

**VILLAGE OF ESSEX JUNCTION
BOARD OF TRUSTEES
MINUTES OF MEETING
April 14, 2009**

BOARD OF TRUSTEES: Larry Yandow (Village President); Peter Gustafson,
George Tyler, John Lajza. Deb Billado.

ADMINISTRATION: Dave Crawford, Village Manager.

I. CALL TO ORDER and PLEDGE OF ALLEGIANCE

Village President, Larry Yandow, called the meeting to order at 6:30 p.m. and led the assemblage in the Pledge of Allegiance.

II. AGENDA ADDITIONS/CHANGES

There were no changes to the agenda.

III. GUESTS/PRESENTATIONS

1. Comments from Public on Items not on Agenda

There were no comments from the public at this time.

2. CSWD Proposed FY10 Budget

Tom Moreau, General Manager of the Chittenden Solid Waste District (CSWD), reported on the highlights of the proposed FY10 budget. The budget is a 1% decrease from the previous year due to budget cuts, some annual expenditures not renewed, and employees paying more for their health insurance coverage. The fee/tax on garbage is being increased. Markets for recyclables are down. Tonnages received are down. The impact of the increase in the fee is between ten cents and twenty-one cents per month on the homeowner or about \$40 per year on a small business. The capital budget is also down, continued Mr. Moreau. The landfill site on Redmond Road was purchased for \$4 million settled by court decision. The landowner (HS&G) has one more opportunity to appeal the land value. Mr. Moreau mentioned CSWD received a pass-through grant for three compressed natural gas trucks.

John Lajza noted the jury award for the landfill site was higher than the appraisal of the property. The assessment of adjacent IBM property (21 acres) was very low considering the property is served by water, sewer, and a railhead so the price for the landfill parcel was very fair.

MOTION by Deb Billado, SECOND by Peter Gustafson, to approve the FY2010 CSWD budget as presented by Tom Moreau on 4/14/09. VOTING: 4 ayes [George Tyler not present for vote]; motion carried.

3. CVE Financial and Noise Agreements

Comments from George Dunbar, III

George Dunbar, III, presented the following questions/comments relative to the CVE agreements under discussion:

1. Should the security fund be sufficient to cover potential fines for an event? For example under the current agreement: Toby Keith, two hours greater than 70 dB is a \$10,000 fine.
2. What actions occur if the fund is not fully funded before an event? Will the event not be held or the agreement be null and void? What account contains the money for the event? Is this audited?
3. Under Schedule of Fines the definition of ‘instantaneous’ differs from the first agreement. The definition is now an average decibel level for five continuous minutes. Are the five minute periods serial or cumulative? If serial there would be a maximum 12 violations/hour with a fine of \$1,600, but the cumulative maximum would be 55 violations/hour and a fine of \$20,000. Better definition is needed.
4. Regarding violations, if events are experienced louder this year than last year will the noise limits be increased?
5. In the ‘Purpose’ section under Administrative Procedures the text says to establish procedures to ensure compliance with the Essex Junction Land Development Code noise performance standards, but there is nothing in the document that ensures compliance to the noise performance standards. The purpose needs to be better defined.
6. Unless the Trustees have provided a noise waiver any outdoor event that may exceed the noise performance standards should be monitored. All ‘Category B’ events only require staff approval. Are Category B events to be monitored? Who is “staff”?

Mr. Dunbar expressed concern about the appearance of the agreements being driven by a date set by CVE, holding discussions in Executive Session, and circumventing the process of the ordinance or the Land Development Code relative to noise.

Comments from Chris Chiquoine

Chris Chiquoine read a statement giving a brief history of the violations of the noise ordinance by CVE, and questioned where along the way it became an issue of the village protecting the revenue of CVE. John Lajza stated the information submitted by everyone has resulted in a thorough review of the noise issue. Research and monitoring has shown the standard ordinance is violated by a lawnmower, a motorcycle, or other common item as well as events at CVE. The village ordinance allows an average of 78 dB and 83 dB instantaneous. OSHA work requirements allow 90 dB for eight hours. Chris Chiquoine interjected the OSHA measure of impact is different than a measure on the community. The airport considers 65 dB the zone at which they buy out property. Trustee Lajza cautioned the level by the airport may be politically motivated because the airport wants to expand. Mr. Chiquoine stated if the Trustees feel the ordinance is acceptable, then the Land Development Code should be changed to apply to everyone not just one individual business.

Mr. Chiquoine asked for an explanation of the Whereas statement pertaining to indemnification (“...inducement to encourage indemnitee...”). Mr. Chiquoine referred to the definition of ‘instantaneous’ as a five minute average, noting comparing to other

ordinances ‘instantaneous’ means ‘instantaneous’. There is no need for a new definition. Mr. Chiquoine strongly recommended using Webster’s definition of “instantaneous”.

