

**SELECTBOARD MINUTES
(DRAFT)**

**TOWN OF ESSEX SELECTBOARD
DRAFT MEETING MINUTES
MONDAY, NOVEMBER 15, 2021**

SELECTBOARD: Andy Watts, Chair; Sue Cook, Tracey Delphia, Dawn Hill-Fleury, Patrick Murray

ADMINISTRATION and STAFF: Greg Duggan, Deputy Manager; Sarah Macy, Finance Director

OTHERS PRESENT: Alan Botula, Chair, Conservation & Trails Committee; Andrew Brown, Village President; Raj Chawla, Village of Essex Junction Board of Trustees; Kevin Collins; Annie Cooper; Patty Davis; Erin Dickinson; Bill Ellis, Town Attorney; Maureen Gillard; Gina Halpin Barrett; Shannon Jackson, Conservation & Trails Committee; Deb McAdoo; Ross Miller; Joe Percy; Mary Post; Angel Segarra; Ken Signorello; Harlan Smith; Margaret Smith; Dennis Thibeault; Mike Thorne; George Tyler, Essex Junction Board of Trustees; Irene Wrenner; Lorraine Zaloom; Carolyn; Essex Distorter; Ton.

1. CALL TO ORDER

Mr. Watts called the Town of Essex Selectboard to order at 6:30 PM.

2. AGENDA ADDITIONS/CHANGES

None.

3. APPROVE AGENDA

No changes, approval not required.

4. PUBLIC TO BE HEARD

a. Comments from Public on Items Not on Agenda

Mr. Watts explained that this is the time during the meeting for members of the public to speak on items not included in tonight's agenda. He encouraged the public to be civil, brief, use appropriate language, refrain from personal attacks, and address comments to the Selectboard Chair.

Ms. Wrenner urged the Selectboard to review the Senior Center Memorandum of Understanding (MOU).

5. BUSINESS ITEMS

a. Presentation from Conservation & Trails Committee about budgeting for ash tree management

Mr. Botula and Mr. Jackson said they believe that the emerald ash borer (EAB) invasive insect is in Essex and said that many urban trees in Essex are ash trees. It is expected that all ash trees will be killed by the emerald ash borer, and that proactive removal of the trees is less expensive than reactive removal. The Committee would like the Town to commit to biennial treatment of 13 trees, continue the proactive removal and replacement program, and create an "adopt-a-tree" citizen volunteer program. Ms. Cook asked if EAB had been found in Essex, Mr. Botula said that it had not been found specifically, but that it is in nearby towns and that some ash trees in the community are not in good shape. Mr. Jackson said it has been found in surrounding towns, and that once EAB is found on trees it is often too late for those trees. Mr. Botula said that the Committee wanted to begin treatment on the 13 trees this spring, Mr. Duggan said he would work with staff to ensure that approximately \$1,000 in funding would be available for the treatment.

In public comment, Ms. Smith encouraged the Board to consider carbon sequestration when looking at replanting trees. Mr. Smith asked about treatment effectiveness, term, and if there was an ash tree that was naturally resistant to EAB. Mr. Botula said treatment is extremely effective, that treatment needed to be

50 continued indefinitely, and that he was not aware of any natural resistance in ash trees. Ms. Davis
51 suggested professionals and organizations who may be able to help with EAB and pointed out a dangerous
52 tree on Sand Hill Road.

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54 **b. Potential action to compensate Village of Essex Junction \$97,003.85 for Village Manager**
55 **recruitment and hiring process**

