q: I'm in the same position, who can I talk to on that?

A: Fill out the form on website for appeal. You will need to include a copy of your deed. First, determine if you have deeded access rights to lake.

Andy White - 59 Buchannen Circ.

Q: For DES, have inspection requirements increased over the past 40 years?

A: Yes, regulations have changed at least twice to increase requirements on dam owners for public safety. There would be additional costs.

Q2: Must the design be sealed by an engineer?

A: Yes.

Q3: Then permitted?

A: Yes, correct.

Q4: And a cost associated?

A: Yes.

John Rankin - 52 Lincoln

C: On my tax bill its separate. I have tax then additional line for the dam.

Emily Mann - 170 Ashuelot Pond

Q: I will be the APA president in 2025 – one point to make is all are homeowners, if something goes wrong it's our burden to fix it, if APDVD owns it then they fix it.

Jim Mann – 170 Ashuelot Pond

Q1: Who made the list of properties and map?

A: The APDVD commissioners.

Q2: What made you decide who is eligible?

A: Pointing to the map, explained that any property that has lake access, a ROW or in flood plain was included. Each deed was reviewed and if met the criteria, the property was included. APDVD was established as a municipality in 2002 for insurance purposes. All properties identified on the proposed map meet the same inclusion criteria.

Q2: How many people in LAE belong to APDVD?

A: None

Q3: APDVD is LAE?

A: No, APDVD and LAE are not the same thing. APDVD is a municipality.

Rich Andrusiak

C: It's simple. Your property value is higher with the lake. If the lake didn't exist, your property value would be lower. What is the argument? I'm hearing that you want nobody to own the dam and for it to dry up. We're only talking about a \$75.00 ask on average.

Q4: How many people in new proposed district do not have deeded rights to the lake?

A: All included either have deeded access to lake, or ROW, or are in the flood plain.

Q5: Who decided that flood plain people should be included?

A: The commissioners because people benefit from protection of dam.

Q6: So people in flood plain, are included and this is in writing somewhere?

A: Look at the flood plain map. Its in the letter you received.

Mann expressed he is opposed to including the people in flood plain

C (Bob C): Clarified that the FEMA floodplain is not the same as the inundation map; we are talking about the inundation map here

Jim Weber

C: Clarifications – Jim expressed that he is not aware of any districts on other bodies of water that not everyone is included. There are 8 different RSAs that define waters in NH. The state of NH owns any natural water body greater than 10 acres. DOT road to public water. DOT built sections of roads to access public water. If there is 10+ acres there is a requirement for public access. There are bodies that don't have access because there's no funding for roads. That public water, the definitions are different. Only ownership is the natural water body land underneath it greater than 10 acres. District owns the rest of the water.

Ed Turner - 419 Marlow Rd.

Q1: You stated you researched looked at deed etc., correct?

A: Yes. Not all properties on the map that are shaded in purple are in the flood zone. They either have deeded rights, are on the water, OR in the flood zone.

C: Opposed to his property being included. Hazard is to people below in Marlow when the dam fails.

A: Humans make mistakes. If you believe you don't meet 1 of the 3 criteria submit the appeal form on website and we'll take a look. We don't determine the flood plain, that is done through a computer model.

Bob Carter

C: The flood plan was by FEME on public site granitview no "e" current delineation is on your lake.

Ed Turner - 419 Marlow Rd.

Q: How many gallons of water is estimated? How high would the water go up if there was a dam breach?

A (Bob C.): 2.5-3 feet

Josh Kneif - 578 Marlow Rd.

Q: I don't understand why municipality runs the dam, I know its insurance but in emergency, why are we all arguing when this is a town issue? The town should take care of dam. Why is the safety of the people not a town issue?

A (Selectman Dube): There are two RSAs that you're talking about. Municipalities take over, the town is not responsible which can make the municipalities eligible to get the money. If municipalities don't want it then the dam goes away, the town doesn't want it. There are 2 state owned dams in town of Washington and the town doesn't want either of them.

