

**VILLAGE OF ESSEX JUNCTION
BOARD OF TRUSTEES
MINUTES OF MEETING
January 18, 2011**

BOARD OF TRUSTEES: Deb Billado (Village President); Peter Gustafson, George Tyler, John Lajza, Steve Atwood.
ADMINISTRATION: Dave Crawford, Village Manager.

I. CALL TO ORDER and PLEDGE OF ALLEGIANCE

Village President, Deb Billado, called the meeting to order at 6:30 PM and led the assemblage in the Pledge of Allegiance. There was a moment of silence for the family and friends of the MMU student who tragically and unexpectedly passed away.

II. AGENDA ADDITIONS/CHANGES

Add under 'Consent Agenda':

- Approval of grant submission by CCMPO on behalf of Essex Junction for the crescent connector.

III. GUESTS AND PRESENTATION

1. Comments from Public on Items Not on Agenda

There were no comments from the public at this time.

2. Public Hearing: Land Development Code Amendments

The public hearing was opened at 6:35 PM. Dave Crawford explained the timeline for adoption of the updated LDC (no later than May 6, 2011). The Code and the update are posted on the village website.

There was discussion of sandwich signs. Steve Atwood mentioned comments he heard about sandwich signs and the need for incubator stores to be able to maintain the ability to make customers aware of their location. The regulations with regard to sandwich signs are very limiting. Mr. Atwood stressed the village should do all that is possible to support these businesses and find a compromise so businesses can advertise their presence. The consensus of the Board is there is no problem with sandwich signs provided they are brought in at the end of business each day/night. Deb Billado noted sandwich signs were always allowed in the green space between the road and the sidewalk, but businesses located farther than 15' away from the road would not be able to do this. There may have been a problem with the signs being left out all the time. Dave Crawford suggested staff investigate options/alternatives and ask the Planning Commission for comment. Deb Billado suggested sandwich signs be allowed, but if left over night will be picked up by Public Works in the morning.

PUBLIC COMMENTS

Francis Raymond, owner of the Village Green Hallmark Store, said he moved to Essex Junction in 1958 and has been in business ever since, even as a kid. Mr. Raymond questioned why the village is trying to make it so hard for businesses to survive in the

community. There is a significant impact on a business if a sandwich sign cannot be used. Levying fines on businesses for the signs or going to court costs the business money. Mr. Raymond urged the Trustees to look at how to help business owners, adding no one from the Village Administration spoke to him about the signs and impact of the regulations. It is difficult to bring the sign in every night from a location 100 yards away, said Mr. Raymond. Village signs are allowed to remain overnight so there is a double standard. Regarding comment about “sign pollution”, Mr. Raymond opined there is light pollution on Pearl Street and a significant amount of money was spent to help CVE which generates no tax revenue for the village. CVE has a \$200,000 sign that pays for itself with advertising. Mr. Raymond questioned the fairness in allowing a huge sign that is illuminated all night, but not allowing small sandwich signs that benefit the smaller businesses. Mr. Raymond observed it appears as if the village does not want to see small businesses succeed. Trustee Lajza assured the Trustees do not want to harm any business in the village and urged Mr. Raymond to discuss his position with the Planning Commission. Dave Crawford agreed more visitations to business owners by staff are needed. Staff received some letters from people who wanted the ordinance enforced. Francis Raymond interjected the number of people against sandwich signs is miniscule to the number of people who appreciate having the signs and the advertising. Mr. Raymond said the rules are making it so hard for local businesses to exist they will have to leave the village. Trustee Tyler observed it appears the 15’ requirement provides an unfair advantage to those businesses located closer to the thoroughfare and a disadvantage to businesses located farther from the road. Trustee Atwood agreed and urged revisiting the requirement to remove the signs each night and to allow each business the option to leave their sign out. Francis Raymond suggested one approach might be to allow the signs to remain out for a specified length of time, such as five days, so the sign does not become ‘permanent’.

