

**VILLAGE OF ESSEX JUNCTION
BOARD OF TRUSTEES
MINUTES OF MEETING
April 28, 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.

Trustees Deb Billado and John Lajza recited the Oath of Office and were sworn in to their terms on the Board of Trustees.

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.

IV. OLD BUSINESS

1. CVE Financial and Noise Agreements

Dave Crawford reviewed the amendments to the draft agreements based on comments from the public and further discussion by the parties. Response to comments received at the last meeting was provided to the Board. Mr. Crawford said typographic and minor edit corrections will be made to the documents as necessary. To separate the two agreements (Financial and Noise), Mr. Crawford suggested the Board authorize the Village Manager to execute the Financial Agreement with the amendment that the agreement refer to the Noise Agreement as controlling on noise issues. Noise waivers will not be mentioned in the Financial Agreement.

Deb McAdoo, village resident, requested the public have opportunity to comment on the redrafted documents (two weeks to comment). Regarding the Noise Agreement, Ms. McAdoo said her first suggestion is to add time constraints to the document, such as quiet hours beginning after 11 p.m. Ms. McAdoo asked if CVE will be exempt from a local options tax. It was noted CVE will pay a local options tax if one is enacted in the village. Dave Crawford addressed the request for time for public comment, noting dialogue on the Noise Agreement has been ongoing for over a year. The issue has been publicly warned as an agenda item. Public input has been heard at meetings. There has been ample opportunity for public input. Mr. Crawford explained the legal review by both parties and the need to close the matter in a timely manner. The Trustees assured the public that the final Noise Agreement document will be signed in open session (warned as an agenda item).

MOTION by John Lajza, SECOND by George Tyler, to authorize the Village Manager to sign the Financial Agreement between the Village of Essex Junction and CVE. VOTING: 5 ayes; motion carried.

George Dunbar, III, village resident, pointed out the Village has an operating agreement in place with CVE effective until 2011 relative to noise. Mr. Dunbar asked about the payment period associated with the escrow fund. Dave Crawford stated there is 15 days to reimburse the account. There has not been a problem to date with payment by CVE. Any concerns have been expressed frankly and openly. Mr. Dunbar asked about the modification clause on violations and if the baseline for noise will be raised. Larry Yandow stated the standard is set through the life of the agreement. When a new agreement is negotiated the number could change. Dave Crawford explained the intent was to look at the agreement on an annual basis to determine if all is functioning appropriately, not necessarily to make annual adjustments. If an item is identified for discussion that will occur and the process in the agreement will be followed. George Dunbar spoke in support of the language in the Land Development Code, noting his severe reservation about continuing in the current direction with the noise level. Regarding historic noise levels, one year does not provide historic information, but rather provides a point in time, said Mr. Dunbar, suggesting instead review of the past 87 years of operation of the fair for noise levels. John Lajza pointed out over time the noise level has been ratcheted downward. The noise level of the early fairs where each side show had their own sound system was much higher. Mr. Dunbar spoke of the statutory requirements for establishing ordinances and codes, opining that the Noise Agreement is outside of this regime and an easy way to get around the Land Development Code. Mr. Dunbar expressed concern about the comment of the fair being grandfathered due to 87 years of operation. Dave Crawford stated with pre-existing, grandfathered situations there seems to be court sanctioned rights to do things. George Dunbar asked that review of the modification clause (Section 15 of the Noise Agreement) be done in open session.

Dave Grimm, CVE, read a statement recognizing the hard work and revelations related to noise generated at the fairgrounds and setting decibel levels that are equitable, fair, and keeping residents and business in mind. After five hearings on the matter it is time to take action. Mr. Grimm spoke of the quality and unique acts CVE brings to Essex Junction that appeal to a wide variety and demographic. CVE has improved quality of life and appeals to the interest of a majority of people. CVE tries to act in a good, above board, and straight forward manner, said Mr. Grimm, speaking with pride of the job done by CVE and appreciation for the hard work of the village and consultants. CVE will do its darnedest to monitor events and live within the guidelines, assured Mr. Grimm.

Tom Oddy explained the clause in the resolution pertaining to inducement (liability falls on CVE so the Village does not have to pursue an act or a third party).

Deb Billado commented the agreement is a starting point. Annual review is specified in the agreement and this will help move into the future.

