

**VILLAGE OF ESSEX JUNCTION
BOARD OF TRUSTEES
MINUTES OF MEETING
April 23, 2013**

BOARD OF TRUSTEES: George Tyler (Village President); Andrew Brown, Dan Kerin, Lori Houghton. (Elaine Sopchak was absent.)
ADMINISTRATION: Lauren Morrisseau Co-Manager & Finance Director; Susan McNamara-Hill, Co-Manager & Village Clerk/Treasurer; Robin Pierce, Village Development Director.
OTHERS PRESENT: Pat Scheidel, Gabrielle Smith, Matt Whalen, Shirley Zundell, Jaye O'Connell, Bridget Meyer, Tom Weaver, Aaron Olson, Susanna Olson, Nathan Baker Kasey Cybulak, Whitney Dumville, Jonathan Watroba, Brad Luck, Jason Starr (Essex Reporter).

1. CALL TO ORDER and PLEDGE OF ALLEGIANCE

Village President, George Tyler, called the meeting to order at 6:30 PM and led the assemblage in the Pledge of Allegiance. Essex Town Manager and proposed Village Co-Manager, Pat Scheidel, was introduced

2. BOARD REORGANIZATION

a. Oath of Office for Newly Elected Trustee

Susan McNamara-Hill administered the Oath of Office to Trustee Lori Houghton.

b. Board Elections

Village President

MOTION by Dan Kerin, SECOND by Lori Houghton, to nominate George Tyler as Village President. There were no other nominations. **VOTING: unanimous; motion carried.** George Tyler is Village President.

Village Vice President

MOTION by George Tyler, SECOND by Andrew Brown, to nominate Dan Kerin as Village Vice President. There were no other nominations. **VOTING: unanimous; motion carried.** Dan Kerin is Village Vice President.

c. Review/Sign Acknowledgement of Ethics Policy

The Ethics Policy was reviewed as required.

3. AGENDA ADDITIONS/CHANGES

An updated memo, dated 4/23/13 on the VLCT PACIF equipment grant replaced the original VLCT PACIF item on the consent agenda.

4. GUESTS, PRESENTATIONS, & PUBLIC HEARINGS

a. Comments from Public on Items Not on Agenda

Tobacco Shops in the Village

Bridget Meyer submitted copies of the letters from the Farmers Market that were submitted to the Essex Selectboard in early April regarding concerns about the proposed tobacco shop locating on Railroad Avenue in light of the time and effort being put forth to revitalize the village downtown area.

Jaye O'Connell read a letter about deterioration of the downtown area due to drug activity and subsequent effort by residents to create a safe space with full shops and a vibrant farmers market. Ms. O'Connell said she is pleased with the reconstruction of 8 Railroad Ave. and the new store fronts that can add to the downtown, but there is concern about the proposed tobacco shop being a catalyst for the return of undesirable activities.

b. Whitcomb Heights II Open Space/Discussion of Request by Fred Parks
Village Development Director, Robin Pierce, reported there are 22 units still to be built in Whitcomb Heights II and that will trigger the offer to the village of open space (the last unit permit is the trigger). If the village does not exercise the option for the land then the homeowners association has the next right of refusal.

Tom Weaver, Whitcomb Heights developer, explained there is limited common area around the housing units. The land is wetlands with no possibility of development and belongs to the homeowner associations for the developments. The offer of land to the village still stands, but there should be further discussion because this could have an impact on the development in that there may not be enough land per unit as required. There are more regulations regarding condominiums now and that may trigger a problem with secondary financing. The Certificate of Occupancy for the last unit triggers within 60 days the need to inform the village of the approval. The Trustees can decide the plan of action and has 90 days to accept the offer. Mr. Weaver assured the approvals and all conditions are being followed.

c. Presentation: Multiuse Safety Path Project by UVM Engineering Students
Whitney Dumville, Nathan Baker, Kasey Cybulak, and Jonathan Watroba, UVM students in UVM's civil engineering program, presented their proposal for a 1,146' long multiuse safety path along the railroad tracks between Central Street and Grove/North Street, noting the following:

- Presently students from the high school and tech center use an existing footpath along the railroad tracks to walk to/from the high school to the village center area.
- Federal Railroad Administration regulations were followed in designing the path which is 10' wide, offset 15' from the tracks with a 4' high barrier.
- Per ADA regulations the slope is no greater than 8.3% and the cross slope is less than 2%.
- In addition to the asphalt path, the project includes a rain garden, trees, two benches, solar lighting, and a fence (chain link or aluminum).
- The solar lights have dimmers and motion sensors.
- Estimated cost is approximately \$79,000 (not including labor costs) and includes solar lights, paving, fencing, and mulching.
- Estimated cost with an aluminum fence and landscaping stones is \$89,000.
- The high school environmental club volunteered to maintain the rain garden.

