MINUTES SUBJECT TO CORRECTION BY THE ESSEX JUNCTION BOARD OF TRUSTEES. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE BOARD.

VILLAGE OF ESSEX JUNCTION
BOARD OF TRUSTEES
MINUTES OF MEETING
January 10, 2012

BOARD OF TRUSTEES: George Tyler (Village President); Dan Kerin, Mary Morris, Lori Houghton. (John Lajza was absent.)
ADMINISTRATION: Dave Crawford, Village Manager; Lauren Morrisseau, Finance Director.
OTHERS PRESENT: Kevin Collins.

I. CALL TO ORDER and PLEDGE OF ALLEGIANCE

Village President, George Tyler, called the meeting to order at 6:30 PM and led the assemblage in the Pledge of Allegiance.

II. AGENDA ADDITIONS/CHANGES

Additions to the agenda:

- Letter from Amtrak, dated 1/9/12
- Revenue Analysis Information from Village Finance Director
- Readopt Proposed Ordinances
- Summary of Amtrak Renovation Process

III. GUESTS AND PRESENTATION

1. Comments from Public on Items Not on Agenda

None.

IV. OLD BUSINESS

1. Re-Adopt Proposed Ordinance on Backyard Chickens, Vacant and Dangerous Buildings, Litter Control and Trustees' Policy Regarding Ordinance Appeals Board

MOTION by George Tyler, SECOND by Dan Kerin, to amend the municipal code by adopting the following ordinances as proposed with the understanding that to the extent they conflict with the Land Development Code, the municipal ordinances will take precedence per the opinion of the Village Attorney, and the Land Development Code will be amended at a later date to conform to the municipal ordinances; the specific amendments to include the new chapters shown below, and further, that the Board of Trustees adopts the Trustees Policy regarding the Ordinance Appeals Board. VOTING: unanimous (4-0); motion carried.

CHAPTER 15. ORDINANCE REGULATING VACANT BUILDINGS, BLIGHTED PREMISES AND DANGEROUS PROPERTY

PURPOSE: In accordance with 24 V.S.A. 2291, to define what constitutes vacant buildings, blighted premises and dangerous property, and to provide procedures and take action for their abatement or removal as the public health, safety or welfare may require.

SECTION 1501. DEFINITIONS:

(a) Blighted Premises: Any building, structure or parcel of land, except exempt property as defined below, in which at least one of the following conditions exists:

1. It is dilapidated or becoming dilapidated as documented by the Village Manager and/or assigns;
2. It is attracting illegal activity as documented by the Police Department;
3. It is a fire hazard as determined by the Fire Marshal or as documented by the Fire Department;
4. It is determined by the Village Manager and/or assigns or by Health Department reports that the condition of the building, structure or parcel of land poses a serious or immediate danger to the safety, health or general welfare of the community.
5. It is not being maintained. The following factors may be considered in determining whether a structure or building is not being adequately maintained: missing or boarded windows or doors; collapsing or missing walls, roof or floors; seriously damaged or missing siding or walls; a structurally faulty foundation; garbage, trash or abandoned/unregistered cars on the premises (unless the premises is a junkyard legally licensed); overgrown grass or weeds of at least one foot in length; graffiti; and fire damage; or
6. It is a factor creating a substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other space within the neighborhood as documented by neighborhood complaints, or cancellation of insurance on the subject property or on adjacent properties.

(b) Building Safety Officer: Village Manager and/or assign

(c) Dangerous Property:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(d) Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

(e) Fire Hazard. Exists whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

(f) Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(g) Vacant building: Any structure or building that is unoccupied by a person or occupied by unauthorized persons for ninety (90) days, excepting permitted warehouse structures, garages, vacation or resort facilities or those buildings or structures only used on a seasonal basis.

(h) Vacant Nuisance Property: Any property that has been vacant for ninety (90) days and has also been determined to be a Dangerous Property.

SECTION 1502. VACANT BUILDINGS:

(a) When the owner of a vacant building fails to actively maintain and manage a building the building can become a major cause of blight in both residential and nonresidential neighborhoods. Vacant buildings that are boarded, substandard or on unkempt properties, and long-term vacancies discourage economic development and retard appreciation of property values.

(b) It is a responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety or welfare.

(c) One vacant property that is not actively and well maintained and managed can be the core and cause of spreading blight.

(d) Owners of multiple buildings, either concurrently or serially, that are vacant and blight to the community are a significant problem in the Village. Owners of buildings who fail to correct deficiencies and blighted conditions in their buildings contribute to the decline of neighborhoods to a greater extent than those who own only one building. It is in the interest of the welfare of neighborhoods that owners of properties who fail to maintain properties and correct vacant and blighted buildings are subject to imposition of higher administrative penalties in order to encourage these owners to correct violations of this article in a prompt manner.