Dave Grimm stated the concerts at the fair are exciting. CVE is spending \$1.5 million this year for shows by Chicago, Brad Paisley, Kelly Clarkson, Kid Rock, and Jeff Dunham to name a few. Thousands of people come to the fairgrounds for both fair and non-fair events; this helps economic development in the village.

Peter Gustafson thanked CVE for use of the fairgrounds as a set up area for the All State Band Parade participants (3,000 musicians).

MOTION by George Tyler, SECOND by Deb Billado, to direct that the current draft of the Noise Agreement be forwarded to CVE and if CVE concurs with the content of the document then the Village Manager is authorized to sign the agreement, and further, in the interim the draft copy shall be posted on the village website for information purposes. VOTING: 5 ayes; motion carried.

Deb McAdoo suggested notice be published in the local newspaper that the document is posted on the website. George Tyler clarified the document is being posted on the website in support of the process being open and to allow people to look at the document, not supply comments. Dave Crawford noted comments can be taken into consideration as the process moves into the future.

2. Update on Recovery Act Applications

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

- It appears the Village is in good position for funding of the blower replacement, sewer line repair, and manhole installations (total of \$830,000 in projects) though this could change. Funding is 50/50. The projects have been carried in the Village's capital budget so money was being set aside.
- Final determination from the legislature on the Pearl Street enhancements is still to be received. Discussions have begun on the Phase 2 stimulus package though Phase 1 has not yet been settled.
- Presentation of the rail connector project (Essex Jct. to Burlington) continues. The goal is to secure money from the Rail Division of VTrans for the project, but if that fails then stimulus funds will be sought.

3. Pearl Street Streetscape Project

Dave Crawford reported there have been discussions with Sen. Leahy's Office about funding (\$1.8 million) for the Pearl Street Streetscape Project. An earmark of \$400,000 has already been secured (total project funding of \$2.2 million). The Village will pay 20% match. Attorneys for CVE and the Village are reviewing the easement documents (temporary and permanent easements). Dave Crawford suggested the Village Manager be authorized to sign the various documents with VTrans for the Pearl Street Streetscape Project.

MOTION by John Lajza, SECOND by George Tyler, to authorize the Village Manager to sign the Cooperative Agreement with VTrans when the documents become available.

DISCUSSION: Dave Crawford stated if there is enough funding the streetscape project will extend beyond CVE and the shopping center area toward Five Corners. The project has been discussed by the Trustees for many years. There has been a real push of late because of the stimulus and earmark money.

VOTING: 5 ayes; motion carried.

Larry Yandow asked about the Pearl Street lane reconfiguration by West Street Extension. Dave Crawford said the Transportation Bill includes agreement with VTrans for Essex Junction to take over Route 15 and reconfigure the traffic lanes. The trees planted in the median will not be removed. The reconfiguration will eliminate the road being a raceway and improve cars entering into the traffic flow.

4. Local Options Tax

The Board discussed directing the Village Manager to send a letter to the Essex Selectboard indicating the agreement relative to the local options tax is no longer in force due to the negative vote and the Village of Essex Junction will move forward with its own initiative. It was also suggested a letter be sent to the revenue division of the state requesting a spreadsheet be sent showing the amount of taxes paid over the years by the businesses in the community. It is hoped to have an open discussion of the local options tax with IBM at the regularly scheduled meeting with IBM officials in mid-May.

MOTION by Peter Gustafson, SECOND by Deb Billado, to send a letter to the Essex Selectboard saying the Village is no longer a part of the 1% local options tax agreement with the Town of Essex and is independently looking into other avenues for revenue.

DISCUSSION: George Tyler expressed concern about the town deciding at a later time to pursue a local options tax which could result in village businesses having a 2% tax versus a 1% tax. Deb Billado assured the study committee will address the issue of separating village and town businesses as well as other details. John Lajza felt tax information on village businesses should be compiled before sending the letter. Larry Yandow pointed out the letter is simply putting the Selectboard on notice that the Trustees are looking into a local options tax. George Tyler asked if the Village Attorney feels the contract is null and void. Dave Crawford suggested legal matters be discussed in Executive Session.

MOTION TO TABLE by John Lajza, SECOND by Deb Billado, pending a legal opinion on the contract. VOTING: 5 ayes; motion carried.

Dave Crawford said information on the committee is needed, such as the approach, role of staff, and committee members. People in the community with expertise can be asked to participate or an advertisement can be done open to all to apply (those for, against, or with no opinion on the local options tax).

