



**2 LINCOLN STREET, ESSEX JUNCTION, VT**

**VILLAGE OF ESSEX JUNCTION  
BOARD OF CIVIL AUTHORITY  
MINUTES  
TUESDAY, OCTOBER 5, 2021**

Members present: Chair Diane Clemens, Village Clerk Susan McNamara-Hill, George Tyler, Bernie Couture, Pat Murray, Amber Thibeault, Andrew Brown, Raj Chawla, Dylan Giambatista, Tony Barr, Kelly Adams.

Guests present: Brian Shelden

Chair Diane Clemens called the meeting to order at 5:47 p.m.

**Agenda changes:** Chair Diane Clemens proposed amending the agenda to include approval of additional election workers Heidi Clark, Mia Abbott and Sheila Porter. Motion by George Tyler, second by Andrew Brown to approve the election workers. Voting: all ayes, motion carried.

Under Business the board reviewed procedures for the November 2<sup>nd</sup> special Village election.

- A. **Approve setting secure ballot box at 81 Main Street.** Motion by Raj Chawla, second by Kelly Adams to approve setting a secure ballot box for depositing Village ballots at 81 Main Street. Voting: all ayes, motion carried.
- B. **Approve leaving secure ballot box available until 7:00 a.m. on November 2, 2021.** Village clerk Susan McNamara-Hill explained that the new law requires the box be brought in the day before the election unless the BCA authorizes leaving it out longer. Past practice has been to leave the box out overnight the night before the election. Motion by Pat Murray, second by Amber Thibeault to leave the ballot box out until 7 a.m. the morning of November 2<sup>nd</sup>. Voting: all ayes, motion carried.
- C. **Discuss and take action on whether or not to allow early depositing of ballots by voter in tabulators within defined hours TBD by clerk's office.** The board discussed this matter and considered issues with the number of people coming into the office and the effort to try to limit

exposure. Motion by George Tyler, second by Pat Murray to table this question until next year. Voting: all ayes, motion carried.

**D. Approve allowing the clerk and two JPs to deposit checked in absentee ballots directly in tabulators within 30 days of election.**

After discussing this matter, a motion was made by Pat Murray, seconded by Bernie Couture to allow clerk and two JPs to deposit checked in absentee ballots directly in tabulators between now and election day at time to be determined. Voting: all ayes, motion carried.

**E. Discuss and take action on whether to invite town BCA (selectboard and town resident justices) to assist with pre-election and election day tasks.**

This matter was discussed by the board. Pat Murray stated that the village of Essex Junction does not have justices of the peace, that justices of the peace are elected by the town of Essex. Pat Murray reported that the town attorney stated that he does not think the Village of Essex Junction has the authority to run an election. Chair Diane Clemens explained that in the past there were three Boards of Abatement that considered abatements for the school district, village and town taxes. Now that the town has assumed all delinquencies, there has been no need for other Board of Abatements. Village clerk Susan McNamara-Hill explained that in the past 40 years that she has been village clerk, the village board of civil Authority has always been in charge of Village elections. The reason the board has not met separately recently is that the village annual election coincides with the school election and affects the whole town.

After further discussion the consensus was that the village attorney be contacted for an opinion on this matter.

Motion by George Tyler, second by Pat Murray to invite town BCA (selectboard and town resident justices) to assist with pre-election and election day tasks, pending approval by the village attorney.

Voting: all ayes, motion carried. (see attorney opinion in addendum to minutes)

**F. Other business:** Chair Diane Clemens asked for help with the election.

Most of the people that normally help are not available.

George Tyler asked when the ballots were going out. Village clerk Susan McNamara-Hill replied that they would be mailed by a mailing house tomorrow or by Friday at the latest.

Having no further business to come before the board the meeting was adjourned at 6:22 p.m.

Respectfully submitted:

*Susan McNamara-Hill*

Susan McNamara-Hill, Village clerk

**Addendum to BCA minutes 10/5/21:**

*Following up on our discussion, I agree with you that 17 V.S.A. § 2103 makes clear that the justices of the peace who reside in the Village comprise the Village Board of Civil Authority. Section 2103 is the definitions section, and it applies to all uses of the term, "Board of Civil Authority" in Title 17, which is the title governing elections.*

*The definition states, "Board of civil authority" means, unless otherwise provided by municipal charter, in the case of a town, the selectboard and town clerk and the justices residing therein; in the case of a city, the mayor, aldermen, city clerk, and justices residing therein; in the case of a village, the trustees, village clerk, and the justices residing therein; and, in any case, such suitable member or members of unrepresented or insufficiently represented political parties as may be appointed members of the board of civil authority under the provisions of section 2143 of this title. Except as otherwise provided in this title, those members of the board of civil authority present and voting shall constitute a quorum, provided that official action may not be taken without the concurrence of at least three members of the board.*

*So, for a Village election, it's clear that the Village Board of Civil Authority is in charge of the Village election as set forth for the other types of municipalities. And I double-checked the Village Charter, and you're correct that there is no reference to the BCA.*

*Also, you asked whether it would be an issue to hire or appoint non-Village residents to assist the BCA in its election work. There is certainly no statutory prohibition against that. The only issue might be if there were some public outcry about it, but I don't see that as having much basis in a legitimate fear about the sanctity of an election.*

*I hope this is useful.*

*Brian P. Monaghan, Esq.  
Monaghan Safar Ducham PLLC  
156 Battery Street  
Burlington, Vermont 05401*