(e) No owner shall allow a building designed for human use or occupancy to be a vacant building for more than ninety days, unless one of the following applies:

1. The building is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the repair or rehabilitation.
2. The building meets all Village codes, does not contribute to blight, is ready for occupancy, and is:
   a) Actively being offered for sale, lease, or rent, or
   b) Is actively being maintained and monitored by the owner, as defined in below:
      1. Maintenance of the building in continuing compliance with all applicable codes and regulations.
      2. Prevention of criminal activity on the premises.
      3. The posting of a notice in a conspicuous place on the front of the building stating the name, address, and telephone number of both the owner and, if applicable, the owner's agent in control of the building. This notice shall have lettering not less than two (2) inches high and shall be generally readable from at least thirty feet away.

SECTION 1503. VACANT BUILDING MAINTENANCE STANDARDS:

(a) Active maintenance and monitoring shall include all of the following:

1. *Accessory and appurtenant structures:* Accessory and appurtenant structures such as garages, sheds, and fences shall be free from safety, health, and fire hazards and shall comply with these vacant building maintenance standards.
2. *Building openings:* Doors, windows, areaways and other openings shall be weather-tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and other such openings shall be covered by glass or other rigid transparent materials which are weather protected, and tightly fitted and secured to the opening.
3. *Building structure:* The building shall be maintained in good repair, structurally sound and free from debris, rubbish and garbage. The building shall be sanitary. The building shall not pose a threat to the public health and safety.
4. *Chimneys and towers:* Chimneys, cooling towers, smokestacks, and similar appurtenances shall be structurally safe and in good repair. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
5. *Decorative features:* The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored, and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
6. *Drainage:* The building storm drainage system shall be functional and installed to Village Standards, and allow discharge to Village Standards.
7. *Exterior walls:* The exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

8. *Foundation walls:* The foundation walls shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to public health and safety, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, and be animal proof.
9. *Overhanging extensions:* All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment
10. *Premises:* The premises upon which the structure or building is located shall be clean, safe, and sanitary, free from waste, rubbish, debris or excessive vegetation, and shall not pose a threat to the public health or safety.
11. *Roofs:* The roof and flashings shall be sound and tight, not admit moisture or have defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the building, or admit moisture or rain to a contiguous building.
12. *Structural members:* The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
13. *Walkways:* Walkways shall be safe for pedestrian travel.

SECTION 1504. REQUIRED BOARDING OF VACANT BUILDINGS.

(a) For the purposes of this article, "boarded" shall mean the covering of all entry points, including all doors and windows, with plywood or other materials for the purpose of preventing entry into the buildings by persons or animals.

(b) Vacant buildings shall be boarded when the building can no longer be secured against intrusion by the closing and locking of doors and windows.

(c) Vacant buildings that are immediately dangerous and are open and accessible to the general public may be summarily boarded by the Village, pursuant to this Ordinance.

(d) Any building that is boarded, whether by voluntary action of the owner or as a result of enforcement activity by the Village, shall be boarded in compliance with Village standards promulgated by the Village Manager, and approved by resolution of the Board of Trustees.

SECTION 1505. DANGEROUS BUILDINGS.

(a) If, upon inspection of a building, the Village or Village Agent determines that a building, structure or anything attached or connected therewith, or any hazardous condition appears to endanger the public safety, the Village Manager shall commence an abatement action by issuing a Building Safety Order. The Building Safety Order shall:

1. Identify the hazardous conditions that cause the premises, building, structure or anything attached or connected thereto to be dangerous.
2. Identify the actions that must be taken by the owner to secure the Dangerous Building or Premises and abate the hazardous conditions identified in the order, including, where appropriate, removal of a Dangerous Building.
3. Set a date by which the actions to secure a Dangerous Building or Premises and abate the hazardous conditions must be completed by the owner, which shall be not less than fifteen (15) days from the date of service of the order.
4. Inform the owner of his/her right to appeal the Building Safety Order and the right to be represented by legal counsel at the appeal hearing.

(b) The Safety Order shall be served upon the owner of the Dangerous Building or Premises by first class certified mail, return receipt requested. A copy of the Order shall be provided to the Board of Trustees of Essex Junction.

(c) If it appears to the Village Manager or Village Agent that such structure or premises would be especially dangerous, the Village may affix a notice of dangerousness in a conspicuous

place upon the structure's exterior walls, or may affix a posted notice in the ground which shall not be removed or defaced without the Villages authority.

(d) If the owner continues such refusal or neglects to remove or make the building or premises safe, and the Order has become final by the failure to appeal, the Village shall be fully authorized to abate the nuisance, except where removal or demolition of a building is required. The Building Safety Officer may, as necessary, install boards or otherwise secure a dangerous building or order that a building be vacated by any occupants and removed.

(e) For removal or demolition, the Village Manager, or other appropriate Village officer, may seek approval from the appropriate Court for a remedy in equity to remove or demolish a dangerous building, or to order such steps as may be necessary to abate any hazardous condition. The Village Manager Officer may also seek the imposition of fines in accord with this Ordinance.