56 Mr. Duggan said the Village has requested a payment for the remainder of the fiscal year, due to the end
57 of shared management. Mr. Watts said that there is a gap in management coverage from February 25 to
58 June 30. The Village is losing the management support it expected based on the approved budget, and
59 these funds are intended to replace this support. Mr. Murray said this money has already been paid into the
60 Town account for this purpose. Ms. Cook, Ms. Hill-Fleury, and Ms. Delphia expressed confusion that the
61 motion made by the Trustees stated that the funding was for the Village Manager recruitment and hiring
62 process. Ms. Hill-Fleury said the Selectboard had never discussed helping the Village hire a new manager.
63 Mr. Murray said he does not believe that the Selectboard has any ability to restrict how funds are spent
64 once issued. Mr. Chawla said this request is to replace the funds that have already been paid for this
65 purpose and that this amount was calculated based on a loss of service. Mr. Brown clarified that these
66 funds are purely to give back money that was previously allocated for shared management. Ms. Cook
67 asked how the Village plans to cover the HR services being provided by the Town, and Mr. Brown said
68 those decisions would be made by the interim manager. Mr. Murray said the Selectboard requested to end
69 joint municipal services and is confused why the Board is balking at reimbursing the Village for the funds
70 that they have already paid. He said he does not feel comfortable keeping tax money that has been
71 collected and allocated for a specific line item. Ms. Hill-Fleury said she has a problem with the specific
72 wording and would like it to be more specific regarding the purpose of these funds. Mr. Watts clarified
73 that both Boards terminated the shared management memorandum of understanding by not acting on the
74 Unified Manager's contract, and that the Trustees were interested in a possible extension but the
75 Selectboard chose not to do so. Mr. Watts said the main question is if this to be a flat payment or a
76 specific reimbursement based on cost incurred.

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78 In public comment, Mr. Chawla said the Trustees had made a specific and detailed calculation on the
79 Village tax dollars that were put into the Town budget, and that how those funds are spent is a Village
80 discussion. There should be no need for the Village to present detailed information on spending. Mr.
81 Smith said the money in question was collected only from Village residents and was transferred to the
82 Town for the contracted service of shared management. The Selectboard should not be making decisions
83 about this money. Ms. Delphia said the confusion around the stipulation came from how the motion came
84 from the Trustees, and that she does not think the Selectboard can bind another Board on how they spend
85 their money. Mr. Watts suggested re-wording the motion, and Mr. Brown said the Selectboard knows the
86 intent of what the funding is for and requested that it not be delayed. Ms. Wrenner said she heard the
87 Trustees discuss the possibility of a 30-hour-a-week interim manager and said she does not believe this
88 would cost \$97,000. She does not believe that the Selectboard owes the Trustees any funds and said the
89 Trustees should not attempt to bind the Selectboard. She also encouraged the Town to work with the
90 Village to help them transition.

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92 **ANDY WATTS made a motion, seconded by PATRICK MURRAY, that the Selectboard provide**
93 **the Village of Essex Junction \$97,003.85 to replace services that will be lost due to discontinuance of**
94 **the shared manager MOU. Motion passed 5-0.**

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96 **c. Potential action to compensate Village of Essex Junction \$60,000 for Finance Director**
97 **recruitment and hiring process**

98 Mr. Duggan said that Finance Director Ms. Macy is moving on to another opportunity, and that now is the
99 time to separate the shared Finance Department into two teams for the Town and Village. This will allow
100 each municipality to focus on their own needs. Mr. Duggan explained the history of the sharing of finance
101 services between the Town and Village and said it is tied to shared management. There are five employees
102 in the Finance Department, three of which are paid primarily through the Town budget, one through
103 water/sewer funds, and another through the Village budget. Ms. Macy said it would be difficult to hire
104 someone to be a joint finance manager only for them to undue everything in a few years. Mr. Duggan said
105 that, even with two Finance Directors, there will still need to be an agreement and a plan to separate Town
106 and Village finances. The Town has money in the budget to hire for a Finance Director, however the
107 Village does not. A transition manager will also need to be hired to assist each side in pulling apart this
108 process. Mr. Watts and Ms. Cook expressed concern that the Town is being asked to pay for both
109 positions. In public comment, Mr. Percy asked if the Village contributed 40 percent of the Finance
110 Director's salary. Mr. Watts said it was approximately 42 percent. Ms. Davis suggested hiring an
111 accounting firm to do the unraveling. Mr. Chawla said there is no bias in accounting, and that he hopes the
112 Board has heard what staff have said regarding this matter, and that Ms. Macy's departure will create a
113 huge hole. Ms. Zaloom asked if the Village would be able to hire a Finance Director if it does not receive
114 these funds. Ms. Macy said if this does not happen, a joint finance director would need to be hired. Due to
115 the instability, this may be difficult to do. Mr. Duggan said Finance, which is a shared department, was
116 budgeted for fiscal year 2022 and primarily covered through the Town budget. The Village had not
117 budgeted for this in their budget due to the shared nature of the department. Ms. Cook suggested looking
118 to see if there are funds where the money can be reallocated in the Village budget. Mr. Watts said more
119 detail is needed to decide and said it is unclear where the Board is being asked to provide the money from,
120 as a similar question is being asked in relation to the fund balance. All decided to table this conversation.
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d. Work session on fiscal year 2023 budget

