

**TOWN OF ESSEX
SELECTBOARD MEETING MINUTES
Thursday, April 5, 2021**

SELECTBOARD: Andy Watts, Chair; Patrick Murray, Vice-Chair; Tracey Delphia, Clerk; Vince Franco; Dawn Hill-Fleury.

ADMINISTRATION and STAFF: Evan Teich, Unified Manager; Gregory Duggan, Deputy Manager; Dennis Lutz, Public Works Director.

OTHERS PRESENT: Gil Allen, Andrew Brown, Bob Burrows, Alise Certa, Andy Champagne, Heidi Clark, Kevin Collins, Annie Cooper, Patty Davis, Erin Dickinson, Karen Dolan, Betsy Dunn, Perry Farr, Neil Farr, Maureen Gillard, Paul Handy, Tamara Jaques, Rachael Lizotte, Brad Luck, Timothy Miller, Lulu Mills, Scott Moore, Adam Newhard, Athena Newhard, Sarah Nosek, Betty Poulin, Brian Shelden, Ken Signorello, Gabrielle Smith, Harlan Smith, Margaret Smith, Liz Subin, Angel Segarra, Stephanie Ratté, Dennis Thibeault, Janet Watts, Irene Wrenner, Henry Wu, Paul H., Jeanne _____, Mari Jo _____, Michael _____, JW, RM.

1. CALL TO ORDER

Mr. Teich called the meeting of the Town of Essex Selectboard to order at 6:31 PM, as tonight is the reorganization meeting of the Board.

2. REORGANIZATION

Mr. Teich explained the process of reorganization and requested a nomination for chair from the Board.

PATRICK MURRAY made a motion, seconded by TRACEY DELPHIA, to nominate Andy Watts for Selectboard Chair. Motion passed 5-0.

VINCE FRANCO made a motion, seconded by DAWN HILL-FLEURY, to nominate Patrick Murray for Selectboard Vice-Chair. Motion passed 5-0.

PATRICK MURRAY made a motion, seconded by DAWN HILL-FLEURY, to nominate Tracey Delphia for Selectboard Clerk. Motion passed 5-0.

3. AGENDA ADDITIONS/ CHANGES

There were no additions or changes to the agenda.

4. APPROVE AGENDA

With no changes to the agenda, no vote for approval was needed.

5. PUBLIC TO BE HEARD

Ms. Dunn asked if it made sense to hold off on approving the union contract until the vote on merger had been decided. Mr. Teich said regardless of the outcome of merger, staff still need to have a contract.

Mr. Newhard commented on Mr. Watts's recent Front Porch Forum posts regarding merger. He stated that he felt that these posts have led the public to believe that the Finance Director's calculations were not correct. He feels that these comments could mislead the community and stated that separation could have a

49 serious financial impact on those residing in the Town Outside the Village (TOV) who are on fixed
50 incomes.

51

52 Ms. Cooper said that she agreed with Mr. Newhard’s points and requested a public apology from Mr.
53 Watts. If this could not be done, that she has lost faith in Mr. Watts as a leader and said that he should
54 resign. Mr. Murray said that personal attacks need to be avoided, and Ms. Copper apologized to Mr. Watts
55 for her statement.

56

57 Ms. Certa requested that Mr. Watts use his personal Front Porch Forum account to post his stance on
58 merger and said that she feels that Mr. Watts does not represent Town Inside the Village (TIV) residents.

59

60 Mr. Watts clarified that he is not opposed to merger, however he does not agree with the current merger
61 plan.

62

63 Ms. Poulin asked how the Town communicates the results of the election. Mr. Teich said that the Town
64 intends to have preliminary results posted on the web the night of the election.

65

66 Ms. Wrenner said that Mr. Watts received permission from the Board to post yet he has been publicly
67 called out anyways. She encouraged the new Selectboard to follow the rules of public engagement, and not
68 to have memos presented to them at meetings without time to review. She stated that the question on
69 separation is a survey question, and that it should not be equated with the vote on merger.

70

71 Ms. Cooper said that we are at a historic moment, and that separation is a real consequence of this vote.

72

73 Mr. Watts stated that he does listen to all comments and agonized before posting to Front Porch Forum.

74

75 **6. BUSINESS ITEMS**

76 **a. Presentation of “Across the Dotted Line: Community Connections in Essex” – Gabrielle Smith**
77 **from Heart and Soul of Essex**

78 Ms. Gabrielle Smith said that she and Mr. Wu have been working on a photo story initiative called “*Across*
79 *the Dotted Line: Community Connections in Essex.*” This is sponsored by Heart & Soul of Essex, a non-
80 profit that was founded in 2012 when the Orton Family Foundation awarded the Essex community a grant
81 to engage the community and seek out community values. This project will create an online photo gallery
82 of friendships, family, and other connections in the community. No money or time is being requested for
83 this initiative.