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- The tech center agreed to take on the project of the rain garden and make the benches, and agreed to possibly commission sculptures for the rain garden each year. The village would have to pay for materials.
 - Burlington Public Works has been contacted regarding how permission was secured for the rail-trail that was built along the railroad track in Burlington.
 - The village public works department will plow the path in the winter. The plantings that were selected are salt hardy.
 - Scrub brush and trees along the tracks will be removed. New tree plantings are arranged to block the shine from the solar lights on the nearby houses.
 - All the work will occur on railroad property (Rail America owns the property).
 - There will be trash receptacles along the path that can handle recyclables.
 - The full scale design and final report on the project will be submitted to the village upon completion. A digital copy will also be sent.

Robin Pierce noted Regional Planning is aware of the work by the UVM students and is very supportive. There is no conflict with the grant.

Jaye O'Connell mentioned the neighborhood watch group annually 'greens up' the railroad track area and waters flowers in the area. The group may be interested in helping with the path project.

5. OLD BUSINESS

a. Discuss Ordinance to Regulate Tobacco Retailers in Village Center

The Trustees discussed tobacco and head shop businesses in the downtown village center, noting the following:

- The results of the survey circulated at the village annual meeting appear to indicate more than the majority favors not allowing tobacco/head shop type shops in the village center.
- The Trustees are discussing permissible uses in the village center. Existing businesses can remain.
- There are currently 13 places to purchase tobacco within a one mile radius of the high school coupled with increased tobacco use among youths. The village is a walking community with lots of young people. There is much exposure to tobacco products.
- The close proximity to the bus stop is a concern about what other substances may come into the village besides tobacco.
- The Village Attorney advised the village has authority under state law to regulate these types of shops, but there is the potential to ask for private medical information so there are privacy issues.
- The stance in the Town of Ludlow was relative to marijuana dispensaries and trying to limit paraphilia as well.
- Zoning may be a better approach (versus creating an ordinance). Zoning is a community stand where the community articulates what is wanted and the voters approve this. Appeals follow due process (quasi-judicial process). A business can be zoned out of existence, but once a business is in place then the law must be

enforced. With zoning a community can make special land uses as conditional or permitted.

- Essex Town has an ordinance for acceptable behavior in businesses (pertains to personal services types of businesses).
- The Board of Trustees is not trying to micro-manage businesses in the village, but the damage from smoking is not hypothetical. Smoking is a significant health risk on which the state spends millions of dollars each year.
- There is more opportunity for tobacco products to be purchased and passed to youths by others with more establishments selling the products.
- Zoning could restrict the number of establishments and the proximity to schools. Existing tobacco sales businesses can continue, but new ones will not be allowed.
- The concern about trying to legislate a morality issue was noted. There are establishments selling alcohol within walking distance of the schools and there is smoking outside of cafés and restaurants in the village downtown area.
- The trend in the country is toward greater restriction on tobacco sales.
- It is ironic that tobacco restrictions are tightening while marijuana regulation is getting more lenient in the state.

COMMENTS

Matt Whalen, CHIPS, confirmed existing tobacco licenses are grandfathered, but new licenses will be impacted by any zoning that is put in place.

Gabrielle Smith submitted documents on tobacco use and impact on youth from various sources, including the following:

- New England Center for Public Health regarding tobacco policy and density of tobacco outlets;
- Abstracts of studies showing a connection between the number of outlets close to schools and the number of students starting to smoke even though much money is being spent to educate youth not to smoke;
- Map of tobacco outlets within a half mile to a mile radius of the high school.

Ms. Smith stated the village center has urban density and is a walking community. Students are walking by the tobacco places. Visibility and point of sale are all factors in the introduction to smoking. Ms. Smith noted Up In Smoke (the establishment to locate in the village center) will receive their tobacco license through the state department of liquor control (DLC). A public hearing is scheduled on May 9, 2013 at 9:30 AM.

The Trustees agreed to ask the Planning Commission to investigate a zoning change to achieve the goals of the village. There is draft zoning language for consideration. Public hearings on the proposed zoning will be held to gather public input. Regional Planning and contiguous municipalities will be notified of any change in zoning. The zoning must fit into the regional perspective. George Tyler will draft a statement to be sent to the Planning Commission outlining the position and concerns of the Trustees and encompassing the research. The statement will be reviewed at the next meeting.