Jim Weber

C: It takes a law passed to have the state take over a dam. Doesn't happen often. RSA (Revised

Statute Annotated) is a law. In terms of ownership, it is owned by APDVD not by the town. They are different entities.

David Autor - 65 Ashuelot Dr.

C: In favor of the expansion

Lucian Bean – 68 Ashuelot Acres Rd.

C: Some people believe there are some properties that don't have anything to gain from participating. A proposal to the selectboard, a petition to reconsider to take those properties to take them out of redistricting.

Q: Within RSA 52 says you can go back to town and ask for help in paying for maintenance of the dam. Has it been asked?

A: We don't have the town records.

C: Who contributes to the deterioration of the dam? Proceeds to point to the map and ask for reconsideration to include other surrounding ponds dumping into Ashuelot pond.

MaryAnn Turner - 419 Marlow Rd.

C: Expressed opposition to the expansion.

Chairman Revane

C: Expressed that ample discussion was heard and the selectmen do not to hear anything further.

Tom Cross

C: Expressed that his constitutional rights to be heard have been violated.

Meeting adjourned at 3:05 pm.

Respectfully,

Alisa Andrusiak

For the record, my name is Donna Kask, representing property owners for lot 14-422 owned by the Dlugosz Children Trust. We are NOT IN FAVOR OF THE PROPOSED TAX DISTRICT

35 Ashuelot
Acce Rd

I have brief responses to the 3 reasons the APDVD listed as the basis of the petition dated October 22, 2023 that the Board of Selectmen need to take into consideration.

Item A in the petition states: Financial hardship due to the current and future upkeep of the dam maintenance warranting an expansion of the district to those properties benefiting from the dam.

As available on the LAE website a September 9, 2002, letter from the APDVD to Dept of Revenue Administration in Concord NH indicated that the "Village District was formed for and proposes to accept ownership, operation, maintenance and repair of the Ashuelot Pond dam from LAE Association." Town of Washington assessor records indicate property ID 14-506 that includes the Ashuelot Pond dam, is owned by Ashuelot Pond Dam, Village District.

At the time the APDVD acquired and took ownership of the property that includes the dam, due diligence should have included a Property Condition Assessment that identified the current condition of the dam. The assessment should have included an evaluation of the short and long term capital expenses required to maintain and repair such a critical structure such that appropriate budgeting and funding would be secured by the property owner, APDVD. The construction date of the dam is listed as 1872 and 1925 as reported in a Dam Inspection Report, Dated July 15, 2022 (as available on the LAE website), making the age of the dam structures ranging between 151 and 98 years old. The cost for maintaining and repairing the dam are the responsibility of the property owner, APDVD.

Ashuelot Pond is a public pond, not a private water body. All residence of the Town of Washington, State of NH, or anyone out of state have rights to use and access the public pond. Public access to Ashuelot Pond is documented on the Town of Washington website and NH – Fish & Game Department website that lists Ashuelot Pond as a public access waterbody and boat ramp.

Item B in the Petition states: Non-APDVD members with water access rights to Ashuelot Pond enjoy financial benefits that would not otherwise exist if the dam were to be removed.

As property owners for 36 years, my parents have been paying property tax to the Town of Washington and contribute to the local economy.

Donna Kask
12/9/2023

Item C in the petition states: Non-APDVD members with water access rights to Ashuelot Pond enjoy recreational benefits that would not otherwise exist if the dam were to be removed.

As already discussed, Ashuelot Pond is not a private waterbody, it is a public waterbody that anyone can access and enjoy.

Given that the APDVD has taken full ownership of the dam, and that the Pond is a publicly accessible waterbody, we are not in favor of the expanded tax district. I'm requesting the Board of Board of Selectmen take these facts under consideration and vote NO on the expansion.

Danny Kelly
12/9/2023