(f) The Building Safety Officer may contract with such service providers or use such other Village employees as may be necessary to ensure public safety in the circumstances. The full cost of any work necessitated by a Safety Order shall constitute a lien chargeable against the property owner and may be recovered in the same manner as taxes for real estate pursuant to 32 V.S.A. Ch. 133.

1. For removal or demolition, the Village Manager, or other appropriate Village officer, may seek approval from the appropriate Court for a remedy in equity to remove or demolish a dangerous building, or to order such steps as may be necessary to abate any hazardous condition. The Village Manager may also seek the imposition of fines in accord with of this Ordinance.

SECTION 1506. ADMINISTRATIVE PENALTY

Any owner of a building that is in violation of this Ordinance shall be subject to an administrative penalty, in an amount not to exceed one thousand dollars ($1,000.00) per building for the first violation.

A second administrative penalty shall be imposed upon an owner pursuant to this article if the owner's building remains in violation of this Ordinance thirty (30) days following the imposition of the first administrative penalty. Additional penalties may be imposed in each thirty (30) day period following the imposition of an administrative penalty under this article. Additional penalties may be imposed so long as the violations continue. A second and any subsequent penalty shall be in an amount not to exceed five thousand dollars ($5,000.00).

If a previous administrative penalty has been imposed pursuant to this article upon an owner within two years of the date of the imposition of the present administrative penalty, and that previous administrative penalty related to a vacant building other than the building presently the subject of an administrative penalty, any penalty imposed shall in no case be less than two thousand dollars ($2,000.00) nor more than ten thousand dollars ($10,000.00).

SECTION 1507. APPEAL

A person aggrieved by a revocation, suspension or penalty pursuant to this Ordinance may appeal as outlined in the Trustees' Policy regarding the Ordinance Appeals Board.

SECTION 1508. MONITORING FEE FOR VACANT NUISANCE PROPERTIES

Any vacant building that also constitutes a public nuisance shall be subject to monthly monitoring fees and enforcement response fees, to recover the Village's regulatory costs to monitor and respond to the vacant building. The separate monthly monitoring fee and enforcement response fee shall be set by resolution of the Village Trustees. The monitoring fee shall be imposed upon the initial determination that the vacant building constitutes a public nuisance. The fee shall thereafter be imposed in each thirty (30) day period following the imposition of the initial monitoring fee. On buildings requiring more than one (1) involuntary Village enforcement response within any thirty (30) day period, an additional and separate enforcement response fee shall be imposed, for each response, upon the owner. Monitoring fees of $250 per month shall be imposed as long as the vacant building remains a public nuisance. Any monitoring fee imposed

pursuant to this section may be appealed by the same process that is available for appeal of Safety Orders and Administrative Penalties.

SECTION 1509. NONCOMPLIANT BUILDINGS OR PROPERTY.

Any building or property in violation of this Ordinance shall not be accepted for review by the Planning Commission or Zoning Board of Adjustment until the violation is rectified.

SECTION 1510. SEVERABILITY.

If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Ordinance.

CHAPTER 17. ORDINANCE REGULATING KEEPING OF DOMESTICATED CHICKENS IN BACKYARDS

PURPOSE: The purpose of this Ordinance is to provide standards for the keeping of domesticated chickens. It is intended to enable residents to keep a small number of female chickens while creating standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.

SECTION 1701. PERMIT REQUIRED

(a) An annual permit is required for the keeping of any domesticated chickens. The annual permit is personal to the permittee and may not be assigned.

(b) The initial fee for the annual permit to keep chickens is thirty-five dollars ($35.00). Said fee to include the cost of staff inspection and zoning permit (if required). The annual permit will expire twelve (12) months from date of issuance. The fee for a renewal of an annual permit shall be ten dollars ($10.00). Accessory structures less than fifty square feet (50 s.f.) do not require a zoning permit under the Land Development Code, but the structure may not be placed within the property line setbacks.

(c) A Permit is not valid until fifteen (15) days after the date of issuance.

(d) The Permit may be appealed within fifteen (15) days of its issuance.

(e) The applicant shall post the Permit immediately after receipt of the Permit on the property to which it refers in a location visible from the street until the development is complete.

(e) An applicant for a Permit to keep chickens must demonstrate compliance with the criteria and standards in this Ordinance in order to obtain a permit.

(f) The application for a Permit shall be submitted to the Village Manager or his/her designee.

SECTION 1702. EXCEPTIONS

(a) "Agriculture" and/or "farming" practices and/or structures as defined by the Vermont State Statutes or Vermont Secretary of Agriculture shall be exempt from this Ordinance.

(b) Any use permitted as "Keeping of Livestock" under the Village of Essex Junction Land Development Regulations shall be exempt from this Ordinance.

SECTION 1703. NUMBER AND TYPE OF CHICKENS

(a) The maximum number of chickens allowed is four (4) total per lot regardless of how many dwelling units are on the lot.

(b) Only female chickens are allowed. There is no restriction on chicken species.

