

VILLAGE OF ESSEX JUNCTION
TRUSTEES MEETING MINUTES
March 9, 2021

TRUSTEES PRESENT: Andrew Brown, President; George Tyler, Vice President; Raj Chawla; Dan Kerin; Amber Thibeault

ADMINISTRATION and STAFF: Evan Teich, Unified Manager; Courtney Bushey, Assistant Finance Director; Chris Gaboriault, Fire Chief; Maureen Gillard, Afterschool Enrichment Coordinator; Marguerite Ladd, Assistant Manager; Brad Luck, Essex Junction Recreation and Parks (EJRP) Director; Sarah Macy, Finance Director; Susan McNamara-Hill; Robin Pierce, Community Development Director; Travis Sabataso, Human Resources Director; Harlan Smith, Grounds & Facilities Director

OTHERS PRESENT: Paul B; Wayne Beebe; Bob Burrows; Marcus Certa; Heidi Clark, Annie Cooper; Matthew Carmolli; Chris Chiquoine; Nancy Chiquoine; Kevin Collins; Alex Crothers; Renee Dall; Tracey Delphia; Karen Dolan; Betsy Dunn; Lori Ernst; Alan Fay; Rosy Gallo; Matthew Gilbert; Margaret Gilbert; Theresa Gookin; Micah Hagan; Elaine Haney; Richard Hamlin; Paul Hansen; Rep. Lori Houghton; Christopher E. Kenny; Bill Keyser; Jen Luck; Edward Malina; Deb McAdoo; Genevieve Melle; Julie Miller-Johnson; Timothy Miller; Paul Moreno; Toni Morgan; Scott Moore; Patrick Murray; Jaye O'Connell; Kenneth C. O'Connell; James Pfeiffer; Roseanne Prestipino; John Rowell; Claudine Safar; Tim Shea; Brian Shelden; Ken Signorello; Gabrielle Smith; Saramichelle Stultz; Jullian Sullivan; Mike Sullivan; Kristina Sweet; Mike Thorne; Carmelle Terborgh; Melanie Tupaj; Spencer Turer; Ann Wadsworth; Bob Willey; Giles Willey; Corey Wood; RSM Win; Irene Wrenner; Bridget; Elizabeth; HJD; Karenlee; Kathleen; Lauren; LJB; Mary; Morgan; PD; Phyllis; Sharon

1. **CALL TO ORDER**

Mr. Brown called the meeting to order at 6:30 PM.

2. **AGENDA ADDITIONS/ CHANGES**

Ms. Ladd suggested an addition to the agenda: Voter Petition for Discussion and Potential Action. The Trustees agreed to add this item to the agenda as 5e. They changed the former agenda item 5e to become 5g, Consider approval of non-resident on Village Tree Advisory Committee; and former agenda item 5g to become 5h, *Discussion regarding legal steps regarding merger vote.

3. **APPROVE AGENDA**

RAJ CHAWLA made a motion, seconded by GEORGE TYLER, to add the petition as 5e, f stays as it is, e, moves to g, and the discussion regarding legal steps becomes h. The motion passed 5-0.

4. **PUBLIC TO BE HEARD**

a. **Comments from public on items not on the agenda.**

Mr. Smith asked how the Trustees incorporate Robert's Rules of Order and align with Open Meeting Laws. He wondered if a motion would be needed for the public to speak. Mr. Brown, Mr. Teich and Mr. Tyler provided clarification. They said public comments should be directed to the board chair, who determines how to respond. Mr. Tyler said that, although other meetings may require a motion for a person from outside the community to speak, the Trustees decided early onto allow public comments to be open: so far, there has been no conflict with this.

