TRUSTEES SPECIAL MEETING NOTICE & AGENDA
MONDAY, MAY 14, 2018 at 7:00 PM
2 LINCOLN STREET, ESSEX JUNCTION, VT 05452

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE TO FLAG [7:00 PM]

2. AGENDA ADDITIONS/CHANGES

3. APPROVE AGENDA

4. GUESTS, PRESENTATIONS AND PUBLIC HEARINGS
   a. Comments from Public on Items Not on Agenda

5. OLD BUSINESS
   a. Amendments to Open Burning and Enforcement Ordinances – Evan Teich

6. JOINT MEETING WITH ESSEX SELECTBOARD
   a. Determine goals and evaluation process for the Unified Manager – George Tyler and Max Levy
   b. Discussion about the Trustee/Selectboard and Staff work plans for alignment – George Tyler and Max Levy
   c. Discussion about defining commonly-used words around governance and consolidation – George Tyler and Max Levy
   d. Determine whether to establish subcommittees with missions and responsibilities around governance and consolidation – George Tyler and Max Levy
   e. Discussion about areas where experts should be hired to inform governance and consolidation – George Tyler and Max Levy
   f. Discussion about top three priorities to be accomplished by consolidation – George Tyler and Max Levy
   g. Discussion about general ideas for governance and representation – George Tyler and Max Levy

7. READING FILE
   a. Memo to Trustees and Selectboard, and Board Member Responses

8. ADJOURN
   Meetings of the Trustees are accessible to people with disabilities. For information on accessibility or this agenda, call the Village Manager’s office at 878-6944.
VILLAGE OF ESSEX JUNCTION
SPECIAL JOINT MEETING WITH SELECTBOARD
MINUTES
May 14, 2018

TRUSTEES: George Tyler, President, Dan Kerin, Elaine Sopchak, Andrew Brown (Lori Houghton was absent.)

SELECTBOARD: Max Levy, Chair, Michael Plageman, Irene Wrenner, Andrew Watts, Elaine Sopchak.

OTHERS PRESENT: Evan Teich, Unified Manager; Greg Duggan, Deputy Town Manager; Lauren Morriseau; Finance Director; Andy Suntup; Marybeth Redmond; John Egan; Jerry Fox; Mary Lou Hurley; Diane Clemens; Rich Maggiani; Neil Christiansen; Margaret Smith; Lynn Smith; Mark and Iris Banks; Colin Flanders, Essex Reporter.

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE TO FLAG

Mr. Tyler called the meeting to order at 7:00 p.m.

Mr. Levy called the meeting to order at 7:00 p.m.

Mr. Tyler invited those present to join him in reciting the “Pledge of Allegiance.”

2. AGENDA ADDITIONS/CHANGES

Mr. Duggan provided the following additions and changes: to add email comments from Andrew Brown into the Reading File and to rearrange the order of topics to discuss under Business Item 6.

3. APPROVE AGENDA

DAN KERIN MOVED AND ELAINE SOPCHAK SECONDED A MOTION TO APPROVE THE AMENDED AGENDA. THE MOTION PASSED 3-0.

MICHAEL PLAGEMAN MOVED AND IRENE WRENNER SECONDED A MOTION TO APPROVE THE AMENDED AGENDA. THE MOTION PASSED 3-0.

4. GUESTS, PRESENTATIONS AND PUBLIC HEARINGS

a. Comments from Public on Items Not on the Agenda

There were no comments from the public.
5. **OLD BUSINESS**

a. **Amendment to Open Burning and Enforcement Ordinances – Evan Teich**

Mr. Teich introduced the issue and reviewed his memorandum dated May 14, 2018. He explained that the Interim Village Attorney contacted staff today regarding the following new language for Section 1302 of the public nuisance ordinance:

To replace “ Burning of materials cannot create a nuisance.” with the following sentence “ In no circumstance shall an otherwise permissible fire be allowed that creates, in the discretion of the Village or its designate, a public nuisance.”

It is recommended that the Trustees amend Chapter 13, Regulation of Public Nuisance and Chapter 9, Enforcement, as recommended by the Unified Manager, Interim Village Attorney and Fire Chief.