Regarding events appropriate for the village center location, Mr. Chiquoine pointed out the Land Development Code prohibits exhaust from engines without mufflers yet the tractor pull and monster truck events are held at the fairgrounds, and these events do not need approval each year from the Trustees (it is a locked-in approval for five years).

Regarding the public information meeting held by CVE each year, Mr. Chiquoine contended the meeting is a 45 minute infomercial and advertisement. Noise is not discussed. Events and deals are mentioned by CVE staff. The neighbors are notified of the CVE information meetings and they should have also been notified of the meetings on the agreements. The way the information has been communicated to abutting property owners is pretty poor, stated Mr. Chiquoine. People do not know about it. George Tyler pointed out the annual school district meeting that was held on 4/13/09 had only two parents present (for 900 children in the district) and the school district “bent over backwards” to notify people. Mr. Tyler said “we are swimming in an ocean of apathy”.

Mr. Chiquoine expressed concern that at the meeting each year to review the events if there are violations of the noise ordinance then the limits will be raised. Modification by mutual consent means an agreement between the Trustees and CVE, and the public will never hear about it, said Mr. Chiquoine. Deb Billado commented she views the noise agreement as an ongoing piece of work between the Village and CVE. Mr. Chiquoine pointed out the agreement says if a waiver is given to CVE the Village will not monitor noise for the event. If Category B events are given a waiver by staff then the Village will not monitor the event. Assurance is needed that all events are monitored including the entire fair and the entire tractor pull, stressed Chris Chiquoine. At the very least the agreement should be clear as to what does get monitored. Self-monitoring by CVE did not work in 2009 where limits were repeatedly exceeded. Additionally, there are no time limits on when noise can occur and Category B events can make eight times as much noise as allowed by the Land Development Code which is significant. John Lajza pointed out the Land Development Code allows 70 dB. Every 10 dB doubles the actual volume. Chris Chiquoine rebutted every 3 dB doubles the intensity of the noise. The changes are not small increments.

Regarding staff approving Category B events, essentially the tractor pull and monster truck events are being pre-approved, stated Mr. Chiquoine. Also, there is question as to why there are two monitors and the data from one ignored in issuing fines. A monitor site could easily be blocked. Also, the process is open ended with regard to contacting the police and CVE during events. This portion of the agreement needs more work.

Mr. Chiquoine contended the financial agreement with CVE appears to be “buying” the noise waivers. The agreements should be settled separate of each other. George Tyler explained for the sake of expediency discussion of the noise agreement and the financial agreement occurred when the committee met, but the documents/topics were discussed separately. Peter Gustafson assured the public that the rights of the residents are not “up

for sale” and the outcome of the two agreements will be the best the Trustees and CVE can do. Chris Chiquoine interjected the two discussions (financial agreement and noise agreement) should be separate so it does not appear like the rights of the people are up for sale.

Comments from Tom Oddy

Tom Oddy, CVE, noted information from the World Health Organization and the EPA on allowable noise limits has been submitted. Eight hour exposure to 73 dB with intermittent increases of 5 dB is allowed without damage. CVE agrees with the five minute maximum of 83 dB. The hourly average is less. The levels are in keeping with the science that is out there. CVE is trying to do the best for everyone.

NEXT STEPS

Dave Crawford suggested staff and CVE meet to review comments and produce a report for both the CVE board and the Trustees.

IV. OLD BUSINESS

1. Update on Recovery Act Applications

Dave Crawford gave an update on the applications for stimulus funding from the state, including:

- \$10 million in highway projects submitted to VTrans (the process appears to be in flux at this point in time at the state level);
- Aeration blower for the Wastewater Treatment Facility ranked higher than the sewer system improvements by the Agency of Natural Resources which is the state agency handling the projects;
- Received energy grant (\$50,000) for window replacement in Lincoln Hall (cost of \$30,000) and 10% for administration (\$5,000) leaving \$15,000 for other energy related projects (audits, recycling, and such). Energy audit of buildings was done to determine heat loss. Town of Essex also received an energy grant. Are investigating if there are areas of cooperation between village and town relative to energy projects.

Deb Billado asked if the cost of the aeration blower is to be shared by the tri-town sewer committee. Dave Crawford said the maintenance will be a shared cost, but the capital is a Village cost since the Village owns the WWTF.

2. Pearl Street Streetscape Project

Dave Crawford reported the Village Engineer and CVE are reviewing the data compiled to date and getting easement agreements in place. The state has an earmark of \$400,000 and can start authorizing expenditure. The project estimate is \$2,650,000 to a high of \$3,600,000. The amount of federal funding is still not known. The Village will pay 20% of the work in the public right-of-way (\$350,000 to \$400,000) and CVE will pay 20% for work on their property.