5. **BUSINESS ITEMS**

a. **Presentation of Fiscal Year 2020 audit**

Ms. Macy introduced Mr. Keyser of Kittell, Branagan & Sargent to provide an overview of the FY2020 financial statement audit. Mr. Keyser said the single audit was completed in January with

56 a clean opinion, no issues and an unmodified opinion. He explained the single audit requirement
57 and said the Village has good internal controls with a very experienced Finance Department. He
58 said Essex Junction is considered "low risk," so the audit requires testing only 20% of federal fund
59 invoices. He walked through the audit and discussed: adjustments from the prior audit period
60 related to COVID; a small deficit in proprietary fund; Village's investment in capital assets; and
61 their net position. He described the fund balance and other net position classifications. He said the
62 unassigned fund balance is within 10% of the FY2022 budget requirement for use. He discussed
63 proprietary business funds rate and usage increases due to COVID. He discussed the budget-to-
64 actuals and said there was a small loss with revenue down in 2020, so \$300,000 was pulled from
65 equity to alleviate the deficit for next year.
66

67 The Trustees talked with Ms. Macy and Mr. Keyser about the audit. Mr. Brown asked what was
68 reviewed other than the 20% federal funds. Mr. Keyser described the procedure of reviewing the
69 entire balance sheet to trace back purchases. He stated single audit tests are related to fixed
70 assets, capital assets, internal controls review, and reconciliation. Ms. Macy described how the
71 finance staff prepares for audits year-round. Mr. Brown asked how funds for each municipality are
72 identified separately, even though the finance office is consolidated. Mr. Keyser said all accounting
73 and invoicing is accurate and that the state reconciles back to the Village and Town, accordingly
74 about Grand List numbers. Ms. Macy described the finance office's system of numbered accounts
75 that keep funds separate and clear. Mr. Tyler asked Mr. Keyser to explain Total Net Position. Mr.
76 Keyser said this number is the historical earnings from over time, which can be used for future
77 spending. He pointed this out the Village's Total Net Position was \$34,874,000. The Trustees
78 thanked Mr. Keyser.
79

80 No action was needed on this agenda item.
81

82 b. **Consider request from Champlain Valley Exposition for water leak abatement**

83 Ms. Macy introduced the water leak abatement request from Champlain Valley Exposition (CVE).
84 Using a map diagram, she showed the location of the leak within the private water system serving
85 seven properties and the CVE. She explained how the leak was identified: comparing the previous
86 water usage of CVE on average years to the usage for the period of the abatement. She stated
87 while CVE's operations were on hold, the water use amount increased. The leak was identified and
88 fixed in December.
89

90 Mr. Wiley (a resident of one of the properties on the water line), Mr. Shea, the CVE Director, Mr.
91 Teich, and Ms. Macy talked about the water leak and abatement request with the Trustees. Mr.
92 Wiley described the work of isolating the leak and upgrading the water line and meter. Mr. Teich
93 confirmed for Mr. Kerin that the new meter will be a second checkpoint read by radio. He said staff
94 found: the water was not processed by the treatment plant; no insurance companies could cover
95 the leak; and staff supported the abatement request. Ms. Macy explained how the abatement
96 amounts were determined and clarified for Mr. Brown and Mr. Chawla that the abatement would
97 not affect the rest of the taxpayers or rate setting. She talked about how water abatements have
98 been handled in the past but said this one is unique, comparatively. Mr. Brown reviewed the three
99 parts of the abatement request and said he agreed with the first and third parts but disagreed with
100 the second part because it still costs money to do the work that resulted in water availability
101 and included salaries, maintenance, etc. Three pieces of the abatement request were:

- 102 1) Would the Trustees agree to abate the usage charges for sewer and sanitation associated with
103 the water leak? This would result in a refund of \$2,427.65;
- 104 2) Would the Trustees agree to reduce the water usage charge from the Village resale rate to the
105 CWD wholesale rate in effect at the time of each billing? This would result in a refund of
106 \$740.91.

