



RECREATION ADMINISTRATIVE OVERSIGHT ISSUE

CLARIFICATION STATEMENT

ADOPTED BY THE ESSEX JUNCTION TRUSTEES

In response to numerous questions, the Essex junction Board of Trustees (BOT) adopted (by a vote of three to one, with one abstaining) the following Clarification Statement at their meeting on January 18, 2011. These statements answer many (but not all) of the questions that have been asked of the BOT by citizens, the Prudential Committee (PC) and the EJRP Recreation Advisory Committee (RAC).

- ❖ The Board of Trustees feels that the best solution for resolving the “Recreation Administrative Oversight Issue” is by having a negotiated agreement. This agreement can be for: (1) a continuation of the PC handling the oversight of the Village Recreation Department and programs; OR (2) the “reversion” to the Village of the handling the oversight of the Village Recreation Department and programs; OR (3) the possibility for the Town to handle the oversight of the Village Recreation Department & programs.

LEGAL ISSUES:

- Based on the BOT’s review of the State Statutes (see the attached Memo summarizing the research by John Lajza), Village Attorney’s David Barra’s legal opinion (attached), and Attorney’s Al Overton’s pro bono second opinion (attached); the Village, through the Village Trustees, have the responsibility to decide how recreation is handled.
- The PC has indicated that they do not agree with the legal opinions on the BOT’s authority and obligation to determine how recreation will be run. The PC has declined to share with the BOT the specifics of their position. It was agreed at the January 12, 2011 negotiation mtg that, at the request of the BOT, the PC would revisit their decision.
- If the PC continues to hold their position on the legal question, the BOT is prepared to petition (request) the Vermont Court to make a “Declaratory Judgment” to decide the legal question of the Village authority. The BOT has suggested that if the PC continues to hold their position that the School Board has the right to determine how the Village’s Recreation Dept & programs are handled, that the Boards jointly petition the court to rule & settle this fundamental issue.
- The PC also has indicated that since the recreation programs were developed while they were charged with handling recreation, they are their programs, they “own” them. The BOT disagrees with this position. This is a second issue for the court to decide.

OTHER ISSUES

- The BOT has (for over seven months) offered to meet & negotiate a continuance for the PC to handle recreation under a modified method. In early December 2010 a proposed agreement has been presented to the PC for consideration (attached). At the January 12, 2011 negotiating session the BOT was informed that this proposal was not acceptable. The PC also has stated that they favor a negotiated method for determining how to handle the situation.
- In order for the PC to continue the administrative oversight of the Village Recreation Dept & programs, a new agreement (including the leasing of the Village owed property) must be agreed to by both the PC and the BOT. If there is no agreement (with a lease) then the Village takes over the administrative oversight on July 1, 2011.
- The PC by the current agreement has the responsibility for the oversight of the Village Recreation Dept and programs. This includes developing the FY12 Recreation Budget. Financial questions regarding

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FY11 and FY12 Budgets should be directed to & answered by the PC and Recreation Dept. If a “reversion” of the oversight occurs on July 1, 2011 when the current agreement ends, then the Village (BOT) would be responsible for the administrative oversight of the FY12 Budget.

- There would be no change to the Recreation Mission Statement and the programs would be continued. The current Recreation Staff employed by the School District would be offered positions as Village of Essex Junction employees.
- The BOT could also enter into a similar negotiated administrative oversight & management agreement with the Town IF the Town by action of their Selectboard desired to have one.
- Why is the BOT spending so much time on this issue?
 - Because it is their fiduciary responsibility by State Law & the Village Charter to do so.
 - Citizens have asked that they have more, or easier, access to the recreations decision making process than currently appears to exist.
 - The PC has stated on numerous occasions that they have more pressing educational issues to handle.
 - The School District is a much larger organization that is charged with running schools, recreation is secondary to them.

TRUSTEES VOTES AT THEIR JANUARY 18, 2011 MEETING

- I. To indicate to the PC that the BOT plans to move forward on January 31, 2011 with clarifying the basic legal issues and questions by:
 1. Asking the PC to (1) vote that they concur with the Village Attorneys’ legal opinion; OR (2) to jointly file a petition for declaratory judgment by January 31, 2011.
 2. Requesting Attorney David Barra to draft the petition to the court for submission on January 31, 2011.
 3. Authorizing Attorney David Barra to engage Attorney Joe McNeil to be a Village co-counsel on the declaratory judgment case. (Actual involvement would start if petition is filed.)
 4. Requesting Attorney David Barra to draft a specific lease section for inclusion in an administrative oversight agreement or as a stand-alone document. (There seems to be some question as to the clarity of the lease in the current and proposed agreement.)
 5. Directing Village Manager David Crawford to contact the Town of Essex Selectboard at ask them if they are interested in discussing an administrative oversight & management agreement as presented as Alternative C in the Clavette Study.
- II. The Trustees set the following target dates:
 1. March 8, 2011 as the date to have a negotiated agreement with the PC for either the proposed agreement (with modifications?); OR having an agreement defining the process for the reversion of the administrative oversight to the Village.
 2. March 15, 2011 as the date to vote to notify the PC of the Village’s decision.