122 Ms. Macy said that the Budget Day workshop on November 9, 2021 showed a 5.8 percent overall increase
123 and a 7.1 percent increase in the tax levy, with the tax levy greater than the budget increase due to lost
124 revenue from ending some shared services. Adjustments made to the budgets since the budget day brought
125 down the budget increase to 4.6 percent and a 5.4 percent tax levy increase. Major changes involve
126 removing a management position, removing Village revenue for the Finance Director, and adding the use
127 of fund balance. Ms. Cook encouraged the Board to discuss the large increase requested for Essex Rescue.
128 Mr. Duggan said Essex Rescue will present to the Selectboard next month. Ms. Delphia asked if one per
129 diem position will help to alleviate the staffing concerns at the Fire Department and encouraged the Board
130 to look at the "career ladder" approach, like the Village Fire Department. The Board also discussed the
131 cleaning budget at the Essex Free Library and increases to the Health Officer stipend. Ms. Macy asked if
132 the Selectboard would like to see a certain percentage decrease. Mr. Watts said no. Mr. Murray said the
133 Board has pushed off expenses for several years, and that continuing to push these off would be doing a
134 disservice to the community.
135

136 Ms. Wrenner said the Fire Department has asked every year for better equipment and compensation and
137 said that she would like to see the wages to be in sync with the Village Fire Department. She said she
138 considers a local option tax regressive and said this has been voted down by the Village and Town in the
139 past and suggested adding a "luxury" tax on cannabis, alcohol, or hotels.
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141 Ms. Davis said that too much time and money is spent on separation, and that the Town needs to focus on
142 its own needs.
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144 Ms. Zaloom encouraged there to be some parity between pay in the Village and Town Fire Departments.
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e. Potential action on fund balance assignments

Ms. Macy said she had anticipated that fiscal year 2021 would be a low revenue year, however this was not the case and the Town had a large amount of unspent funds. This is as a result of COVID relief funds, underspending on personnel, and increased property sales. Ms. Macy noted that some of these funds are only able to be spent on a specific purpose (restricted), while others are unassigned. Additional funds will be used to reduce property taxes. She highlighted some suggestions on spending these unassigned funds, such as records preservation, separation/repurposing of merger costs, and personnel costs. Mr. Watts mentioned that the Selectboard would pay a severance cost as a part of ending shared management services, which would be paid out of personnel costs.

PATRICK MURRAY made a motion, seconded by TRACEY DELPHIA, that the Selectboard assign the fund balance in the amounts indicated above, and in addition change the category for merger related costs to separation related costs. Motion passed 5-0.

f. Potential action to end Memorandum of Understanding Regarding the Unified Manager

Mr. Watts said that this is explicitly on the agenda to allow for comments from the public, of which there were none.

SUE COOK made a motion, seconded by TRACEY DELPHIA, that the Selectboard end the Memorandum of Understanding Regarding the Unified Manager when the MOU expires after February 26, 2022. Motion passed 5-0.

g. Discussion and potential action on tentative agreements about shared services between Town of Essex and independent City of Essex Junction

The Selectboard discussed the following agreements: Memorandum of Understanding Regarding Agreements for Shared Services, Delinquent Tax Agreement, Information Technology Agreement, and Police Services Agreement.

Regarding the MOU, Mr. Watts encouraged the Board to develop a timeline for the end of each shared service. He said he and Mr. Murray met with local legislators, and they expect the legislature to be tied up with other issues this year, and that the charter will not be reviewed if it comes with any confusion surrounding it. They recommend that the Selectboard and Trustees decide and submit it to the legislature for them to address the legality. It is important that there are no contradictions between the documents presented by the Town and Village. Mr. Watts said there is a possibility that a town-wide vote may need to be held, or an annexation panel to occur. Mr. Ellis discussed wording on the term “must,” stating that the Town has committed to executing all of the top tier agreements, but not the second tier. He also suggested that the Town not negotiate second-tier agreements until all top-tier agreements are finalized.

Mr. Murray left the meeting.