107 3) Would the Trustees agree to reevaluate the FY21 and future equivalent units assigned to the
108 CVE account as a result of the leak? Would result in a refund of \$4,426.59
109

110 **GEORGE TYLER made a motion, seconded by DAN KERIN, that the Trustees approve all three**
111 **abatement requests for CVE water abatement. The motion passed 4-1 by roll call, with**
112 **dissenting vote by Mr. Brown.**
113

114 c. **Consider approval of noise waivers for amplified events at Champlain Valley Exposition**
115 Mr. Pierce presented the memo in response to questions posed at the meeting of the Trustees on
116 2/23/21, regarding the consideration of approving 30 extra noise waivers for amplified events at
117 CVE in 2021. Mr. Chawla acknowledged people seem to be overwhelmingly supportive of CVE
118 and want them recover from operational challenges of 2020. He said people are concerned with
119 potential noise on school nights. He and Mr. Kerin said there were also concerns about traffic
120 increases and suggested having event-goers use more than one CVE entrance. Mr. Brown
121 clarified that the first events of the year would be high school graduations and no events would be
122 planned on school nights. The Trustees discussed with Mr. Shea his plans for outreach about
123 scheduled events and advanced notice letters to homes within a 250-foot radius of CVE. Ms.
124 Thibeault suggested that the letter be shared on the Village website. Mr. Shea talked with Mr. Tyler
125 about CVE's vaccination efforts, serving over 1000 people each day.
126

127 Mr. Chiquoine said he is a neighbor of CVE and supports them. He asked whether the sound
128 agreement and expectations for the 30 extra waivers would also apply to the 20 original noise
129 waived events. He asked if the event noise would be monitored, if there would be fireworks, and
130 if the events would be communicated in advance in such a way that he would be able to plan
131 accordingly. Mr. Brown, Mr. Kerin and Mr. Shea answered his questions: There will be no fireworks
132 planned; advanced notice will be provided; and, although the original 20 waivers will not be exactly
133 the same, Mr. Shea does not anticipate much daytime activity other than the fair; most events will
134 take place between 7:00 PM and 11 PM; and all events will abide by the sound agreement.
135

136 **DAN KERIN made a motion, seconded by GEORGE TYLER, that the Trustees approve this one**
137 **time request for 30 additional amplified events in 2021, if the State permits such events this**
138 **year, with the caveat that all events shall comply with the Sound Agreement that is in place**
139 **between CVE and the Village. The motion passed 5-0.**
140

141 Mr. Brown called a brief recess at 8:13 PM and called the meeting back to order at 8:18 PM.
142

143 d. **Discussion on how the Village should proceed based upon the merger vote**
144 Mr. Brown proposed, and the Trustees agreed, that public comments be heard prior to the Trustee
145 discussion on this topic. He provided some guidance for how public comments should be made
146 due to computer connectivity interruptions; Mr. Tyler and Mr. Kerin provided further guidance.
147

148 Mr. Certa recommended that the Trustees create a committee or two, with Village residents, to
149 research the option of the Village separating from the Town in its totality. He said financial
150 ramifications and sharing options should be considered. He encouraged public participation and
151 dialog moving forward and for the Trustees to take time for a full view of these considerations.
152

153 Mr. Gilbert thanked the Trustees for their hard work on the merger. He questioned whether it would
154 be the best use of money to do a revote, unless it is required for some reason in Montpelier. He
155 suggested attention turn instead toward separation and recommended investing funds for a
156 consultant for this.
157

158 Mr. Sullivan also thanked the Trustees for work on consolidation of the Town and Village. He said
159 the Village votes show that taxpayers want tax equity and the Trustees must consider separation.
160

161 Ms. Smith said she has lived her 15 years in the Village helping to make Essex a whole
162 community. She said once the revote takes place, there should be no more work on merger. She
163 said if it does not pass, she would like the municipality to move toward separation because tax
164 inequity tolerance is unacceptable.

