

**VILLAGE OF ESSEX JUNCTION  
BOARD OF TRUSTEES  
MINUTES OF MEETING  
January 13, 2015**

**BOARD OF TRUSTEES:** Dan Kerin, Andrew Brown, Elaine Sopchak, Lori Houghton. (George Tyler was absent.)

**ADMINISTRATION:** Pat Scheidel, Municipal Manager; Lauren Morrisseau, Assistant Manager & Finance Director; Rick Jones; Public Works Superintendent; Robin Pierce, Development Director.

**OTHERS PRESENT** Lara Keenan, Chris Adams, Joan MacKenzie, Jon Harris, Connie Dollinger, Jeremy Spaulding, Shirley Zundell, Janet & Dave Shaw, Bradd Rubman, Diane Clemens, Jaime Kelly, Chris Chiquoine, Howard Deal, Fred Parks, Mary Jo Engel, Steve Eustis, Tom Weaver, Tom Oddy, Dennis Lutz, Liz Subin, David Wechsler, Irene Wrenner, Allison Wermer, Tim Shea, Jim Rheume and John Trombley.

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**1. CALL TO ORDER and PLEDGE OF ALLEGIANCE**

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

**2. AGENDA ADDITIONS/CHANGES**

Additions:

- Scope of work for train station
- MOUs for consolidation of public works services, storm water management, administrative services director
- Memo on open space
- Definition of open space from the Land Development Code

**3. APPROVE AGENDA**

**MOTION by Lori Houghton, SECOND by Andrew Brown, to approve the agenda as amended. VOTING: unanimous (4-0); motion carried.**

**4. GUESTS, PRESENTATIONS, PUBLIC HEARINGS**

1. Comments from Public on Items Not on Agenda  
None.

2. Update on Community Calendar

Lara Keenan reviewed the online Essex community calendar ([essexcalendar.org](http://essexcalendar.org)). The focus of the calendar is events in Essex and Essex Junction. Events can be tagged. There are links to associated sites. The calendar is paid through the next two years after which the community needs to decide how to continue. A fee is charged to post featured events on the calendar.

Elaine Sopchak suggested a link to meeting space available in the community be included on the calendar.

Thanks were extended to Lara Keenan and the committee that worked on the calendar. Heart & Soul is working with the Orton Foundation on compensation for the time Ms. Keenan is spending on the calendar.

## **5. OLD BUSINESS**

### **1. Request to Change Thasha Lane to Autumn Pond Way**

Robin Pierce reported staff has no problem with the requested name change. The property owner must contact residents impacted by the change.

**MOTION by Elaine Sopchak, SECOND by Andrew Brown, to approve the request to change Thasha Lane to Autumn Pond Way with the proviso that the owners inform all affected parties of the change including residents of Amber Lanterns and Autumn Pond. VOTING: unanimous (4-0); motion carried.**

### **2. Appeal of Fees for Zoning Permit for Green Meadows, LLC**

Robin Pierce explained the Land Development Code does not allow what is being requested by the developer. The situation has occurred before with other developments, but not of this magnitude.

Bradd Rubman, Green Meadows, LLC, admitted missing the deadline was an administrative oversight, but there will be 90 units built in the village resulting in \$320,000 paid to the village in fees (engineering, legal, education, sewer/water connection, and building permits). A permit was secured for Building 1. Building 2 construction has begun and includes having the foundation in place. Buildings 3 work that has begun is simply earth work. The \$12,000 penalty is excessive. There was not \$12,000 in damages to the village. The matter was rectified as soon as it was known.

Dan Kerin explained the village wants to be consistent and not set a precedent. The rules apply to all developers in the same way.

**MOTION by Lori Houghton, SECOND by Elaine Sopchak, to deny the appeal by Green Meadows, LLC for relief from the ‘after-the-fact’ fee required by the village Land Development Code for violation(s) of the LDC. VOTING: unanimous (4-0); motion carried.**

### **3. Approve Tax Stabilization, Parking Lease Extension, and Right of First Refusal for Flex-A-Seal**

Robin Pierce explained the request by Flex-A-Seal to lease a small portion of village property by the Public Works garage in order to expand the manufacturing business and add employees. Also requested is a tax stabilization agreement and the parking lease.