5. FY10 Budget Reduction

Dave Crawford reviewed proposed reductions in the budget for consideration. The proposed reductions do not have a huge impact on services. May 26th is the target date for a plan. June 9th is the target date for public input on the reductions and action by the Board. The budget goes into operation on July 1st. George Tyler stated the lead paint removal and restoration of the woodwork at the library should not be postponed. Dave Crawford said the library trustees want the work done and feel the item should not be on the cut list.

V. NEW BUSINESS

1. Cooperative Agreement with VTrans

MOTION by John Lajza, SECOND by George Tyler, to authorize the Village Manager to sign the Cooperative Agreement with VTrans for the Pearl Street Streetscape Project. VOTING: 5 ayes; motion carried.

2. Village Manager's Annual Appointments

MOTION by Peter Gustafson, SECOND by John Lajza, to confirm the Village Manager's FY10 annual appointments as noted below with the understanding the appointments are effective July 1, 2009:

Village Clerk/Treasurer/Tax Collector - Susan McNamara-Hill

Village Attorney - David Barra

Village Engineer – Hamlin Consulting Engineers

Wastewater Treatment Facility Engineer – Forcier, Aldrich & Associates

VOTING: 5 ayes; motion carried.

Jeff Kershner, PE, thanked the Board on behalf of Hamlin Engineering for reappointment as Village Engineer for FY10. Hamlin Engineering enjoys working with the staff at the village and looks forward to continuing to provide service to the community, said Mr. Kershner. Dave Crawford noted Hamlin Engineering is part of the team, providing the same energy, commitment and dedication as staff. George Tyler made positive comment on the engineering audit done by Hamlin Engineering for the Village.

3. Ethics Policy

The Board reviewed and signed the Ethics Policy.

VI. VILLAGE MANAGER'S REPORT

1. Meeting Schedule

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 30 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. Over Expenditures

Dave Crawford reported there are over expenditures in the budget under legal expenses, Fire Department calls, salt, and energy costs at the wastewater treatment facility.

3. Rail Initiative

Presentation on the rail initiative has been given to Colchester, Winooski, Burlington, and the Vermont Rail Council.

4. Flushing of Water Line

Work is ongoing on the flushing of manholes and water lines.

5. Pearl Street Project

Staff is busy working on the project. There has been good cooperation and commitment. There may be some crossover of work once it is determined who can do what best.

VII. TRUSTEES COMMENTS/CONCERNS

1. Board Member Comments/Concerns

- Larry Yandow implored volunteers to step forward to replace the coordinators of the Memorial Day Parade who are retiring after many years of service.
- George Tyler reported on the Essex Selectboard public hearing on the capital budget. The Selectboard will be spending \$50,000 to investigate/study a new site for the municipal offices, \$25,000 for moving or improving the police station, and \$50,000 for economic development. Mr. Tyler felt it may be prudent to combine efforts on finding a site for the offices and the police station as well as on economic development. There are empty or partially empty buildings in the village that could provide office space. Mr. Tyler will draft a letter for the Trustees to review asking the Selectboard if the village will be included in the office study, whether the police department could be located in the village, and combining efforts relative to economic development. Deb Billado expressed concern about the amount of money being spent on studies given the economic climate.
- Green Up Day is May 2nd.
- Central Street Committee is sending a memo to CCTA, Essex Selectboard, and the Prudential Committee requesting contribution to the budget for aesthetic improvements by the Amtrak/CCTA station. Anticipated budget is \$10,000 for greenery, benches, and painting.

VIII. CONSENT AGENDA & READING FILE

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

1. Approval of Minutes (4/14/09)
2. Approval of Warrants
3. Request to Close Part of Maple Street for Little League Parade on 5/2/09
4. Identity Theft Prevention Policy

5. Street Vending Permit for Ice Cream Truck
6. Temporary Consulting – Water Quality Superintendent
7. Reading list acceptance (letters/communications)
 - Planning Commission Minutes (4/2/09)
 - Certification of Annual Election Results (4/14/09)
 - Memo re: Acting Village Manager from May 4-9
 - Champlain Water District Proposed FY10 Budget Summary
 - Land Acquisition of Biosolids for WWTF Generated Sludge
 - CCMPO & CCRPC Office Moving Notice

VOTING: 5 ayes; motion carried.

IX. EXECUTIVE SESSION

MOTION by Peter Gustafson, **SECOND** by George Tyler, 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 11:14 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 11:15 p.m.

RScty: M.E.Riordan