**DAN KERIN MOVED AND ELAINE SOPCHAK SECONDED A MOTION TO AMEND CHAPTER 13, REGULATION OF PUBLIC NUISANCE AND CHAPTER 9, ENFORCEMENT, AS RECOMMENDED BY THE UNIFIED MANAGER, INTERIM VILLAGE ATTORNEY AND FIRE CHIEF. THE MOTION PASSED 3-0.**

6. **JOINT MEETING WITH ESSEX SELECTBOARD**

a. **Determined Goals and Evaluation process for the Unified Manager – George Tyler and Max Levy**

The issue is for the Selectboard (SB) and Trustees to determine goals on which to evaluate the Unified Manager, and to determine a process for evaluating the Unified Manager.

Mr. Levy and Mr. Tyler recommended forming a subcommittee of two members from each board to synthesize the comments and provide a recommendation to the boards. Any subcommittee meetings would be open to the public for input. Mr. Watts expressed that he would prefer the board at large work on this issue together. He was opposed to subcommittees in general, particularly for the governance issue. It was noted that a firm decision on this issue needs to be made by June. Additionally, there is already a solid framework for this task, as well as written comments from each member. Mr. Kerin, based on his work experience, felt that there should be quarterly reviews of the Unified Manager. Mr. Teich welcomed feedback more often than annually and added that staff could attend the subcommittee meetings. Ms. Sopchak felt that some of the written comments from the members regarding this issue were aspirational and could not be measured. Ms. Wrenner suggested members of the public hold seats on the subcommittee, and Mr. Tyler disagreed and felt that there should only be elected officials evaluating the work of the Unified Manager. The resulting decision from the discussion was to vote on two members from each board to serve on a subcommittee for this issue.

**ELAINE SOPCHAK MOVED AND ANDREW WATTS SECONDED A MOTION TO APPOINT IRENE WRENNER AND MICHAEL PLAGEMAN TO SERVE ON A SUBCOMMITTEE TO PROPOSE GOALS AND OBJECTIVES, AS WELL AS AN EVALUATION PROCESS FOR THE UNIFIED MANAGER POSITION, FOR REVIEW AND APPROVAL ON JUNE 14, 2018. THE MOTION PASSED 5-0.**

Mr. Andrew Brown arrived at 7:33 p.m.
DAN KERIN MOVED AND ANDREW BROWN SECONDED A MOTION TO APPOINT
ANDREW BROWN AND LORI HOUGHTON TO SERVE ON A SUBCOMMITTEE TO
PROPOSE GOALS AND OBJECTIVES, AS WELL AS AN EVALUATION PROCESS FOR
THE UNIFIED MANAGER POSITION, FOR REVIEW AND APPROVAL ON JUNE 14, 2018.
The motion passed 4-0.
There were no public comments on this issue.

b. Discussion about Trustee/SB and Staff Work Plans for Alignment—George Tyler and Max Levy

Ms. Sopchak and Mr. Tyler appreciated Mr. Teich’s Work Plan. Mr. Tyler addressed Ms. Wrenner’s
written comments about representation and noted that, according to the Town Charter, all SB members
shall be elected at large. He commented that Village citizens are citizens of the Town, and everything
the Town owns was contributed to by taxpayers of the Village. He could not see the basis in law or
finance for having a subgroup of citizens on a board. Ms. Wrenner gave the unified school district as an
exemplary effort of maintaining districts based on geographic differences. She thought it was untrue for
Mr. Tyler to say that “everything” the Town owns was contributed to by the Village taxpayers, as she
pointed out that the original 8 cent Highway Tax was not paid for by the Village taxpayers. She
requested that there be equal teams at the table because having lopsided representation is problematic.
Mr. Tyler pointed out that a former SB supported the 8 cent Highway Tax as a way to contribute to the
unfair tax structure. He stated that the school district follows the charter that it created. The Town and
Village can only follow its charters, and to designate another group is unethical and illegal according to
Charter.