Pat Scheidel will forward information about the town's personal services ordinance to the Trustees.

6. NEW BUSINESS**a. Discussion with Town Manager, Pat Scheidel**

Pat Scheidel affirmed his interest in pursuing a shared manager approach for the town and village and noted the following:

- Having two separate managers adds overhead to the work that is done by the municipal departments.
- There is precedent of the village and town sharing a manager (back in the 1950s). Economic development and growth issues faced the community then as now.
- The goal is delivery of services to the people without having both hands in their pockets at the same time.
- Personnel and associated issues are getting more cumbersome and need to continually be redefined. Having one person to help in those issues is good.
- The town including the village is 36 square miles with a population of 20,000 and a myriad of businesses. Having one manager and evolving to one board is possible and deemed likely to be viable.
- The blueprint for successful transition is succession planning and promoting from within to retain the vast institutional knowledge of the current employees. Training and professional development is an investment that needs to be promoted so positions can be filled internally as much as possible.
- A time table and outline of chores and duties for the shared manager needs to be drafted.

George Tyler asked if the village and town competing for the same grants is an issue. Mr. Scheidel pointed out with one individual working for two separate boards a decision can be made that is best for the entire community. Longer term and shorter term grants, collective bargaining, and health care issues are facing both municipalities. Executive sessions to discuss topics such as collective bargaining or land acquisition may have to be handled carefully with a shared manager, but otherwise there should not be areas of conflict.

There was discussion of salary and benefits for the shared manager. Pat Scheidel noted he has a contract with the town as the Town Manager which can be amended as needed to allow work as a shared manager. The village can reimburse the town for the value of the time spent by the shared manager working at the village (an estimated 20 hours per week at the village more or less depending on the demands). George Tyler stated compensation will likely be discussed in Executive Session with the Trustees and staff members. Lauren Morrisseau asked about the general reaction from staff at the town on the time to be spent by the manager working at the village. Pat Scheidel stated there is not concern, but staff does want to know the schedule. There is enough tenured and knowledgeable staff in both organizations to handle daily operations and any problems that arise can be addressed.

George Tyler said as a citizen he would want his local government to at least try this approach to see if it works. Dan Kerin said the village department heads need to be asked their opinion on a shared manager approach. There is a lot of work for one person, but an

individual with good interpersonal skills and experience can do it. Pat Scheidel appears to have the skills and experience. George Tyler suggested a committee be formed to include Trustees, Selectboard members and staff from both the village and town to discuss the contract, compensation, hours and duties of the shared manager as well as the duties of the village co-assistant managers and a way to evaluate whether the arrangement is working. Lori Houghton suggested the first phase is forming the committee and getting Pat Scheidel in place and the second phase is planning for the future (after Pat Scheidel leaves). Public input is welcomed at the Trustees meetings. The committee meetings will be in Executive Session.

George Tyler and Lori Houghton volunteered as the Trustees on the committee. Lauren Morrisseau, Susan McNamara-Hill, Robin Pierce and other village staff as interested will also serve on the committee. Meetings will be held over the next two weeks and a report will be presented by the end of May. George Tyler will contact the Essex Selectboard to schedule the first committee meeting.

Pat Scheidel will do a framework on how to recruit for the position with the dynamics currently in place and outline a salary for the position based on the duties and the ability to pay. Mr. Scheidel mentioned the role of the report by Jeff Carr and Mary Morris needs to be determined. Andrew Brown stated the report is more for succession planning and identifies where efficiencies can be found.

b. Discussion of Moderator Position

George Tyler noted Steve Eustis was the majority write-in candidate for Moderator at the village annual meeting though Mr. Eustis did not submit a petition and actually run for the elected position. Mr. Tyler stressed the need to follow the petition process next year.

MOTION by Dan Kerin, SECOND by Andrew Brown, to appoint Steve Eustis as Moderator. VOTING: unanimous (4-0); motion carried.

c. Grant Consideration for Multi-Use Safety Path North and Central Streets

Staff reported the village applied for a grant of \$274,694 for the multi-use safety path and received \$250,000. There is a 20% match. The total budget estimate for the path is \$550,000 with \$160,000 paid by the village. Construction is projected in FY15. There was mentioned of the estimated project budget being higher than the estimate proposed by the UVM engineering students. Robin Pierce will do a detailed budget with an explanation of each item in the project.