165
166 Mr. Rowell said he has been living in the Village for 50 years and the discussion of merger has
167 been going on for decades but it has been voted down each time. He said he is also tired of tax
168 inequity and the question should now be whether the voters agree to separate from the Town.
169

170 Ms. Mele said she does not think a revote is necessary and it will be too expensive. She suggested
171 the Village move forward as a separate entity, with a service sharing agreement, and to consider
172 other communities for this. She also suggested keeping taxes in escrow for the upcoming year if
173 this is a legal possibility.
174

175 Mr. Miller said the merger argument has been decided, with 3165 people in the Town outside the
176 Village against Merger and 1215 in favor. He said what the Village wanted was not accepted and
177 the municipality should move forward separately with possibly shared police services.
178

179 Mr. Sheldon asked whether a revote would be expensive and wondered if it could be delayed until
180 the next budget vote to reduce the cost. He asked if some financial support for this could be found
181 in Vermont's emergency election clause.
182

183 Ms. McAdoo thanked the Trustees on their work toward merger. She said she was disappointed by
184 the outcome, they did their best, and now it is time to separate. She suggested studying this
185 strategy to carefully to avoid unintended consequences. She said that if the electoral process is not
186 bringing results, there may be a solution through litigation.
187

188 Mr. Hagan said the many Town outside the Village residents think the issue is settled but they do
189 not know the repercussions of separation. He said repercussions should be discussed with them.
190

191 Ms. Stultz seconded Ms. Smith's comment that status quo is unacceptable and that this message
192 should be loud and clear.
193

194 Representative Houghton, also speaking on behalf of Representative Dolan, said they will
195 shepherd the will of the people to Montpelier, to do all that they can. She asked the Trustees to let
196 them know how they can help.
197

198 Ms. O'Connell asked the Trustees to be clear to the voters about the key facts, and history that will
199 inform whatever next steps are taken. She said she wants to know what information she needs to
200 understand moving forward.
201

202 Mr. Brown summarized the sentiments of the speakers and answered some questions. He said a
203 revote will have to happen if there is a voter petition to do so. He said if the revote passes in the
204 Village a third time, this sends a strong message to the legislature. He said the revote is not a
205 function of the Village, but of the Town.
206

207 The Trustees discussed the issue of how to move forward from the vote. They stressed patience,
208 careful research, and looking at all options. Mr. Kerin said Town Outside the Village residents need
209 to understand tax implications of separation. Mr. Brown talked about challenges related to
210 separating while staff are shared and departments are consolidated. Mr. Tyler said, out of respect
211 for staff who trusted the agreement to unify administration, they should not be put in the middle of
212 this issue. He suggested a financial analysis from a third party with a long-term projection and
213 encouraged a strategy of restructuring as an alternative to separation or merger. He said he would
214 also like to see a revote to send a clear message to the legislature. He said tax inequity must be

215 solved. He encouraged continuing to work with the Selectboard; codifying consolidation efforts
216 instead of relying on Memorandums of Understandings and keeping Village autonomy. Mr. Tyler
217 suggested they make changes internally instead of relying on local politics. He said separation is
218 being considered; a careful analysis of its impact on Village and Town property taxes should be
219 shared with the voters. Ms. Thibeault said legal counsel is required as a foundation point to
220 determine if separation is a legal option before determining next steps. Mr. Chawla said he was
221 disappointed the merger did not pass because he believed it would have set Essex up for a strong
222 future. He predicted separation would be a long path forward and all alternatives should be
223 considered. He wondered how much tax inequity is too much and agreed that the Village should
224 move away from MOUs and codify, restructure, and eliminate them.
225