Mr. Levy felt that the charter could be amended to have equal representation, and he didn’t think it
should sidetrack their work at this time. Ms. Wrenner expressed concern for the 11,000 Town residents,
outside the Village (TOV), who feel that this lack of representation isn’t fair. She asked that this
problem be given some weight so that the TOV residents buy into this vision. Mr. Tyler expressed that
the Village also needs Ms. Wrenner’s 100% representation. Mr. Watts agreed with Ms. Wrenner that Mr.
Tyler’s statement with regard to Town assets is somewhat misleading. Ms. Sopchak pointed out that, in
the work plan, Mr. Teich recommends that the boards continue to work on Public Works alignment. She
stated that when the finances of public works get aligned, there will be a very detailed explanation of
where money is coming and going. At the same time, Mr. Tyler and Ms. Sopchak discussed how to
solve tax equity without a giant increase for TOV residents.

Mr. John Egan was in favor of a charter change for one ten-member board with five members from the
Village and five members from the Town. He was also in favor of staggered terms. He stated that there
is a perception that representation is uneven and that needs to be overcome. He agreed that the tax rate
should be the same town-wide, but should be increased slowly over time for the TOV residents.

Mr. Jerry Fox was in favor of taking the long view of this issue.

Ms. Iris Banks asked if there was any provision in the charter about consolidation. Mr. Tyler replied
that how to consolidate is in state statute, not the charter. Ms. Banks didn’t understand why equal
representation seemed to be antithetical to what the boards are trying to do.

Mr. Levy noted that the long-term goal identified at the last joint meeting was one municipality with
one board, which would address equal representation. He suggested considering a charter change
earlier in the process to address this issue. Mr. Teich stated that the work plan addresses representation
and tax equity by looking at what the communities can align, share and consolidate, so that the Town is
ultimately being good stewards of people's money. Other priorities include the voting process and
public engagement, and he agreed that an intermediate step for a charter change might be something to
discuss.

Mr. Mark Banks appreciated the value in sharing different points of views through respectful
conversation, which he saw tonight and would like to see continue.

Mr. Rich Maggiani saw clearly that the charter needs to change to have equal representation and then
everything else will flow more easily. He did not think this issue would proceed unless there are equal
voices at the table, which needed to happen first.

Mr. Watts stated that he fully supports the staff work plan and asked that they continue that work and
then get more specific as it evolves.

c. Discussion about Defining Commonly-Used Words Around Governance and Consolidation –
George Tyler and Max Levy

Mr. Levy suggested forming a subcommittee to synthesize the comments from the members and report
back with recommendations to the boards. Mr. Watts proposed talking about the definitions as they
come up, instead of having a subcommittee, because there may be other words to define as discussions
continue. Ms. Sopchak and Mr. Brown were in favor of defined common language to be able to reach
the common goal. Ms. Wrenner thought that it would be handy to have this list of each member’s ideas
of definitions as a glossary on hand at every meeting to understand each other’s perceptions. Ms.
Sopchak thought it would be worthwhile to synthesize the various interpretations from all of the
members so they have a common set of definitions relative to these conversations. Mr. Kerin reminded
Mr. Watts that the public needs to have common definitions so that the members are not
misrepresenting anything. Mr. Plageman was concerned about not having clear definitions as it might
slow the process down. Mr. Levy thought it was important for the public that the boards have common
language. Mr. Teich reminded the members that these definitions can be revisited and tweaked at any
time.

Mr. Mark Banks thought the word “community” was missing from the list.

Mr. Maggiani asked if all the members were clear on the ultimate goal they are trying to achieve in
order to define these words. Mr. Levy stated that, at the last joint meeting, the long-term view from all
the members was for one community, one municipality, one board and one vote.

Ms. Sopchak and Ms. Wrenner agreed to work on synthesizing the definitions.

GEORGE TYLER MOVED AND DAN KERIN SECONDED A MOTION TO APPOINT
ELAINE SOPCHAK TO A SUBCOMMITTEE TO FINALIZE DEFINITIONS TO BE
BROUGHT BACK TO A FUTURE JOINT BOARD MEETING FOR DISCUSSION AND
ADOPTION. THE MOTION PASSED 4-0.