84

85 Mr. Murray said that he hopes that this will help to “lower the temperature” of the community and allow
86 residents to realize that we have more in common than some might think. He noted that, as someone who
87 grew up in the Northeast Kingdom, there is no part of Essex that he would consider to be truly rural.

88

89 Mr. Signorello said the Darkroom Gallery could be made available for a reception for this project.

90

91 **b. Consider approval of first- and third-class liquor license renewals, including outdoor consumption**
92 **permits (Selectboard will be acting as Board of Liquor Control Commissioners during this agenda item)**

93 Mr. Duggan said that the Town Clerk and police department have reviewed all applications and have no
94 concerns.

95

96 **PATRICK MURRAY made a motion, seconded by VINCE FRANCO, that the Selectboard approve**
97 **the First/Third Class Liquor License renewals listed in the March 31st memorandum re. “Liquor**
98 **License Applications.” Motion passed 5-0.**
99

100 **c. Consider approval of new first- and third-class liquor licenses, including outdoor consumption**
101 **permits** (Selectboard will be acting as Board of Liquor Control Commissioners during this agenda item)
102 Mr. Duggan said that the Town Clerk and police department have reviewed all applications and have no
103 concerns.
104

105 Mr. and Ms. Farr, owners of The Scale, said they opened their second location on Pearl Street in November
106 and hope to serve beer and wine outside. Mr. Handy said that he hopes to open the second location of the
107 Barnyard in early May.
108

109 **PATRICK MURRAY made a motion, seconded by TRACEY DELPHIA, that the Selectboard**
110 **approve the First/Third Class new Liquor License applications for RRBL LLC/DBA: Barnyard &**
111 **FRG Essex LLC/DBA: The Scale Essex, including outdoor consumption permits. These are listed in**
112 **the March 31st memorandum re. “Liquor License Applications.” Motion passed 5-0.**
113

114 Mr. Watts read the Selectboard’s admonishment regarding liquor licensing: *“We as the Selectboard, in*
115 *acting as the Liquor Control Board take the issuance of Liquor Licenses very seriously, and we expect you*
116 *to as well. We expect you not to serve minors or obviously inebriated people and to follow all the Vermont*
117 *regulations as required by state statute and the Liquor Control Board. Thank you for opening a business in*
118 *Essex and we wish you the best of luck.”*
119

120 **d. Consider approval of second-class liquor license renewals** (Selectboard will be acting as Board of
121 Liquor Control Commissioners during this agenda item)
122 Mr. Duggan said that the Town Clerk and Police Department have reviewed all applications and have no
123 concerns.
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125 **PATRICK MURRAY made a motion, seconded by TRACEY DELPHIA, that the Selectboard**
126 **approve the Second-Class Liquor License renewals for Wesco Inc./DBA: Champlain Farms at 25**
127 **Jericho Road & 56 Pearl Street. Liquor License renewals are listed in the April 1st memorandum re.**
128 **“Liquor License Applications.” Motion passed 5-0.**
129

130 **e. Consider reconstitution of the Town/Village Storm Water Coordinating Committee and**
131 **appointment of Selectboard member to the Committee**

132 Mr. Lutz began his presentation by saying that the Town of Essex and the Village of Essex Junction
133 created a Stormwater Coordinating Committee in 2013. The goal of this committee was to meet the Flow
134 Restoration Plan (FRP) and other requirements placed on the Town and the Village in the NPDES Phase 2
135 Permit issued at that time. This committee has been inactive for approximately two years, as it had met its
136 primary objectives. However, the NPDES Phase 2 permit was reissued in July 2018 with changes now
137 directing the effort to requiring reduction in the amount of phosphorus discharged to Lake Champlain from
138 each community. Compliance with the permit and the reduction target will need to occur over the next
139 twenty years and will be costly. The work will include stabilization of gravel roads and drainage from those
140 roads, outfall improvements, increased street sweeping, and reconstruction of many existing stormwater
141 facilities that do not meet the standards needed for phosphorus removal and flow reduction. As a result,
142 staff would like to restart this committee and have a member of the Selectboard serve as a representative.
143