**MOTION by Dan Kerin, SECOND by Lori Houghton, to approve the following:**

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- Issuance of a letter of commitment for tax stabilization for three years provided the required work is complete.
  - Expansion of the existing parking lease for as long as Flex-A-Seal remains at the current location.
  - Lease from the village of the triangularly shaped space by the Public Works garage for expansion of the Flex-A-Seal building.
  - Right of First Refusal to Flex-A-Seal on the parcel by Public Works as long as the company remains at the current location.

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

4. Approve of Construction & Maintenance Agreement for Multi-Use Safety Path

Robin Pierce explained the agreement is needed in order for the path project to proceed.

**MOTION by Elaine Sopchak, SECOND by Andrew Brown, to sign the Construction and Maintenance Agreement with NECR for the multi-use safety path as presented. VOTING: unanimous (4-0); motion carried.**

5. Approve Scoping Study for the Essex Junction Train Station

Robin Pierce said staff recommends moving forward with the scoping study for the train station. There is no cost to the village. Elaine Sopchak stressed that the results of the downtown visioning project be communicated to the scoping study consultants.

**MOTION by Lori Houghton, SECOND by Andrew Brown, to approve moving forward with the scoping study and enabling staff to work with RSG to bring the study to a successful conclusion. VOTING: unanimous (4-0); motion carried.**

6. Approve of Noise Indemnification Agreement with CVE

There was discussion of the change in the agreement to Category C events that removes the requirement Category C waiver requests come before the Board of Trustees. The requests would be approved by the Municipal Manager. Elaine Sopchak expressed concern about not having the Trustees involved and that decibel levels need to be noted for Category C. Robin Pierce explained with previous agreements the Trustees set the ceiling on Category C events. A maximum decibel level can be posted. Elaine Sopchak requested the list of events approved for waivers be posted on the village website.

There was discussion of the waivers requested by CVE. Robin Pierce noted there were no violations of the noise agreement last year by CVE. Tim Shea and Tom Oddy with CVE confirmed a list of events is submitted to the village in January for the yearly permits. Of the 20 events listed confirmation that the events will happen usually occurs two months prior to the date and then the events that are waived can be posted on the website. The permits that are provided to CVE are posted. The highest decibel level in Category C events by CVE was 83 decibels for the five minute average and 78 decibels for the hour average. Most all events are within these levels. Category C is for out of the ordinary events, such as the Guard shooting a cannon or a Phish concert. CVE has only requested two Category C events to date.

Chris Chiquoine, village resident, stated there is not an instantaneous measure of noise, but rather a five minute average which allows even the noise from a cannon, for example, not to exceed the noise level. Mr. Chiquoine said his house is in direct line of sight to the speakers at the fairgrounds (i.e. the noise is not blocked by parked cars) which makes the sound louder. Mr. Chiquoine stated there should be a maximum decibel level, rather than an average, noting an event at the fairgrounds hit 102 decibels this past year, rattling pictures on the wall and making it impossible to carry on a conversation.

David Wechsler with Vermont Air Testing Services (company hired to do the performance standards for noise for the village) explained sound dissipates over distance. Double the distance dissipates sound by half. Sound measurements are collected at the property line closest to the neighborhoods and in direct line of sight. Monitoring is done to capture the worst case scenario for noise.