MICHAEL PLAGEMAN MOVED AND ANDREW WATTS SECONDED A MOTION TO
APPOINT IRENE WRENNER TO A SUBCOMMITTEE TO FINALIZE DEFINITIONS TO BE
BROUGHT BACK TO A FUTURE JOINT BOARD MEETING FOR DISCUSSION AND
ADOPTION. THE MOTION PASSED 5-0.
Mr. Tyler presented a draft idea and sketch for discussion purposes only. He proposed exploring the idea of a charter change sooner than later. His idea is to create a charter that would amend the two existing charters without abolishing them and to execute a seven-member Council – 3 from the Village, 3 from the Town and one new member at-large. If this idea was feasible, he thought it could be a good transition when departments are still working on alignment over time. This would also reduce meeting time and staff time. This Council could address tax equity and representation working towards one budget, one annual meeting and one vote. If it was formed this year, all current holders of seats would be unified into this Council, which would execute both Town and Village charters. Mr. Tyler saw hurdles with this idea, such as there being only 3 members who could execute the Town charter. He believed, however, that they have to trust each other and take a leap together to see if something like this could work.

Mr. Watts asked about the end goal, and Mr. Tyler replied that it could be a realigned Council that works towards a final consolidation. Mr. Watts suggested a Unified Municipal District, instead of the charter. He thought that it would give either party and "out" if things are not working. There was further discussion about the legality of both of these ideas.

Mr. Teich suggested having the Town or Village Attorney present to address these questions. Mr. Kerin suggested having a representative from the League of Cities and Towns. Mr. Plageman, even though he was against smaller charter changes, liked this idea, and Mr. Brown thought it would be a great step to solving the current issues. Ms. Wrenner would like to see a 10-member board with members who have geographic wisdom and institutional knowledge. She wanted five people from the TOV and five from the Town Inside the Village (TIV) with equal power at the table.

Mr. Brown wondered about having a "tie breaker" if there was a stalemate vote. Ms. Wrenner didn’t think there should be any vote close to a stalemate, and she felt that a tie breaker gives one district a chance to have more weight than the other. Mr. Kerin felt that, even within the Town, there were different geographic areas. He thought Mr. Tyler’s idea was a great way to have a trial run and was a positive step.

Mr. Watts suggested having three budgets based on how people are being represented and what services are being provided to which citizens. Mr. Tyler thought that the budgets should remain the same as the Council wrestles with these questions. Members further deliberated on these ideas, including the legality of them, the meeting processes and the procedures for voting and taxing residents. Ms. Sopchak struggled with the TOV voting if the TIV is still paying taxes. Mr. Watts felt that the TOV should have the same right to vote to tax themselves and spend money for things in the TOV. Ms. Sopchak thought that sounded like a single town with two incorporated villages, and she preferred it be less complicated with one budget. Ms. Wrenner added that ordinances would also have to be aligned. Mr. Brown reminded the members of the vision of reaching the end goal, not separation. Members agreed that legal advice is warranted before discussing any details.

Mr. Fox saw equal representation with this idea, but it also scared him that it might perpetuate the current situation. He wondered how to provide for provisions so things don’t take 50 years.

Ms. Banks thought this was a good idea so that there are five from the TIV and five from the TOV all agreeing on the larger goals, which might get the community there sooner.
Mr. Maggiani didn’t think the boards need to be deterred by an even number of members on the Council because he thought all votes of that board should be unanimous before moving forward.

Mr. Teich would contact legal counsel and the VLCT for a future discussion on the ideas of an Essex Council and a UMD.

Ms. Sopchak asked that the Town receive assistance from experts on taxation and finances for this issue in such a way to establish tax equity from a mathematical standpoint.

Mr. Watts pointed out that another option is to continue with alignments as proposed by Mr. Teich. Mr. Levy pointed out that the work plan doesn’t address the representation issue. Mr. Brown stated that Mr. Watt’s suggestion is another idea on the table.

e. **Discussion about Top Three Priorities to be Accomplished by Consolidation— George Tyler and Max Levy**

Mr. Tyler introduced the issue of synthesizing all individual priorities to one list to see what is overlapping. He asked if staff could do this work, and Mr. Teich agreed.

f. **Determine Whether to Establish Subcommittees with Missions and Responsibilities Around Governance and Consolidation— George Tyler and Max Levy.**

Ms. Sopchak suggested a subcommittee for Economic Development, which desperately needs attention. Mr. Levy agreed that there were a lot of other Town and Village projects that need attention. Mr. Tyler liked the idea of looking at all the existing committees and commissions in the Town for alignment and for increased communication between them. Ms. Wrenner and Mr. Levy agreed.