144 Mr. Murray asked for clarification on the cost, and Mr. Lutz stated that it would likely be \$5 million over
145 the course of twenty years. Some of this cost may be offset in grants. Ms. Delphia asked what
146 skills/qualifications would be important to serving on this committee. Mr. Lutz and Mr. Teich stated that
147 interest, objectivity, creativity, and openness were all important characteristics in a representative. Ms.
148 Delphia indicated her interest in serving on the committee.
149

150 Ms. Dunn asked if this plan included the PFOAs in Indian Brook. Mr. Lutz said that the short answer is no
151 and that as testing improves, our standards will increase. Ms. Dunn asked if work on Fernwood would be
152 included in this process. Mr. Lutz answered affirmatively. Ms. Davis voiced her support for this work and
153 suggested that the public assist in this process. She also suggested using a multipronged approach with
154 future development. Mr. Lutz said that a review of development standards would be a part of this work.
155

156 **PATRICK MURRAY made a motion, seconded by DAWN HILL-FLEURY, that the Essex**
157 **Selectboard appoint Tracey Delphia to serve on the Joint Stormwater Coordinating Committee and**
158 **approve the revised policy document for the committee. Motion passed 5-0.**
159

160 **f. Consider approval of Rules and Regulations for Orderly Conduct of Business**

161 Mr. Duggan said that, at their first meeting of the year, the Selectboard reviews several policy documents
162 and makes any desired changes. This year, the only change that staff is proposing to the Rules and
163 Regulations for Orderly Conduct of Business is to ask that all meeting materials be received by noon on
164 Wednesday the week before a meeting. Ms. Delphia suggested the following change to be added as item #
165 10 in the Conduct of Meetings section. *“Cell phones or other electronic handheld devices shall only be*
166 *used during meetings for the purposes related to the meetings. Phones or other devices shall either be*
167 *turned off or put on a setting that does not utilize an audible ring (such as “silent” or “vibrate”).*
168 *Additionally, members of the body shall not post to social media, respond to e-mail, or similar actions*
169 *during meetings unless specifically required for the purpose of the meeting (i.e. reaching a staff member of*
170 *member of the public who is needed during the meeting.”* Mr. Murray said that he agreed with the change,
171 and also encouraged members of the board to respect one another and members of the public. The Board
172 determined that this was not considered to be a “significant” change, thus allowing the Board to approve it
173 tonight.
174

175 Ms. Davis voiced her support for the work that the Board is doing. Mr. Moore asked if there were specific
176 policies regarding virtual meetings. Mr. Teich said that, due to COVID, the boards are following state
177 guidance. He also noted that attendance has increased significantly at the online meetings. Ms. Dunn
178 encouraged the boards to continue to give members of the public the option to participate virtually even
179 after the pandemic.
180

181 **VINCE FRANCO made a motion, seconded by DAWN HILL-FLEURY, that the Selectboard**
182 **approve the Rules & Regulations for Orderly Conduct of Business, as amended. Motion passed 5-0.**
183

184 **g. Consider approval of Conflict of Interest Policy**

185 Staff has no proposed changes this year. Mr. Watts said he no longer needs to recuse himself for matters
186 involving his former employer. The Board discussed how recusal should work in a digital context, and
187 added the following statement to Article 10a, *“Board members participating remotely shall leave the*
188 *meeting during the item for which they have recused themselves.”*
189

TRACEY DELPHIA made a motion, seconded by DAWN HILL-FLEURY, that the Selectboard approve the Town of Essex Conflict of Interest Policy, with the amendment to Article 10a. Motion passed 5-0.

h. Consider approval of Communications Policy

Mr. Duggan said one change was proposed this year: to add a statement that Selectboard members must be mindful of not violating open meeting regulations on social media. Mr. Watts said that this is a step towards the creation of a social media policy.

Mr. Watts opened the conversation to the public. Ms. Cooper said she would like Mr. Watts to use an individual platform, rather than his Selectboard account, to post his own opinions. Mr. Watts said that letters to the editor and Front Porch Forum are not considered a part of social media, and that he has always made it clear that he was speaking as himself. Mr. Signorello said that even the United States Supreme Court publishes dissenting opinions and that dissent should not be discouraged. Ms. Davis voiced her agreement with Mr. Signorello. Mr. Smith asked how a quorum of Selectboard members will be tracked on social media. Mr. Watts said that he will not post about Town business on social media. Mr. Murray said he will avoid commenting on a post if he sees that another Selectboard member has already commented. Mr. Franco read Section 12 from the Vermont League of Cities and Towns' Social Media Policy, which is as follows:

"Municipal officials must comply with Vermont's Open Meeting Law when using municipal social media. All posts by members of the municipality's public bodies that relate to municipal business are subject to the Open Meeting Law. Members (elected or appointed) of any municipal public body should refrain from using municipal social media to discuss the business of the public body or to take official action in violation of the Open Meeting Law. A member of a public body who "likes," "shares," "tweets," or otherwise engages in another member's content on municipal social media may be communicating municipal business and the Open Meeting Law may apply. Furthermore, members of public bodies should refrain from posting content on or responding to inquiries related to quasi-judicial matters within the subject matter jurisdiction of their respective public bodies. Members of municipal public bodies may utilize municipal social media for gathering public input and fostering public discussion related to the role with which the public body has been charged by statute or the [Selectboard/Council/Village Trustees/etc.], provided that the use is authorized in accordance with Vermont law and conforms to this policy. Information posted by the municipality on its social media will supplement, not replace, required notices and standard methods of providing warnings, postings, and notifications required to be made with regard to public meetings and hearings under Vermont law."

Ms. Delphia said she took a refresher class on open meeting regulations last week and encouraged members to refrain from commenting on community pages. Ms. Dickinson cited a recent post by a Village of Essex Junction Trustee on the Essex Vermont Community page and asked if this was a violation of Open Meeting Laws. Mr. Watts said that this was not a matter for the Selectboard to address.

TRACEY DELPHIA made a motion, seconded by DAWN HILL-FLEURY, to approve the Town of Essex Communications Policy, with the changes as presented. Motion passed 5-0.

i. Consider approval of Selectboard Computer Use Policy

Mr. Duggan noted one small change proposed in the policy, to eliminate the section about submission of packet materials, which is covered in the Rules & Regulations for Orderly Conduct of Business.

PATRICK MURRAY made a motion, seconded by DAWN HILL-FLEURY, that the Selectboard approve the Town of Essex Selectboard Computer Use Policy. Motion passed 5-0.

j. Consider approval of Selectboard meeting schedule for 2021-2022

241 Mr. Duggan presented the proposed meeting schedule, noting that most meetings are on the first and third
242 Monday of the month. Joint meetings with the Trustees have been removed and can be scheduled at their
243 Strategic Planning Session in June if desired. Ms. Delphia suggested that the Board consider moving their
244 meetings to Tuesdays to provide continuity with the Village of Essex Junction Board of Trustees. She also
245 said that it would give additional time for staff to answer questions that arise over the weekend. Mr.
246 Murray said that this would conflict with the Essex Westford School Board meetings. Mr. Watts and Ms.
247 Hill-Fleury echoed the concerns regarding overlapping meetings with the School Board. Mr. Teich
248 expressed his support for a change to Tuesday, as many holidays are on a Monday. Mr. Watts expressed
249 concern that information on the fund balance would not be available by budget day.

250
251 **TRACEY DELPHIA made a motion, seconded by VINCE FRANCO, that the Selectboard approve**
252 **the proposed meeting schedule for 2021-2022, with the change of August 16th, 2021 to August 17th,**
253 **2021. Motion passed 5-0.**

254
255 **k. Consider appointment of Selectboard member to Cannabis Study Committee**

256 Mr. Duggan said that the current legislation for retail cannabis requires municipalities to opt in, but that
257 draft state legislation would require communities to opt out of cannabis sales or they will automatically be
258 opted in. He said the Town of Essex and Village of Essex Junction intends to establish a study committee
259 made up of members of the Selectboard, Village Trustees, Town and Village Planning Commissions,
260 Economic Development Commission, and Village and Town Community Development Directors. Ms.
261 Hill-Fleury volunteered to serve on the committee, indicating that this is an issue that she has been
262 following and is interested in. Mr. Franco also expressed a desire to serve, saying that he had experienced
263 a herniated disc and was helped immensely by medical cannabis and wants to share his passion with the
264 community. Ms. Hill-Fleury said that she is happy to have Mr. Franco serve on the committee. The boards
265 also discussed if it would be possible for the Village to opt out if the Town of Essex was to opt in, and
266 potential regulations for cannabis sales at a local level. The board also discussed potential taxation for
267 cannabis.

268
269 Ms. Cooper stated her support for involving the Economic Development Commission in this conversation.