There was continued discussion of noise impact on individuals (some people are more sensitive to noise than others). Elaine Sopchak stated it is difficult to honor an individual person's needs and CVE's needs. CVE is an important organization to the village. Chris Chiquoine stated his neighbors have the same complaint about noise from the fairgrounds as he does, but have given up complaining. Mr. Chiquoine objected to the village putting aside the health, safety, and welfare of a village citizen so CVE can host concerts, adding that there was a violation with the Color Run event this year which did not have a waiver and should have. Tim Shea conceded there was an oversight on CVE's part with the Color Run event which occurred after the fair. The event organizers held a stage production for the 5,000 runners that was louder than expected. The music was turned down immediately. A waiver will be secured for next year. CVE held four outdoor concerts during the fair this past year (the ideal scenario is up to seven concerts) and has not had 20 concerts to date (16 was the maximum number of waivers and that was in 2009-2010).

Diane Clemens, village resident, echoed that people living near the fairgrounds have given up fighting the noise or simply moved out of town. Noise from events at the fairgrounds can be heard in neighborhoods that do not abut the property. The noise level in the last year has not been as high as in the past, but there are spikes in the noise levels. Even animals react to the noise.

Lori Houghton asked CVE to consider the neighbors and adhere to the noise agreement.

**MOTION by Dan Kerin, SECOND by Elaine Sopchak, to authorize the Municipal Manager to execute the Noise Indemnification Agreement with CVE.**

**AMENDMENT to MOTION by Elaine Sopchak, SECOND by Dan Kerin, to authorize the Municipal Manager to execute the noise agreement with CVE and ask staff to post permits as approved on the village website including the decibel levels.**

**VOTING ON AMENDED MOTION: unanimous (4-0); motion carried.**

7. Whitcomb Heights II Open Space

Robin Pierce reported the issue before the Trustees is whether the village should take over ownership of the open space in the Whitcomb Heights II development or have the land revert to the homeowners association. The open space cannot be developed and must have only vegetative cover so there is no benefit to the village to own the land. An easement or right-of-way to the parcel to preserve the nature trail in perpetuity may be an option for consideration.

Lori Houghton asked if there is a cost to maintain the open land. Tom Weaver, developer, said the property is mowed (brush hogged annually).

Dan Kerin acknowledged the importance of public access to open space in the village, noting the agreement with the Whitcomb Farm and Vermont Land Trust that ensures some farm property will remain undeveloped and accessible to the public. Also, Local Motion has a list of trails in Essex and Essex Junction that are available to the public. There is a plethora of trails in the vicinity.

Steve Eustis, Wilkinson Drive, urged the Trustees to acquire the property for the village and submitted 10 talking points and supporting evidence to dispute the argument against acquiring the land. Mr. Eustis requested the question of acquiring the open space from the Whitcomb II subdivision per the Planning Commission resolution signed January 20, 2000 be an article on the annual meeting warning so the citizens of Essex Junction can decide the issue. Andrew Brown noted the property must be designated open space per the village zoning map, not the development plat, in order for Section 908 of the Land Development Code to apply. Steve Eustis countered Section 908 says “preserved as open space”, not ‘zoned as open space’.

Jaime Kelly, Lavoie Drive resident and member of the Whitcomb Heights II homeowners’ association board of directors, mentioned the following:

- There are other portions of the parcel that are open space, not just the nature trail, and if the village assumes ownership the entire parcel would have to be maintained so there is a cost.
- There needs to be assurance the uses on the open space are appropriate.
- The area is a marsh and swamp which cannot be developed unless the LDC is changed which could happen at some point in time.
- There are other developments in the village with the same issue.
- Whitcomb Heights I gave the village an easement for trails and still owns the land. Whitcomb Heights II hopes to do the same and allow community use of the nature trail.
- General usage of the trail has increased with use as a running track, bike path, and off leash dog path which was not what was intended. The trail has been cleared and marked. People are pitching tents and leaving trash which creates a maintenance burden.

Tom Weaver, Whitcomb Heights developer, explained there are two homeowners associations plus a “master association” to cover all phases of the development. The Planning Commission required the open space for use by the residents of the

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condominium association for Whitcomb Heights I & II, and that is how the open space was designated. The cost to the village for the land would basically be for the initial acquisition and transfer of ownership.