Mr. Ellis said the Town should draw a line in the sand for when no Town services are to be provided to the Village or City. Mr. Watts agreed with this and said that knowing so would be helpful to the Town for planning purposes. He said he is seeing less and less value to these agreements as the Town is losing financially. Ms. Hill-Fleury agreed. There was some discussion regarding whether the current Town justices of the peace who reside in the Village will automatically be City justices of the peace. Ms. Delphia said she would like more information as to why some of the changes were made by the Village, as substantial changes have been made. Mr. Watts clarified to Mr. Ellis that the Selectboard wants to ensure

194 that all agreements are approved on an “all or nothing” basis, retain the ability to oppose, and have a
195 defined timeline. All agreed with this sentiment.

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197 Regarding the Delinquent Tax Agreement, Mr. Watts said the Trustees wrote the City charter to say the
198 City will collect taxes during its transition year, and in order to have the document approved by the
199 legislature consistency is important. The Selectboard discussed the proposed change to the document,
200 stating that the City would collect taxes as soon as they become an independent municipality. During the
201 transition year, the City will be collecting taxes for Town properties. The money owed to the Town would
202 be paid by the end of the fiscal year. This means the City taxpayers will still owe Town taxes at this time,
203 and the Town will not be able to collect taxes due to them. Mr. Ellis said the City charter could be
204 changed by the legislature, and that the Selectboard should not go with something just because it is
205 included in the charter. The Selectboard expressed concern that the City may not have the financial
206 infrastructure needed to ensure that correct taxes are collected and allocated to the Town. Mr. Ellis said
207 the Village should be required to purchase City delinquent properties upon the formation of the City,
208 instead of reimbursing the Town after collections. Ms. Delphia said the scope of this agreement needs to
209 be revisited. The Board said it would like the Town to collect its own taxes, so long as it is legal, and if
210 not would want appropriate terms on when the money would be paid to them.

211
212 Regarding the IT Agreement, the Board questioned a statement that said the time to facilitate the
213 migration would be negligible. Mr. Duggan said IT staff members have confirmed this statement. The
214 Selectboard questioned how it would be ensured that the City would not have access to Town data. Mr.
215 Watts said this document does not have a clear end date, and it appears that only the Village can terminate
216 the document. Ms. Delphia brought up information security concerns, and who would be responsible for
217 such, and Mr. Ellis said this should be the City’s responsibility. He also said there should be some
218 verbiage regarding federal or state violations on protected data. Ms. Cook brought up concerns regarding
219 the definition of a “reasonable” rate, as well as vendor negotiations.

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221 Regarding the Police Agreement, Ms. Cook said she was not comfortable with an automatic termination.
222 Mr. Ellis suggested some kind of reciprocal agreement for uncollected services and expressed concerns
223 about statements on refunds.

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225 In public comment, Ms. Wrenner asked when it would be determined that this is not good faith negotiation
226 on the part of the Village. Ms. Davis commended the Selectboard and Mr. Ellis for their hard work.

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228 **6. CONSENT ITEMS**

229 **DAWN HILL-FLEURY made a motion, seconded by SUE COOK, to accept the consent agenda.**
230 **Motion passed 4-0.**

- 231 a. Approve Minutes: November 9, 2021
232 b. Check Warrants: #17924—11/05/2021

233
234 **7. READING FILE**

- 235 a. Board member comments: Ms. Delphia brought attention to her e-mail on Selectboard “office hours,”
236 and said that she is happy to have future conversations with Board members regarding setting this up. Mr.
237 Watts clarified a statement he had made at an earlier meeting and said there is in fact a provision in some
238 communities to recall a Selectboard member. He said that there is currently a citizen-led effort to allow
239 recalls in the Town of Essex.
240 b. Email from Charles Cole re: Response to calls for Self Harm Patients
241 c. Email from Tracey Delphia re: Thoughts on 'office hours'/public availability

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- 242 d. Email from Community Development Department re: Casey Clark Resignation from Conservation and
- 243 Trails Committee
- 244 e. Information about fiscal year 2022 Human Services Funding
- 245 f. Upcoming meeting schedule
- 246

8. EXECUTIVE SESSION

- 247
- 248 **~~a. An executive session may be requested to discuss negotiation of contracts and agreements~~**
- 249 **~~between the Town of Essex and Village/City of Essex Junction~~**
- 250

9. ADJOURN

- 252 **TRACEY DELPHIA made a motion, seconded by DAWN HILL-FLEURY, for the Selectboard to**
- 253 **adjourn. Motion passed 4-0 at 10:59 PM.**
- 254

255 Respectfully Submitted,
256 Darby Mayville
257 Recording Secretary