SECTION 1704. NON-COMMERCIAL USE ONLY

Chickens shall be kept for personal use only**.** Slaughtering of chickens is not permissible in public view.

SECTION 1705. ENCLOSURES

(a) Chickens must be kept in an enclosure, such as a henhouse, chicken tractor, or fenced area at all times during daylight hours. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact. Enclosures may be portable, but cannot be set up within the property line setbacks.

(b) Chickens shall be secured within a structure (such as henhouse or chicken tractor) during non-daylight hours. The structure shall be enclosed on all sides and shall have a roof and doors.

Access doors must be able to be shut and locked at night.
(c) Enclosures shall not exceed fifty (50) square feet in size but may be located within a larger structure approved through the Land Development Regulations.
(d) Henhouses, enclosures, chicken tractors, and fenced areas are not permitted in the front yard of any property and must meet either minimum setback requirements of the zoning district or be kept no less than ten (10) feet from side yard property lines, and fifteen (15) feet from the rear yard property lines, whichever is greater.
(e) If a primary residence exists on the property, henhouses, enclosures, chicken tractors and fenced areas shall be located only in rear yards. For a corner lot or other property where no rear yard exists, these facilities shall not be located within the front yard setback for the zoning district.
(f) Chickens are not allowed to be located in any part of a home or garage.

SECTION 1706. ODOR AND NOISE IMPACTS

(a) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.
(b) Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

SECTION 1707. LIGHTING

Lighting for the exterior of the henhouse shall not impact or illuminate adjoining properties or disrupt the neighbors.

SECTION 1708. PREDATORS, RODENTS, INSECTS, AND PARASITES

The property/chicken owner shall take all necessary action to reduce the attraction of predators and rodents**.** Infestation of insects and parasites that may result in unhealthy conditions to human habitation will result in the chicken facility being removed by the Village, through the animal control officer, or any other designee, and the cost of the same shall be borne by the property/chicken owner. In tandem with any removal of a chicken facility the Village will revoke any permit for same.

SECTION 1709. FEED AND WATER

Chickens must be provided with access to feed and clean water at all times; such feed and water shall be unavailable to rodents, wild birds and predators.

SECTION 1710. WASTE STORAGE AND REMOVAL

Provision must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed container or compost bin. No more than one, twenty (20) gallon container of manure shall be stored on any one property housing chickens. All other manure shall be removed or composted. In addition, the henhouse, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

SECTION 1711. VIOLATION

Each violation of this ordinance shall be subject to a daily $25.00 fine. Each day a violation continues shall constitute a separate offense. The Village shall retain the right to inspect any property to determine whether a violation has been corrected.

SECTION 1712. PERMIT REVOCATION

(a) A permit may be revoked without reimbursement of any fee for:
    1. Misrepresentations on an application;
    2. Violation of the provisions of this ordinance or other Village of Essex Junction regulations, and failure to correct said violation upon re-inspection.
    3. Any revocation or suspension pursuant to this section may be appealed to a Committee appointed by the Board of Trustees.

SECTION 1713. APPEAL PROCEDURE

A person aggrieved by a revocation, suspension or penalty pursuant to this Ordinance may appeal as outlined in the Trustees' Policy regarding the Ordinance Appeals Board.

SECTION 1714. ENFORCEMENT
Any violation of this ordinance may be enforced by injunction or other action available at law.

SECTION 1715. REMOVAL OF CHICKENS

(a) In addition to the penalty stated in Section 1711, any violation of the provisions of this Ordinance shall be grounds for an order from the Village to remove the chickens and the chicken-related structures. The health officer**,** animal control officer and/or Village Manager designee may order the removal of the chickens upon a determination that the chickens pose a health risk and/or there is probable cause of abuse or neglect.

(b) If a chicken dies, it must be disposed of promptly in a sanitary manner by the Permit holder.

SECTION 1716. SEVERABILITY
In the event that any section, subsection or portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

CHAPTER 18. ORDINANCE REGULATING CONTROL OF LITTER, REFUSE, GARBAGE, JUNK, JUNK MOTOR VEHICLES, TRASH AND SOLID WASTE

PURPOSE: This Ordinance mandates that all litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash be disposed of in either private or public receptacles and puts the responsibility on property owners to maintain their premises in a litter/refuse/garbage/junk/trash/waste-free manner.

SECTION 1801: DEFINITIONS.