There were no further comments.

MOTION by John Lajza, SECOND by Steve Atwood, to close the public hearing on the Land Development Code amendments. VOTING: unanimous (5-0); motion carried.

The public hearing was closed at 7 PM. Dave Crawford noted another public hearing will be scheduled per the requirements.

IV. OLD BUSINESS

1. Recreation Department: Discussion of Consultant’s Report and Consideration of Prudential Committee Questions List

Consultant’s Report

Deb Billado read a summary of the consultant’s findings which revealed Essex Junction has more full time staff to support a comprehensive and high quality program, and the village voters support by choice the recreation program very well.

MOTION by John Lajza, SECOND by Steve Atwood, to accept the consultant’s report.

DISCUSSION: George Tyler said he found the report deeply flawed in its quantitative analysis and conclusions. The report says Essex Town has 200 programs and Essex Junction has 100 programs, but unless subsections, such as age groups in the swim program, are counted the number of programs in Essex Town is 60, said Mr. Tyler, stressing the consultant does not explain how the numbers were compiled. Regarding capital expenditures being included, the pool in Essex Town was not shown in the recreation budget. The glaring evidence, continued Mr. Tyler, is the consultant's statement about the wonderful, high quality program and efficient raising of program fees as well as EJRP being the "best recreation program in New England", but the report does not address how the governance model equates to program excellence. Also, no quantitative evidence was provided to justify reasons to transfer back to the village, only platitudes were given (statements like "...bring back to its roots..."). History shows the recreation department has been with the school district for 40 years and with the village for 16 years prior to that. Deb Billado pointed out the consultant's numbers are from the recreation directors of the communities that were canvassed. George Tyler suggested EJRP staff review the program numbers in the consultant's report. Steve Atwood suggested the recreation staff verify the numbers they provided to the consultant. Deb Billado said there is no question about the quality of the recreation department. EJRP is a high quality program, but expensive. Villagers pay \$1.7 million for the recreation departments in the village and town. John Lajza calculated the recreation net budget supported by village taxpayers without debt service included is 6.69% of the budget of \$7,170,864 (village budget plus 42% of the town general fund). South Burlington pays 6.21%. Per capita the cost for the village recreation department is \$53.70. If the town budget is added in then villagers pay \$74.36. In Williston the per capita cost is \$39.57. Brian Donahue, former Director of Operations at CCSU and now VP at Vermont Public Radio, pointed out on an annual basis the cost of the recreation program is determined by Australian ballot regardless of governance. The recreation tax rate has not increased in the past eight years and materially has not increased for the past 12 years. There was further discussion of the consultant's report and agreement the study brought to light some information. George Tyler noted the Essex Junction School District annual report provides the information that the Trustees hired a consultant to gather; the numbers were readily available already. There were no further comments.

VOTING: 4 ayes, one abstention (Peter Gustafson); motion carried.

Prudential Committee Questions

Dave Crawford advised some information may be related to negotiations and should be discussed in Executive Session.

MOTION by Steve Atwood, **SECOND** by John Lajza, to go into Executive Session to discuss recreation issues per the memo from Dave Crawford, dated 1/18/11, of

which some items may involve negotiations, and to invite the Village Manager to attend.

DISCUSSION: George Tyler disagreed with discussing the information in Executive Session since there is no new information being presented and the public has the right to know and not be excluded from the discussion. John Lajza clarified there is one item that could be discussed in Executive Session and then the remainder of the discussion can be held in open session.

VOTING: 3 ayes, one nay (George Tyler), one abstention (Peter Gustafson); motion carried.

Executive Session was convened at 7:30 PM and adjourned at 8:04 PM. The regular meeting reconvened.

MOTION by John Lajza, **SECOND** by Steve Atwood, to publish the memo to the Board of Trustees from Dave Crawford, dated 1/18/11, regarding Recreation Issues – Current Situation – Decision List as modified for the public record. **VOTING:** 4 ayes, one abstention (Peter Gustafson); motion carried.