226 The Trustees discussed and agreed with Mr. Brown's proposal that they move forward with
227 forming two committees: one to do research on alternatives to merger and one to help inform the
228 community on the issues. He suggested these committees be made up of Village residents and
229 Trustee volunteers. Mr. Tyler said the Research Committee should review the information
230 compiled by the Governance Subcommittee, so they do not have to start from scratch. Mr. Brown
231 clarified that this would be a Village-only effort. Mr. Tyler said the community's vilification of the
232 resident-configured Parks and Rec study committee should inform the structure of these
233 committees. The Trustees said they could avoid this recurrence by assigning volunteers from the
234 Board of Trustees to the committees and make them the spokespeople for the committees. They
235 also agreed that no formal recommendations should be made to the Trustees from the
236 committees. Mr. Tyler said it is important that the Research Committee consider alternatives to
237 merger, not just separation. Mr. Brown said once they had answers from legal counsel, he would
238 determine a vision for the committees and draft a charter to establish them to review at the next
239 meeting of the Trustees. Mr. Teich said surplus funds could be allocated to this effort.
240

241 The Trustees spoke with Ms. McNamara-Hill about how a revote on the merger would take place
242 with the Selectboard. She explained the statute for reconsideration of an article, including how
243 many people are needed on a petition and the required warnings. She said an election is already
244 scheduled for the School budget and the Village budget on April 13. She said the Selectboard
245 would have to agree for the question to be put on that ballot. She said the exact same question
246 would need to be asked for a reconsideration vote. Mr. Teich talked about the timing requirements
247 of the schools for their budget vote and the work that goes into a vote.
248

249 e. **Voter Petition for Discussion and Potential Action**

250 Ms. Cooper read the letter presented to the Trustees and provided with the voter petition which
251 included 414 names (5.5% of the registered voters of the Village). The petition requested the
252 addition of an advisory article for the Australian ballot scheduled for April 13, 2021. Due to the
253 timing of the petition, she asked the Trustees to add the article of their own accord, in response to
254 the high volume of signatures. The Trustees spoke with Ms. Safar for legal counsel. They
255 discussed whether there was time to warn the question within legal time parameters and
256 determined they could, if the question were warned on March 10 to be voted on April 13. They took
257 into consideration legislature's approval for municipalities to be able to change voting dates, due to
258 COVID. Ms. McNamera-Hill mentioned that the Secretary of State suggested the Village of Essex
259 Junction warn the meeting for April 13, because all articles are being voted on by Australian Ballot.
260 The Trustees agreed that they should move forward with adding the voter-petitioned ballot
261 question. Ms. Safar provided suggested language for the question and wordsmithed it with the
262 Trustees. The final language for the proposed ballot question reads:
263

264 *"By a non-binding resolution, shall the Essex Junction Board of Trustees be advised to draft a*
265 *charter to create the independent City of Essex Junction for consideration by the Village of Essex*
266 *Junction voters no later than November 2021, should efforts seeking a vote for reconsideration on*

267 *the issue of merger fail. We advise that the charter shall not include any union municipal districts,*
268 *interlocal contracts, special tax districts, or other relationships within the Town of Essex for the*
269 *provision of Village Government services. The only exception may be for the consideration of*
270 *police services.”*
271

272 **DAN KERIN made a motion, seconded by RAJ CHAWLA, that the Trustees accept the request**
273 **for a non-binding petition, with the language as discussed, to be placed on the Village meeting**
274 **Australian ballot. The motion passed 5-0.**
275

276 **f. Consider approval of Informational Hearing and Annual Meeting Warning**

277 Mr. Brown introduced the proposed dates for the Informational Hearing and Annual Meeting; he
278 presented the articles for consideration by Australian ballot, including the voter petition question
279 added during this meeting. He asked the Trustees whether they would approve the Annual
280 meeting to be warned for April 13th, or if they wanted to wait for the Selectboard to determine plans
281 for a reconsideration vote, then align the Village vote with this. Mr. Teich, too, confirmed that the
282 School Board is willing to reschedule their budget vote only up until May 1st. Mr. Chawla asked
283 whether the state could help pay for a revote, due to COVID times. Ms. McNamera-Hill said that
284 money is available from the state to reimburse some of the costs but maybe not for multiple votes.
285 Mr. Teich consulted legal counsel from Ms. Safar about the legal parameters and steps involved
286 with warning a meeting then possibly having to re-warn the meeting, if the Trustees decided to do
287 so to keep their meeting inline with the Selectboard’s reconsideration vote and the school budget
288 vote. She said they may want to move the informational meeting to the 13th. Ms. McNamera-Hill
289 said she had confirmed that the dates of the Informational Hearing and the Annual Meeting are ok
290 with the Elections Director of the state.
291