MOTION by Lori Houghton, SECOND by Andrew Brown, to accept the CCRPC grant for \$139,835 and the VTrans Transportation Alternatives Grant for \$250,000 for the multi-use safety path North and Central Streets as the project will promote the goals and values of the village. VOTING: unanimous (4-0); motion carried.

7. VILLAGE MANAGER'S REPORT

a. Meeting Schedule

- May 14 @ 6:30 – Regular Trustees Meeting

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- May 28 @ 6:30 – Regular Trustees Meeting
 - June 11 @ 6:30 – Regular Trustees Meeting
 - June 25 @ 6:30 – Regular Trustees Meeting
 - July 9 @ 6:30 – Regular Trustees Meeting (cancelled due to office renovations)
 - July 23 @ 6:30 – Regular Trustees Meeting
 - August 13 @ 6:30 – Regular Trustees Meeting
 - August 27 @ 6:30 – Regular Trustees Meeting
 - September 10 @ 6:30 – Regular Trustees Meeting
 - September 24 @ 6:30 – Regular Trustees Meeting
 - October 8 @ 6:30 – Regular Trustees Meeting
 - October 22 @ 6:30 – Regular Trustees Meeting

Special Meetings/Events:

- May 11 – National Train Day
- May 25 @ 10 AM – Memorial Day Parade
- July 20 @ 4-9 PM – Village Annual Block Party & Street Dance

b. Large Water User Rate

Two public hearings are required on the water and sewer rates. The first public hearing is May 28, 2013 and the second hearing is June 25, 2013 as part of the Trustees meeting.

c. Set Tax Rate

The tax rate will be set at the July 23, 2013 Trustees meeting.

d. Cancel July 9th Trustees Meeting

Staff recommends the July 9th Trustees meeting be cancelled because the Village Office renovations will be underway. The Trustees concurred.

e. Interviews for Bike/Walk Committee

Interviews will be held for the Bike/Walk Committee on May 14, 2013 at the Trustees meeting.

f. Annual Employee Appreciation Event

The annual employee appreciation gathering will be June 4th at On Tap. George Tyler will present the longevity awards.

8. TRUSTEES COMMENTS/ANNOUNCEMENTS

a. Board Member Comments

- There was mentioned the solar array on the Whitcomb Farm will be a significant installation.
- Liza Kilcoyne resigned from the Village Planning Commission due to relocation out of the village. Diane Clemens was elected Chairwoman to replace Ms. Kilcoyne. Vacancies on the Planning Commission are being advertised.
- Farmers market begins May 31st.
- There was mention of going through the same process with the village attorney and village engineer positions as is done with the auditor. Bids will have to be

solicited. Comment was made on the extensive knowledge and experience with the village infrastructure held by the current village engineer. Staff will forward information on the process to solicit services (auditor, engineer, legal) to the Trustees.

- Appointments were made to the Rec Advisory Committee.
- The Memorial Day dinner/dance was not as well attended as in past years, but was a success none the less.

b. Reading File

- Minutes from Block Party Committee 3/25/13
- Notification re: Whitcomb Farm Solar Project
- Letter re: Amendment to Land Use Permit for Essex Pediatrics
- Planning Commission Resignation from Liza Kilcoyne
- Certification of Election Results for Village Annual Meeting

9. **CONSENT AGENDA & READING FILE**

MOTION by Dan Kerin, SECOND by Lori Houghton, to approve the consent agenda as follows:

1. **Approve Minutes of Previous Meetings (3/26/13, 4/8/13, 4/9/13)**
2. **Approve Warrants including Checks #10046934 through #10047012 totaling \$1,406,920.81.**
3. **Approve 2013 Five Corners Farmers Market Agreement**
4. **Approve MOU for Regional Stormwater Education Program**
5. **Approve WWTF Capital Plan Modification**
6. **Approve Change to General Rules and Regulations**
7. **Approve CVE Banner Applications**
8. **Approve noise Waiver for EJRP July 4th Fireworks**
9. **Approve the VLCT PACIF Equipment Grant per the memo, dated 4/23/13 (grant application amended to reflect \$1,918 project match)**

VOTING: unanimous (4-0); motion carried.

10. **ADJOURNMENT and/or EXECUTIVE SESSION**

MOTION by George Tyler, SECOND by Lori Houghton, to adjourn the regular meeting and convene Executive Session to discuss real estate and contract matters where premature public knowledge would place the village at a substantial disadvantage, and to invite the village co-managers to attend. VOTING: unanimous (4-0); motion carried.

The regular meeting was adjourned and Executive Session reconvened at 9:00 PM.

RScty: M.E.Riordan