MOTION by John Lajza, **SECOND** by Steve Atwood, to indicate to the Prudential Committee that the Board of Trustees plans to move forward on 1/31/11 with clarifying the basic legal issues and questions by:

1. Ask the Prudential Committee to (1) vote that they concur with the Village Attorney's legal opinion OR (2) jointly file a petition for declaratory judgment by January 31st.
2. Request Attorney Dave Barra to draft the petition to the court for submission on January 31st.
3. Authorize Attorney Dave 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. Request Attorney Dave 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. Send the memo as modified to the Prudential Committee Chair.

DISCUSSION: George Tyler recalled a petition with 842 signatures by village residents was received requesting the entire process cease and desist. The voice of the community has spoken. Mr. Tyler said he is against any unilateral legal action and spending more taxpayer money on pursuing the situation as a legal matter because the situation can be resolved by working together without legal intervention. Steve Atwood said working jointly will get the matter through the courts faster. Closure is needed. Deb Billado referred to a phrase said by Mike Deweese about the need to understand who owns the "key to recreation". The Village Attorney advises the key belongs to the village government, but the Prudential Committee to date disagrees with that position. Ms. Billado said the two boards need to jointly come together and concur with the legal opinion or go further with the matter in court. If the key belongs to recreation and the

Prudential Committee then the village needs to get out of the way, but if the key belongs to the village government then the situation is different. John Lajza read a statement citing numerous and ongoing efforts by the village to work to resolve the recreation matter with the Prudential Committee without success which has brought the matter to the present juncture requiring action in order to move forward. Mr. Lajza said if the two boards cannot get together and move forward cooperatively and jointly then the village has no alternative but to act unilaterally. Deb Billado commented if it is not determined who owns the 'key', then the matter will come up again at some point in the future. There were no further comments.

VOTING: 3 ayes, one nay (George Tyler), one abstention (Peter Gustafson); motion carried.

MOTION by John Lajza, **SECOND** by Steve Atwood, to publish the following target dates:

1. March 8, 2011 as the date to have a negotiated agreement with the Prudential Committee for either the proposed agreement (with modifications as necessary) OR have an agreement defining the process for the reversion of administrative oversight to the Village.
2. March 15, 2011 as the date to vote to notify the Prudential Committee of the Village's decision.

DISCUSSION: George Tyler spoke in opposition of the target dates and the process that gets to the dates, and suggested waiting one month for the annual meeting to hear from the voters. There were no further comments.

VOTING: 3 ayes, one nay (George Tyler), one abstention (Peter Gustafson); motion carried.

MOTION by Steve Atwood, **SECOND** by John Lajza, to instruct the Village Manager to work with the Town of Essex and send a letter to the Essex Selectboard regarding interest in Alternative C as identified by the consultant (Alternative C is engaging the town to take over administrative oversight of EJRP similar to the current oversight by the Prudential Committee) and to get a response by February 22, 2011.

DISCUSSION: Dave Crawford clarified the instruction is to make an overture to the town to see if the Selectboard is interested in undertaking the oversight function. George Tyler observed in practical terms with the March 2nd annual meeting the Selectboard may not have much time to consider the matter. Also, there would be a significant tax increase for townspeople to take over the recreation department because the portion paid by the village would no longer be paid. Dave Crawford pointed out the action is to take over the oversight that is currently done by the Prudential Committee. A statement of interest (or no interest) from the town is all that is expected as a response. Also, regardless of who does the oversight the recreation budget is voted by the citizenry in April. There were no further comments.

VOTING: 4 ayes, one abstention (Peter Gustafson); motion carried.

2. Review of Capital Plan (Budgets)

Dave Crawford recalled initially the proposed budget showed at 5% increase and the Trustees challenged the Village Manager and staff to reduce the increase which was done (the proposed increase is 3.8%). Hours of meetings and reviews were done by the Trustees and staff on the budget to arrive at the proposed budget. The 3.8% increase is a result of further loss of the IBM subsidy.