292 Mr. Teich recommended that the Trustees keep April 7th as the Informational Hearing and warn the
293 Annual Meeting for April 13th but if new information about a revote comes to light they could re-
294 warn the meeting to a later date, to be in alignment with the Town Selectboard and the school
295 district in order to keep the votes aligned. He confirmed for Ms. Thibeault that there may be some
296 extra costs with changing the dates of the vote. Ms. McNamera-Hill said she could wait until
297 Thursday March 11th to order the ballots with the correct dates, but not later, to provide time for
298 voting by mail. Mr. Duggan shared relevant direction from the state.
299

300 **RAJ CHAWLA made a motion, seconded by GEORGE TYLER, that the Trustees approve and**
301 **sign the warning for the 2021 Informational Hearing and Annual Meeting.**
302

303 **RAJ CHAWLA made a friendly amendment, and GEORGE TYLER agreed, to, instead, move that**
304 **Trustees approve and sign the warning for the 2021 Informational Hearing and Annual Meeting**
305 **and include Item 6, the Citizen Petition for an advisory vote.**
306 **The amended motion passed 5-0.**
307

308 **g. Consider approval of non-resident on Village Tree Advisory Committee**

309 Mr. Brown introduced the issue of whether a non-resident could serve on the Village Tree Advisory
310 Committee. He said other committees allow this, so precedent is set to allow it. The Trustees
311 agreed that this should be allowed, noting that the applicant is qualified and although he lives in a
312 separate town, he owns property in the Village.
313

314 **h. *Discussion regarding legal steps regarding merger vote**

315 This agenda item took place in executive session, as 8a.
316

317 **6. CONSENT ITEMS**

318 **a. Approve minutes: February 23, 2021**

319 **b. Approve Maple Street Playground RFP Selection**

- 320 • That Pettinelli and Associates Inc. of Burlington, VT be awarded the contract for the
321 design and replacement of a portion of Maple Street Park playground in the amount of
322 \$249,572.00.

323 c. Check Warrants: #17239 – 2/19/21; #17240 – 2/26/21
324

325 AMBER THIBEAULT made a motion, seconded by GEORGE TYLER, to approve the Consent
326 Agenda. The motion passed 5-0.
327

328 7. READING FILE

329 a. **Board member comments**

330 The Trustees thanked all of the residents who joined the meeting and extended special thanks to
331 those who stayed for the full meeting.

332 b. **Upcoming meeting schedule**
333

334 8. EXECUTIVE SESSION

335 a. *An executive session may be requested to discuss legal steps.
336

337 ANDREW BROWN made a motion, seconded by RAJ CHAWLA, that the Trustees make the
338 specific finding that general public knowledge of confidential attorney-client communications
339 made for the purpose of providing professional legal services to the body would place the
340 Village at a substantial disadvantage. The motion passed 5-0.
341

342 ANDREW BROWN made a motion, seconded by DAN KERIN, that the Trustees enter into
343 executive session to discuss confidential attorney-client communications made for the
344 purpose of providing professional legal services to the body, pursuant to 1 V.S.A. § 313(a)(1)(F)
345 to include the Village Attorney and Unified Manager. The motion passed 5-0 at 10:57 PM.
346

347 GEORGE TYLER made a motion, seconded by RAJ CHAWLA, that the Trustees close executive
348 session. The motion passed 5-0 at 11:23 PM.
349

350 9. ADJOURN
351

352 DAN KERIN made a motion, and AMBER THIBEAULT seconded, that the Trustees adjourn the
353 meeting. The motion passed 5-0 at 11:24 PM.
354

355
356 Respectfully Submitted,
357 Cathy Ainsworth