(a) The following words and terms, when used in this Ordinance, shall for the purpose of this Ordinance, have the following meanings ascribed to them:

1. Abatement cost means the Village's cost for labor, equipment, and supplies for, or the contract price of, and any charges to, the Village, with respect to the removal and disposal of litter, garbage, rubbish, or refuse from a property.
2. Construction site means any residential, commercial, industrial or other area, lot or site at which construction or demolition of any type is conducted, including roads and traveled ways, at buildings, and at all other places actively being constructed, demolished, renovated, or repaired.
3. Construction waste means solid waste that is produced or generated during construction, demolition, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and garbage are not construction wastes.
4. Discard means to abandon, dispose of, accumulate, store or treat before or instead of being abandoned, disposed of.
5. Discarded material means a material that is abandoned, disposed of, accumulated, stored or treated before or instead of being abandoned, disposed of.
6. Dispose means to discharge, deposit, inject, dump, spill, leak or placement of any solid waste into or on any land or water so that such solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters.
7. Garbage means readily putrescible discarded materials composed of animal, vegetable, or other organic matter.
8. Junk means old or discarded scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded,

dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof. Any of the above items used in a bona fide agricultural operation are excluded from this definition.

9. Junk motor vehicle means a discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, an unregistered motor home not connected to water and/or sewer, or a vehicle other than an on-premise utility vehicle which is allowed to remain unregistered for a period of 90 days from the date of discovery.
10. Litter means any man-made material that, if thrown, discarded, or disposed as prohibited by this ordinance, may create a danger to public health, safety, or welfare or degrades the environment of the Village. Litter shall include, but is not limited to, any garbage, trash, refuse, rubbish, newspaper, magazine, glass, metal, plastic or paper container, construction waste, or any discarded object likely to injure any person, create a traffic hazard, or degrade the environment.
11. Motor vehicle means any vehicle propelled or drawn by power other than muscular power, including trailers. Functional vehicles and equipment used for agricultural and construction operations are excluded from this definition.
12. Person means any individual, corporation, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, representative, or group of individuals or entities of any kind.
13. Receptacle means a container that is specifically designed, constructed, and placed for use as a depository for litter or solid waste.
14. Refuse means all solid waste products having the character of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.
15. Rubbish means combustible or slowly putrescible discarded materials, which include but are not limited to trees, wood, leaves, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags, and other combustible or slowly putrescible materials not included under the term garbage.
16. Solid waste or waste means any garbage, refuse, rubbish, trash, or other discarded material, which include but are not limited to tires, furniture, clothes, but does not include solid or dissolved materials in domestic sewage, solid or dissolved materials in irrigation return flows, industrial discharges, or special nuclear or by-product materials.
17. Trash means combustible and noncombustible discarded materials and is used interchangeably with the term rubbish.
18. Traveled way means that portion of a public highway designed for the movement of a immediately a adjacent and contiguous to the traveled portion of the roadway. motor vehicle, shoulders, and roadside parking, rest, observation areas, and other areas

SECTION 1802. ADMINISTRATION AND ENFORCEMENT.

The Village Manager or Agent shall be responsible for the administration of this Ordinance and shall have the authority to enforce compliance through the use of civil and criminal penalties as authorized by this Ordinance. Further, any law enforcement officer, fire marshal, or any assistant fire inspector is authorized and shall have the authority to enforce all sections of this Ordinance.

SECTION 1803. DUTY OF OWNERS AND OCCUPANTS.

(a) General Requirement. It shall be the responsibility of each owner, agent, occupant, or lessee to keep his or her property free of litter, refuse, garbage, junk, junk motor vehicles, solid waste, and trash. The owner, agent, occupant, or lessee of any property shall be responsible for removing litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash accumulating on said property.

(b) Litter Prohibited. No owner, agent, occupant, or lessee of any property shall allow the storage or accumulation of litter, refuse, garbage, junk, waste, or trash on the exterior of said property outside of a receptacle that is covered, secured, and maintained so as to prevent blowing, spilling, scattering, or leaking of the litter, refuse, garbage, junk, waste, or trash contained therein,

except that this requirement shall not apply to an area designated and approved by the Village as a permitted disposal site.

(c) Litter Prevention and Control in Adjacent and Surrounding Areas. It shall be the responsibility of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding areas free of litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash. These areas include, but are not limited to public and private sidewalks, roads, and alleys; traveled ways; grounds; parking lots; loading and unloading areas; and all vacant lots that are owned or leased by such establishment or institution. Removal of any litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash shall be performed in accordance with this Ordinance.

(d) Sidewalks. Each owner, agent, occupant, or lessee whose property faces on the sidewalks in the Village or the strips between the streets and sidewalks shall be responsible for keeping such sidewalks and strips free of litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash. Removal of any litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash shall be performed in accordance with this Ordinance.

SECTION 1804. CONSTRUCTION SITES.

(a) Litter Prohibited. It shall be unlawful for any owner or agent of a construction site, or any contractor on a construction site, to cause, permit, or allow the presence of litter, refuse, garbage, junk, waste, or trash on such site outside of a proper receptacle or to cause, permit, or allow litter, refuse, garbage, junk, solid waste, or trash to be spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. It shall be the responsibility of the owner or agent of the property and each contractor performing work on the site to keep the property free of litter, refuse, garbage, junk, junk motor vehicles, solid waste, or trash.