Ms. Diane Clemens suggested having a subscription based service for sending minutes to the various committees and commissions to facilitate discussion.

g. **Discussion about Areas Where Experts Should be Hired to inform Governance and Consolidation— George Tyler and Max Levy**

Mr. Teich and staff will explore getting experts in the following areas: library, finance, legal, VLCT, government structure, taxation and assets.

Mr. Teich asked if members wanted to consider a third-party attorney, which could be more objective, and members agreed.

The next step is a joint meeting in June. Members will keep talking about ideas, but wait for legal opinions on the ones discussed tonight.

**READING FILE**

a. Memo to Trustees and Selectboard, and Board Member Responses
ADJOURN

DAN KERIN MOVED AND ANDREW BROWN SECONDED A MOTION TO ADJOURN AT 9:25 P.M. THE MOTION PASSED 4-0.

IRENE WRENNER MOVED AND MICHAEL PLAGEMAN SECONDED A MOTION TO ADJOURN AT 9:25 P.M. THE MOTION PASSED 5-0.

Respectfully submitted,

Saramichelle Stultz
Recording Secretary
NOTICE OF AMENDMENTS TO THE
ESSEX JUNCTION MUNICIPAL CODE

In accordance with V.S.A. Title 24, Sec. 1972, notice is hereby given to the residents and those interested in lands in the Village of Essex Junction that on May 14, 2018 the Trustees of the Village adopted the following amendments to the Municipal Code. (Text to be deleted is crossed out, new text is underlined.)

CHAPTER 9 - ENFORCEMENT

SECTION 902:
Any person who violates a provision of any Chapter of this Municipal Code that is designated a civil ordinance pursuant to Section 901 above shall be subject to a civil penalty of up to $800 per day for each day that such violation continues. Police Officers of the Town of Essex shall be authorized to act as Issuing Municipal Officials to issue and pursue before the Traffic and Municipal Ordinance Judicial Bureau a municipal complaint.

SECTION 904:
Unless an ordinance has more specific violation offense levels, an Issuing Municipal Official is authorized to recover civil penalties in the following amount for each violation:
- First offense - $50
- Second offense - $100
- Third offense - $200
- Fourth offense - subsequent offenses $400

Offenses shall be counted on a calendar year basis.

SECTION 905:
In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Judicial Bureau, the Village Municipal Manager is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

CHAPTER 13 - REGULATION OF PUBLIC NUISANCE

SECTION 1302. OPEN BURNING:
Burning brush, leaves, trash or debris is not allowed in the Village of Essex Junction. Cooking or outdoor fireplaces are allowed with proper fuels to include charcoal, firewood, liquid propane (LP) or natural gas. In no circumstance shall an otherwise permissible fire be allowed that creates, in the discretion of the Village or its designate, a public nuisance. Fires must be attended at all times with an extinguishment resource within twenty (20) feet of the fire. Fires must be ten (10) feet away from a structure and
must be built where they will not escape. A person starting a fire is responsible for preventing its escape. This prohibition shall not include training exercises by the Essex Junction Fire Department. The Village Trustees, with the concurrence of the Essex Junction Fire Chief, may approve a burn permit for a community event provided that the Essex Junction Fire Department is present.

SECTION 1303. PENALTIES:

a. An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation of Section 1302 or waive if appropriate:
   
   First offense - $0 (warning)   Third offense - $500
   Second offense - $250        Fourth - and subsequent offenses - $750

   Offenses shall be counted on a calendar year basis.

These ordinances shall become effective on the 13th day of July 2018 unless 5% of the qualified voters of the Village, by written petition filed with the Village Clerk no later than June 27, 2018, request that the voters of the Village disapprove the amendments at a duly warned annual meeting or special meeting.

Dated at Essex Junction, Vermont, the 14th day of May, 2018.

Susan McNamara-Hill
Susan McNamara-Hill, Village Clerk

Questions about this amendment may be addressed to the Municipal Manager, 2 Lincoln Street, Essex Junction, VT, or by calling 802-878-6944 or email admin@essexjunction.org.