Jon Harris, South Street, urged getting concrete information on costs and legal advice on the impact on the development density. The property was designated as open space in 1999 and units have been sold since that time. Mr. Harris pointed out there are two easements to consider – easement to the trail and easement to the 57 acres. Robin Pierce noted a legal opinion on density was secured which is referenced in the memo to the Trustees.

Fred Parks, South Street, urged at a minimum the matter should be on the annual meeting warning for decision by the voters because having 57 acres of open space in a densely populated village is a once in 30 year opportunity for the village.

Connie Dollinger, South Street, echoed the comments about the opportunity for the village to acquire the property. The cost to mow the parcel is not significant. There will not be an impact on the sale of the condo units. Having the parcel owned by the village will allow all village residents to have access which was the intent in 1999. Ms. Dollinger said she is aware of condominium associations selling some of the open land in their development.

Joan MacKenzie, Lavoie Drive, said if the transfer of open space to the village presents any potential damage to residents in the condo association when trying to sell their units then the transaction should not be done.

Shirley Zundell, Cushing Drive, asked for an explanation of the easement. Robin Pierce explained the land would remain in the ownership of Whitcomb Heights II, but the village would have an easement that allows public use of the nature trail.

Jim Rheume, Onondaga Ave., suggested there be more concrete facts to clearly understand the situation and the public should be part of the decision. Mr. Raome said it is a quality of life issue in the area to have the land available to the public.

John Trombley, Wenonah Ave., spoke in support of having the people vote on the matter.

Howard Deal, Lavoie Drive, said if there is a legal opinion that says the density would not be met if the land is transferred and that could impact the sale of units then residents should not be put at risk, especially if there is the option of an easement as a solution. Mr. Deal urged not giving up authority as the Board of Trustees and knowing the issues to let the general public decide the matter because that may not be an informed decision.

The Trustees concurred more information is needed before a decision can be made.

**MOTION by Elaine Sopchak, SECOND by Lori Houghton to table the Whitcomb Heights II open space issue pending further information relative to the following:**

- **Written legal opinion on the impact of the village acquiring the land;**
- **Cost estimate to maintain the parcel;**
- **Options on easements for the trail and the 57 acres of open space;**
- **Articulation of what an easement means and if the area will continue as open space and the people most affected are protected.**

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

8. Approval of MOA by Essex Selectboard and Essex Junction Trustees re: Storm Water Permitting and Management Services

Pat Scheidel explained the agreement is for setting policy, implementing mandates from the federal and state governments, and funding management of storm water in the community. The town budget includes \$91,000 (including funds from the village) to absorb costs. Essex Selectboard approved the MOA. The Trustees must also approve the MOA or there is no agreement. Dennis Lutz provided a short list of questions and answers on storm water permitting and management that will be posted on the website. A detailed outline of costs is available to the public on request.

**MOTION by Dan Kerin, SECOND by Lori Houghton, that the Board of Trustees approves the Memorandum of Agreement between the Town of Essex and the Village of Essex Junction concerning storm water permitting and management service and authorizes the execution of the MOA. VOTING: unanimous (4-0); motion carried.**

9. Approval of MOA by Essex Selectboard and Essex Junction Trustees re: Consolidation of Public Works Services

Pat Scheidel noted the MOA on consolidation of public works services has been discussed and edited based on comments received. With approval of the MOA by both boards there will be answers to questions at the village and town annual meetings. Dennis Lutz stated at the last Selectboard meeting there was concurrence with the MOA, but the Selectboard wanted a clean copy of the document before taking formal action. Mr. Lutz highlighted changes in the document (mainly wording changes for clarification) that were discussed and agreed to by the Selectboard to address a consolidated service delivery program and determine realized efficiencies. Mr. Lutz mentioned having the American Public Works Association do a technical review of the shared public works operation at some point in time.