(b) Receptacles Required. The owner, agent, or contractor in charge of a construction site shall furnish on such site receptacles sufficient to contain worker's litter and receptacles sufficient to contain all construction waste. All receptacles shall be conveniently available and maintained and secured or covered so as to prevent litter, refuse, garbage, junk, trash and waste from being spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. The number and capacity of receptacles should be determined by the primary contractor, but no less than one (1) receptacle for worker's litter, refuse, garbage, junk, trash and waste and no less than one (1) receptacle for construction waste shall be placed at each construction site. Receptacles required under this subsection shall be not less than ten (10) gallons capacity. All receptacles shall be emptied as necessary, but not less frequently than weekly, except that receptacles used exclusively to contain construction waste shall be serviced with sufficient frequency to prevent spillage.

SECTION 1805. NOTICE OF VIOLATION; SUMMONS OR WARRANT.

(a) Notice of Violation. The Village may commence enforcement of any provision of this chapter by notifying in writing the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises, of the existence of an unlawful condition on such property or premises. Such written notice shall be sent to the owner, lessee, occupant, or responsible person in charge or in possession of a property by first class certified mail, return receipt requested, or may be served by the Police Department, to the last known address of the owner as indicated in the Town of Essex current real estate tax assessment records. Such notice shall contain a description of the nature of the violation; any corrective action needed to be taken by such person to come into compliance with this Ordinance; and the time frame within which such corrective action shall be completed. The amount of time allowed to abate, correct, or eliminate the unlawful condition shall not exceed ten (10) days.

(b) Abatement Required. Every owner, lessee, occupant, or person in responsible charge or in possession of a property or premises shall, upon written notice of an unlawful condition, abate, correct, and eliminate such condition within the timeframe required by such notice.

(c) Any penalty assessed will be according to Section 1808.

SECTION 1806. REMOVAL OF LITTER , REFUSE, GARBAGE, JUNK, JUNK MOTOR VEHICLES, TRASH OR WASTE BY VILLAGE.

(a) Abatement Required. After receipt of a written notice of violation, it shall be unlawful for the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises on which the unlawful condition exists to fail to abate, correct, or eliminate such condition within the timeframe as such written notice requires.

(b) Removal by Village. Ten (10) days after due notice is given to any owner, agent, occupant, operator, contractor in charge, or lessee of any property, business, industry, institution, or construction site to remove litter , refuse, garbage, junk, junk motor vehicles, trash or waste from the premises, the Village is authorized to clean up such property, by use of Village employees or by employing an agent of the Village, and bill such owner or agent for the abatement costs thereof. If the bill has not been paid within thirty (30) days, execution may be issued by the Village against the property for the abatement cost, and such execution shall constitute a lien on the property, on parity with liens for unpaid taxes, until the claim has been satisfied. Execution of the notice to remove litter , refuse, garbage, junk, junk motor vehicle, trash or waste shall be in writing and shall be in the form of a first class, certified letter, return receipt requested. Nothing in this section shall be deemed to bar the prosecution of any person for violation of this Ordinance.

SECTION 1807. EQUITABLE REMEDIES.

In addition to the penalty provided in the Ordinance, the Village Manager may initiate injunction, mandamus, abatement, or any other appropriate action to prevent, enjoin, abate, or remove a violation of any of the provisions of this Ordinance.

SECTION 1808. PENALTY.

Except where otherwise noted, a violation of any provision of this Ordinance shall be punishable by a fine of up to $500 per day until the unlawful condition is abated, corrected or removed.

SECTION 1809. SEVERABILITY.

If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Ordinance.

SECTION 1810. APPEAL OF NOTICE OF VIOLATION PENALTY

A person aggrieved by a revocation, suspension or penalty pursuant to this Ordinance may appeal as outlined in the Trustees' Policy regarding the Ordinance Appeals Board

TRUSTEES' POLICY REGARDING THE ORDINANCE APPEALS BOARD

SECTION 1. PURPOSE

The Ordinance Appeals Board is created to hear appeals from specific ordinances that the Trustees designate. It is to give a person aggrieved by a revocation, suspension or penalty pursuant to the designated ordinances an opportunity to present appeals of administrative rulings.

SECTION 2. APPOINTMENT AND TERMS

The Trustees shall appoint the Ordinance Appeals Board as of July 1 of each year. The membership shall include: one Village Trustee, one Planning Commission member, one Zoning Board of Adjustment member, and two at-large Village residents.

The terms shall be for three years with rotating terms (2 for 3 years, 2 for 2 years and 1 for 1 year initially) and shall expire on June 30th.

SECTION 3. MEETINGS

There shall be an organizational meeting in July of each year to elect a Chairperson, Vice Chairperson, and Clerk. The Chairperson shall call meetings on an as-needed basis.

The meetings will be guided by Roberts Rules of Order and applicable state law.