Brian Donahue asked if the capital budget is available to the public, noting his interest is the budget for sidewalk plowing to avoid in the future unsafe incidences of school children and other pedestrians walking in the road because the sidewalk is not plowed. Dave Crawford explained the misinformation that was communicated with the recent sidewalk plowing incident and steps taken to ensure the situation does not reoccur. Mr. Donahue stressed the system cannot break down. Failure is not an option. If the v-plow cannot satisfy the need, then the need cannot be satisfied. School children cannot be walking in the streets. Public Works needs to communicate so school can be cancelled if necessary. Mr. Donahue urged taking care of the basics then moving onto the optionals. Mr. Crawford agreed communications have to work and all parties need to pursue the matter until they have the needed information. The Superintendent of Schools makes the decision to cancel school based on snowplowing, road conditions, and the situation at school. The village will try to provide the needed information, but the central office can also contact the village. Brian Donahue stated the system that is in place works. It is the obligation of the person who has the information, not who needs the information, to communicate that information. If that has changed then a dangerous situation has been created.

Mr. Crawford noted at the February meeting the Trustees will adopt the budgets. The public is welcome to attend and comment.

V. NEW BUSINESS

None.

VI. VILLAGE MANAGER'S REPORT

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

1. Meeting Schedule

- January 25 @ 6:30 – Regular Trustees Meeting
- February 8 @ 6:30 – Regular Trustees Meeting
- February 22 @ 6:30 – Regular Trustees Meeting
- March 8 @ 6:30 – Regular Trustees Meeting
- March 22 @ 6:30 – Regular Trustees Meeting
- April 6 @ 7:00 – Village Annual Meeting
- April 12 @ 6:30 – Regular Trustees Meeting
- April 26 @ 6:30 – Regular Trustees Meeting

Special Meetings/Events:

- February 9 – Possible Joint Meeting with Prudential Committee

- February 10 @ 3 PM – Employee Appreciation Party (On Tap Bar & Grill)
- April 12 – Australian Ballot Voting for Annual Meeting

2. Annual Meeting at High School

MOTION by Peter Gustafson, SECOND by Steve Atwood, prior to the start of the annual meeting to serve coffee and dessert donated by volunteers. VOTING: unanimous (4-0)[John Lajza not present for vote]; motion carried.

3. Draft Annual Report

A draft compilation of the annual report is available for review.

4. VLCT Annual Government Day

The VLCT function is on February 16, 2011.

5. Channel 17 Video for Treatment Plant

Channel 17 will provide a video showing the need for the treatment plant refurbishment.

VII. TRUSTEES COMMENTS/CONCERNS

Peter Gustafson reported the work of the police facilities committee is wrapping up. Several sites are being reviewed including land by CVS Drug Store on Route 15, land across the road from CVS on Route 15, IBM land by the tennis courts, and the Pizzagalli building on River Road. The Trustees will be kept informed.

VIII. CONSENT AGENDA & READING FILE

MOTION by Peter Gustafson, SECOND by Steve Atwood, to approve the consent agenda as follows:

1. Grant Submission by CCMPO on behalf of Essex Junction for the Crescent Connector
2. Reading List Acceptance (Letters & Communications)
 - Brownell Library Staff & Director's Report December 2010

VOTING: unanimous (5-0); motion carried.

IX. EXECUTIVE SESSION and/or ADJOURNMENT

MOTION by Peter Gustafson, SECOND by Steve Atwood, that the Board of Trustees go into Executive Session to consider personnel matters and legal issues involving contract negotiations where premature general public knowledge would clearly place the Village at a substantial disadvantage, and to invite the Village Manager, Dave Crawford, to attend. VOTING: unanimous (5-0); motion carried.

Executive Session was convened at 9 PM and adjourned along with the regular meeting at 9:42 PM