270
271 **DAWN HILL-FLEURY made a motion, seconded by TRACEY DELPHIA, to appoint Vince Franco**
272 **to the Cannabis Study Committee. Motion passed 5-0.**

273
274 **7. CONSENT ITEMS**

- 275 a. Consider approval of support for grant funding for rehabilitation of culvert on Old Susie Wilson Road
276 b. Consider approval of support for grant funding for 2022 Town Highway Class 2 Paving Grant - Essex
277 Way
278 c. Consider approval of support for grant funding for 2022 Town Highway Class 2 Paving Grant - Old
279 Stage Road
280 d. Approve minutes: March 15, 2021; March 22, 2021 – Joint board; March 25, 2021
281 e. Check Warrant: #17839 – 3/19/21; 17841 – 3/26/21; #17843 – 4/2/21

282
283 **VINCE FRANCO made a motion, seconded by DAWN HILL-FLEURY, that the Selectboard**
284 **approve the consent agenda as presented. Motion passed 5-0.**

285
286 **8. READING FILE**

- 287 **a. Board member comments**

288 Mr. Watts said he and Mr. Murray have been having discussions on sharing the leadership responsibilities
289 for the Selectboard. They hope to set an example to the community on working together on difficult issues.
290 This is still being discussed and members of the public are welcome to send comments to either Mr. Watts
291 or Mr. Murray.

292 **b. Email from Tracey Delphia re: Resignation from Essex ZBA**

293 Mr. Watts thanked Ms. Delphia for her service on the ZBA.

294 c. Memo from Annie Costandi, Chelsea Mandigo, Dennis Lutz, and James Jutras re: Information on
295 Stormwater Phosphorus Control Plan

296 d. Memo from Darren Schibler re: Residential Phasing Policy

297 e. Fiscal Year 2022 Essex Parks and Recreation Program Fund Budget

298 f. Chittenden County Regional Planning Commission March Newsletter

299 g. Memo from Renae Marshall, Colchester Deputy Town Manager, Aaron Frank, Colchester Town
300 Manager, Robert Vickery, Colchester Town Assessor and Julie Graeter, Colchester Town Clerk/Treasurer
301 re: Act 175 Vermont Education Property Tax Transition Study

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303 **9. EXECUTIVE SESSION**

304 **a. **An executive session is anticipated to discuss pending or probable litigation**

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306 **VINCE FRANCO made a motion, seconded by TRACEY DELPHIA, that the Selectboard make the**
307 **specific finding that general public knowledge of pending or probable civil litigation, to which the**
308 **public body is or may be a party, would place the Town at a substantial disadvantage. Motion**
309 **passed 5-0.**

310

311 **VINCE FRANCO made a motion, seconded by DAWN HILL-FLEURY, that the Selectboard enter**
312 **into executive session to discuss pending or probable civil litigation, to which the public body is or**
313 **may be a party, pursuant to 1 V.S.A. § 313(a)(1)(E), to include the Unified Manager, Deputy**
314 **Manager, and HR Director. Motion passed 5-0.**

315

316 **b. ***An executive session is anticipated for contracts and labor relations agreements with**
317 **employees**

318

319 **TRACEY DELPHIA made a motion, seconded by DAWN HILL-FLEURY, that the Selectboard**
320 **make the specific finding that premature general public knowledge of the Town's position**
321 **concerning ongoing contract negotiations and labor relations agreements with employees would**
322 **place the Town at a substantial disadvantage. Motion passed 5-0.**

323

324 **TRACEY DELPHIA made a motion, seconded by DAWN HILL-FLEURY that the Selectboard**
325 **enter into executive session to discuss contracts and labor relations agreements with employees**
326 **pursuant to 1 V.S.A. § 313(a)(1)(A) and 1 V.S.A. § 313(a)(1)(B), to include the Unified Manager,**
327 **Deputy Manager, and HR Director. Motion passed 5-0.**

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329 **DAWN HILL-FLEURY made a motion, seconded by VINCE FRANCO, to exit executive session.**
330 **Motion passed 5-0 at 10:19 p.m.**

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332 **DAWN HILL-FLEURY made a motion, seconded by TRACEY DELPHIA, to authorize the Unified**
333 **Manager to execute a contract with the American Federation of State, County and Municipal**
334 **Employees (AFSCME) for 2021-2024. Motion passed 5-0.**

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10. ADJOURN
DAWN HILL-FLEURY made a motion, seconded by VINCE FRANCO, to adjourn. Motion passed 5-0 at 10:23 p.m.

Respectfully Submitted,
Darby Mayville
Recording Secretary

Approved this _____ day of _____, 2021

(See minutes of this day for corrections, if any)

Tracey Delphia, Clerk, Selectboard