SECTION 4. APPEAL PROCESS AND PROCEDURE

A person aggrieved by a revocation, suspension or penalty pursuant to the ordinances may appeal within fifteen (15) days of service of an Administrative Order or Ruling. The notice of appeal shall be submitted in writing, filed with the Village Manager, and shall set forth a statement of the

basis of the appeal. In order to be accepted, a notice of appeal must include the appeal fee as listed on the Village of Essex Junction Fee Schedule (Appeal of administrative determination). Upon receipt of notice of appeal, the Village Manager shall notify any interested parties of the appeal.

Within thirty (30) days of service of the notice of appeal, the Board shall hold a hearing on the appeal.

The Ordinance Appeals Board shall issue a written decision within fifteen (15) days of the close of the hearing. The decision may reverse or sustain the Administrative Order or Ruling and may contain such additional requirements as the Board deems necessary and appropriate to implement the purpose of the ordinance.

SECTION 5. RULINGS

The Ordinance Appeals Board will gather information on an appeal at the hearing or by having site visits. The Board may have public deliberative sessions and site visits prior to making their ruling. Their rulings shall be the final statement of the Village of Essex Junction on the appealed issue.

2. Update on Orton Heart and Soul Grant

Lori Houghton gave an update on the Orton grant including:

- Procedural tasks need to be done including completion of the partnership agreement with the town, village, and Heart and Soul nonprofit organization.
- A project coordinator will be hired to advocate, coordinate, and continue forward movement on projects.
- The coordinator once hired will attend a training workshop in Chicago facilitated and paid for by the Orton Foundation.
- Orton wants to be involved in the update of the village and town comprehensive plans in the next two years.
- Orton's communications person will assist in developing a media plan for the village.
- Five communities were selected for the Orton grant (one in Maine, Essex Junction in Vermont, and three out west).

3. Update on Police Facility Committee Proceedings

Dan Kerin gave an update on the work of the police facility committee including:

- Location, energy efficiency, sustainability, and method of delivery were criteria for consideration with the facility.
- Four potential sites were winnowed to two: IBM on Maple Street and land by Ehlers on Route 15.
- Efficiency Vermont and the Putney School were contacted regarding an energy efficient building. Cost is a consideration.
- LEED Silver certification is the minimal goal.
- RFPs for the two sites need to be done to have a dollar figure for the bond vote on the November 2012 ballot.
- Presentation by the committee of the findings/recommendations will be made to the Essex Selectboard on 1/23/12.

4. Summary of Amtrak Station Upgrade Process

MOTION by George Tyler, SECOND by Dan Kerin, to adopt the process for the Amtrak station renovation design, dated 1/10/12, as follows:

- Dave and Darby will meet with UVM students on 20 January to present the station renovation issue. At the meeting Dave will explain that the community wants to see a renovation of the existing station to make it more welcoming, attractive, and accessible. These renovations include changes to the exterior of the building and to the interior space that presently serves as a ticket area and waiting room. He will describe some of the designs that have been proposed in the past. He will also explain that at some point early in the process, the students can expect to meet with representative community members who will relay their general vision for the station.

- **Dave will also explain that Amtrak needs to make the station more accessible for people with disabilities. That will include constructing a wheelchair ramp on the platform and, possibly, curb cuts and other exterior and interior changes.**
- **Dave will explain that the funding for the renovations is uncertain at this point. Whether some or all of the proposed renovations can be funded at the same time is not known. It should be assumed in the design process, when considering materials and other elements, that cost is a concern.**
- **The students will make a site visit to the station on 30 January. Village staff will notify the trustees and community volunteers interested in the station renovation about the time of the visit so they may attend.**
- **In early February there will be a community forum to provide an opportunity for volunteers and interested members of the public, along with trustees and staff, to meet and discuss their vision for the station and surrounding area. The forum will be facilitated, and the trustees will appoint the facilitator. The UVM students will participate in this forum and will be invited to ask questions and make comments. Sketches and ideas from previous forums will be presented. The forum will tentatively take place on a weekday evening in the Kolvoord Room. The forum will have two goals: 1) to reach consensus on some general design ideas; 2) to reach consensus on how volunteers, trustees, and staff will continue to influence the final design. The forum attendees will appoint a small committee to represent them. The committee will be available to the students to review renovation designs. It should be noted that Village engineer Rick Hamlin, and Tim Dall, a Village resident who is a structural engineer, have agreed to donate their time to provide guidance for the students. Because Mr. Hamlin has prior experience in designing and building municipal projects with community input, he may be able to suggest a process for allowing community members to influence the design process that is compatible with the needs and work schedules of the students.**
- **It is anticipated that the students will finish the project around the middle of April, 2012. The trustees will decide if the final designs are to be implemented or if they need revisions.**

VOTING: unanimous (4-0); motion carried.

5. FY13 Budget Discussion

The following was discussed:

- Liquidating the Land Acquisition Fund to $30,000 and using the money in the community for paving or sidewalks or other projects that ultimately will offset taxes or using the money as the match for grants so the Economic & Community Development budget can be decreased.