Deb Billado suggested the ticket booth could be project taken on by the area colleges as a project for their students. The final result would need to be approved and stamped by a

professional engineer. Dave Crawford stated effort is being made to get the work out to bid as soon as possible to begin construction by early summer. There will be interruption of work during the fair. Trustee Billado asked if the power lines will be buried as part of the project. Mr. Crawford said to bury the lines is complex and expensive due to the number of property connections.

The Village taking over Pearl Street and the paving configuration is all in line with the legislature.

V. NEW BUSINESS

1. Approve CVE Financial and Noise Agreements

Village staff and CVE will meet to review the comments on the agreements and produce a report to both boards (CVE and Trustees).

2. FY10 Budget Amendment

Dave Crawford advised concluding the Employees Association negotiations as soon as possible. Meetings with staff on the budget reductions were held. Staff is recommending the South Summit Street project (\$170,000) be postponed and the funds used toward the 20% match for the Pearl Street Project.

MOTION by Peter Gustafson, SECOND by Deb Billado, that the money for the South Summit Street project (\$170,000) be moved to the Pearl Street Streetscape project as recommended by staff.

DISCUSSION: The potential risk of a water line break on So. Summit Street was acknowledged, but the Pearl Street project is close to happening with stimulus money. Revenue from a local options tax may be available in the future to help with the work needed on So. Summit Street or the Village may have to bond for the funds. There will be further discussion of the local options tax at the Trustees 4/28/09 meeting. There were no further comments.

VOTING: 5 ayes; motion carried.

VI. VILLAGE MANAGER'S REPORT

1. Meeting Schedule

April 28 at 6:30 PM – Regular Trustees Meeting (local options tax, CVE agreements)

Week of May 4 - Manager on vacation

May 12 at 6:30 PM – Regular Trustees Meeting

May 26 at 6:30 PM – Regular Trustees Meeting

June 9 at 6:30 PM – Regular Trustees Meeting

Week of June 22 – Manager on vacation

June 23 at 6:30 PM – Regular Trustees Meeting

July 14 at 6:30 PM – Regular Trustees Meeting

Week of July 19 – Manager on vacation

July 28 at 6:30 PM – Regular Trustees Meeting

August 11 at 6:30 PM – Regular Trustees Meeting

August 25 at 6:30 PM – Regular Trustees Meeting

2. Training Seminar

Dave Crawford provided information on the upcoming training seminar on negotiation techniques he will be attending.

3. Meetings on Projects

Dave Crawford reported he met with Sen. Mazza on the highway projects submitted by the Village and the railroad on the Pearl Street initiative. The railroad will pay 20% for the project. State money or stimulus money which is more competitive is being sought to cover the balance.

4. Street Department

The sidewalks and streets have been swept already. Mulching is nearly complete. Winter damage from sidewalk plowing has been repaired.

5. Central Street Forum

The forum with the residents of Central Street is scheduled on June 15, 2009 to discuss ideas/address issues in the Central Street area.

6. Letter to State Representatives

The Village is sending a letter in opposition of legislation that exempts getting voter approval for capital projects.

VII. TRUSTEES COMMENTS/CONCERNS**1. Board Member Comments/Concerns**

None.

VIII. CONSENT AGENDA & READING FILE

MOTION by Peter Gustafson, SECOND by John Lajza, to approve the consent agenda as follows:

- 1. Approval of Minutes (3/24/09)**
- 2. Approval of Warrants**
- 3. Agreements with CCMPO to Provide Local Match for Rte. 2A Circulation Study**
- 4. Confirmation of Manager's Bid Award for Jetter/Vacuum Pipeline Cleaner Truck**
- 5. Reading list acceptance (letters/communications)**
 - **Letter from U.S. Census Bureau**
 - **Letter from IBM re: Modification to Waste Management System**
 - **Events at Channel 17 - 25th Anniversary**
 - **Proclamation of Appreciation and Letter to Trustees**
 - **Champlain Business Journal Article about Barton's Memory Lane**

DISCUSSION: The budget for the jetter/vacuum truck is \$270,000. The bid is \$245,000. The state is providing \$150,000 and the Village will pay the balance.

VOTING: 5 ayes; motion carried.

IX. EXECUTIVE SESSION

MOTION by Peter Gustafson, **SECOND** by John Lajza, that the Board of Trustees go into Executive Session to consider legal matters, contract negotiations and personnel matters, and potential budget changes related to personnel issues where premature general public knowledge would clearly place the Village at a substantial disadvantage, and to permit staff to be present for this session. **VOTING: 5 ayes; motion carried.**

The Board entered Executive Session at 9 p.m.

MOTION by John Lajza, **SECOND** by George Tyler, to adjourn Executive Session. **VOTING: 5 ayes; motion carried.**

Executive Session was adjourned at 9:59 p.m.

X. ADJOURNMENT

MOTION by John Lajza, **SECOND** by George Tyler, to adjourn the meeting. **VOTING: 5 ayes; motion carried.**

The meeting was adjourned at 10 p.m.

RScty: M.E.Riordan