**MOTION by Andrew Brown, SECOND by Elaine Sopchak, to approve the Memorandum of Agreement between the Town of Essex and the Village of Essex Junction with regard to consolidation of public works services. VOTING: unanimous (4-0); motion carried.**

10. Review FY2016 Proposed Budget

Lauren Morrisseau reported the changes discussed during budget day have been incorporated into the draft budget and result in a decrease of \$14,102 in the overall budget amount.

**MOTION by Lori Houghton, SECOND by Elaine Sopchak, that the budget be presented at the public hearing on January 27, 2015 unless any other changes appear necessary to the Trustees or staff prior to that time. VOTING: unanimous (4-0); motion carried.**

**6. NEW BUSINESS**

1. Approve Joint Resolution by Essex Selectboard and Essex Junction Trustees re: Town Administrative Services Director Position and related Personnel Changes  
Pat Scheidel explained as part of the continued effort to find efficiencies and save money staff is recommending establishing the Administrative Services Director position and related personnel changes as specified for a savings of \$894.

**MOTION by Elaine Sopchak, SECOND by Andrew Brown, to approve the joint resolution between the Essex Town Selectboard and Village Board of Trustees relative to the establishment of a Town Administrative Services Director and related personnel changes. VOTING: unanimous (4-0); motion carried.**

2. Approve Amendment to General Rules and Personnel Regulations  
Pat Scheidel explained the amendment to Section 102 (Definitions) of the General Rules and Personnel Regulations to change the definition of full time employee from 35 hours per week to 30 hours per week and part time employee to less than 30 hours per week.

**MOTION by Andrew Brown, SECOND by Lori Houghton, to amend Section 102-Definitions in the General Rules and Personnel Regulations as presented. VOTING: unanimous (4-0); motion carried.**

**7. VILLAGE MANAGER'S REPORT**

1. Meeting Schedule

- January 27, 2015 @ 6:30 – Regular Trustees Meeting
- February 10, 2015 @ 6:30 – Regular Trustees Meeting
- February 24, 2015 @ 6:30 – Regular Trustees Meeting
- March 10, 2015 @ 6:30 – Regular Trustees Meeting
- March 24, 2015 @ 6:30 – Regular Trustees Meeting

Special Meetings/Events:

- April 1, 2015 @ 6 PM – Village Community Supper
- April 1, 2015 @ 7 PM – Village Annual Meeting

2. Outreach

A table of date/events where opportunity is available to discuss consolidation of services with the public was provided. Each trustee will indicate their availability.

**8. TRUSTEES COMMENTS/CONCERNS & READING FILE**

1. Board Member Comments

- Dan Kerin mentioned the idea of having the community schools do a mural on the plywood boards that will surround the site at 4 Pearl Street during construction.



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## 2. Reading File

- Minutes
  - Capital Program Review Committee 10/7/14, 11/4/14
  - Bike/Walk Advisory Committee 11/17/14, 12/15/14
  - Tree Advisory Committee 11/18/14, 12/16/14
  - Planning Commission 11/20/14
- Letter of Support for Flex-A-Seal, Inc. to Vermont Economic Progress Council
- Press Release from Vermont Agency of Natural Resources
- Memo: Cleaning Contractor for Lincoln Hall and Brownell Library
- Memo: Annual Meeting Deadlines
- VLCT Town Meeting Tune-Up Workshop 2/10/15
- Letter of Thanks from Children’s Summer Lunch Program

## 9. CONSENT AGENDA & READING FILE

**MOTION** by Lori Houghton, **SECOND** by Andrew Brown, to approve the consent agenda as follows:

1. **Approve Minutes of Previous Meeting 11/10/14, 12/9/14, 1/6/15**
2. **Approve Warrants Check #10050541 to Check #10050653 totaling \$593,094.10.**
3. **Approve Warrants Check #10050654 to Check #10050759 totaling \$363,437.69.**

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

## 10. ADJOURNMENT

**MOTION** by Andrew Brown, **SECOND** by Dan Kerin, to adjourn the meeting.

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

The meeting was adjourned at 9:10 PM.

*RScty: M.E.Riordan*