- The Trustees do not support using the Land Acquisition Fund to reduce taxes.
- The Trustees support using $35,000 of fund balance only to reduce taxes as presented in the Revenue Analysis, Model 2, dated 1/10/12.
- The Trustees support staff's recommendation to purchase a street sweeper replacement.
- The Trustees support a 3% salary/benefit increase included in the budget.
- The Trustees requested a clear definition of the proposed full time Management Assistant position.
- The Trustees had questions on the Planning budget including $3,000 for the update of the comprehensive plan, $2,000 for overtime salary (for work on the comprehensive plan update), and money for legal services and professional services. The Trustees asked staff to research the cost of the previous plan update. Staff will gather the requested information. The Trustees would like the Planning budget tightened up where possible.
- Communications ($15,700) covers the cost of minutes for Administration and Planning, web hosting, Channel 17 clickable agenda, annual report and newsletter. Vehicle maintenance and travel ($6,600) is for the Village Manager and Planning (enforcement activity and site visits). Other Professional Services includes $2,000 for Administration and $15,000 for Planning for the consultant to do the comprehensive plan update. Training, Conferences, and Dues ($18,700) includes VLCT dues and the cost of education classes taken by employees.
- Block Party funding of $7,000 includes the original $5,500 from the General Fund plus $1,500 in sponsorships.
- Annual Support of Organizations in the budget covers CCMPO and GBIC.
- Washing machine for the Fire Department ($12,000 in capital budget) and I-Pads for the Trustee meetings are not in the budget until approved by the Trustees.
- Legal expenses for Planning Department are a retainer base amount per month plus court costs. Staff estimates the amount needed and if the figure is exceeded then the money must be found elsewhere in the budget.
- Prior to giving preliminary approval of department budgets the Trustees will meet with staff and discuss each budget.
- Internal borrowing includes interest allocated between funds via a program provided years ago by Chittenden Bank. The Trustees are not opposed to year-to-year borrowing with no interest, but want documentation for an audit trail.

V. NEW BUSINESS

1. Proposed 2011 Annual Report Dedication

The Trustees concurred with the suggested dedication.

2. Establish Schedule for Composing and Mailing Annual Meeting Newsletter

Final input to the annual meeting newsletter is due 2/1/12. Final draft is due 2/24/12 to be mailed by 2/29/12. George Tyler volunteered to do the newsletter and will consult with Elaine Sopchak. Comments on the content and design are needed.

VI. VILLAGE MANAGER'S REPORT

The Trustees received a memo on items in the Manager's Report.

1. Meeting Schedule

- January 17 @ 6:30 – Special Trustees Meeting
- January 24 @ 6:30 – Regular Trustees Meeting
- January 31 @ 6:30 – Special Trustees Meeting
- February 14 @ 6:30 – Regular Trustees Meeting
- February 28 @ 6:30 – Regular Trustees Meeting
- March 13 @ 6:30 – Regular Trustees Meeting
- March 27 @ 6:30 – Regular Trustees Meeting
- April 10 @ 6:30 – Regular Trustees Meeting
- April 24 @ 6:30 – Regular Trustees Meeting

Special Meetings/Events:

- March 7 – Special Meeting with Prudential Committee
- April 4 – Village Annual Meeting
- April 10 – Australian Ballot Voting

2. High School Pump Station Bids

Bids are out for the work. Jim Jutras and Bruce Murdough were commended for their cooperative effort with the over $1 million project.

VII. TRUSTEES COMMENTS/CONCERNS

- January 18, 2012 proposals for FY13 projects due to CCMPO.
- A meeting was held with the CCMPO regarding change in scoping for the crescent connector (scoping of the Railroad Ave. section) and study of Five Corners to Post Office Square.
- Dan Kerin will attend the January 17th review of the Williston comprehensive plan prior to adoption.
- NETS Institute of Church Planting sent a $500 donation to the village for receipt of village services since the church does not pay taxes.

VIII. CONSENT AGENDA & READING FILE

MOTION by Dan Kerin, SECOND by Lori Houghton, to approve the consent agenda as presented:

1. **Approval of Warrants**
2. **Approval of CVE Banner Applications**
3. **Approval of Memorial Day Parade Committee Requests**
4. **Approval of Updated Legal Ads Policy**
5. **Reading List Acceptance (Letters & Communications)**
    - **Payment in Lieu of Taxes from NETS**
    - **Zoning Board Minutes 12/20/11**
    - **Letters to Amtrak Officials 1/5/12**
    - **CCRPC Public Hearing Notice for 1/18/12**

VOTING: unanimous (4-0); motion carried.

IX. EXECUTIVE SESSION and/or ADJOURNMENT

MOTION by George Tyler, SECOND by Lori Houghton, to go into Executive Session to discuss personnel matters including Employee Association negotiation preparation where premature public knowledge would place the village at a substantial disadvantage, and to invite the Village Manager to attend. VOTING: unanimous (4-0); motion carried.

The regular meeting was adjourned and Executive Session convened at 8:25 PM. Executive Session was adjourned at 9:20 PM.

RScty: M.E.Riordan