



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.

MINUTES SUBJECT TO CORRECTION BY THE ESSEX JUNCTION BOARD OF TRUSTEES. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE BOARD.

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 Morrisseau; 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.

50 **5. OLD BUSINESS**51
52 **a. Amendment to Open Burning and Enforcement Ordinances – Evan Teich**53
54 Mr. Teich introduced the issue and reviewed his memorandum dated May 14, 2018. He explained that
55 the Interim Village Attorney contacted staff today regarding the following new language for Section
56 1302 of the public nuisance ordinance:57
58 **To replace “Burning of materials cannot create a nuisance.” with the following sentence “In no
59 circumstance shall an otherwise permissible fire be allowed that creates, in the discretion of the
60 Village or its designate, a public nuisance.”**61
62 It is recommended that the Trustees amend Chapter 13, Regulation of Public Nuisance and Chapter 9,
63 Enforcement, as recommended by the Unified Manager, Interim Village Attorney and Fire Chief.64
65 **DAN KERIN MOVED AND ELAINE SOPCHAK SECONDED A MOTION TO AMEND
66 CHAPTER 13, REGULATION OF PUBLIC NUISANCE AND CHAPTER 9, ENFORCEMENT,
67 AS RECOMMENDED BY THE UNIFIED MANAGER, INTERIM VILLAGE ATTORNEY
68 AND FIRE CHIEF. THE MOTION PASSED 3-0.**69
70 **6. JOINT MEETING WITH ESSEX SELECTBOARD**71
72 **a. Determined Goals and Evaluation process for the Unified Manager – George Tyler and Max
73 Levy**74
75 The issue is for the Selectboard (SB) and Trustees to determine goals on which to evaluate the Unified
76 Manager, and to determine a process for evaluating the Unified Manager.77
78 Mr. Levy and Mr. Tyler recommended forming a subcommittee of two members from each board to
79 synthesize the comments and provide a recommendation to the boards. Any subcommittee meetings
80 would be open to the public for input. Mr. Watts expressed that he would prefer the board at large work
81 on this issue together. He was opposed to subcommittees in general, particularly for the governance
82 issue. It was noted that a firm decision on this issue needs to be made by June. Additionally, there is
83 already a solid framework for this task, as well as written comments from each member. Mr. Kerin,
84 based on his work experience, felt that there should be quarterly reviews of the Unified Manager. Mr.
85 Teich welcomed feedback more often than annually and added that staff could attend the subcommittee
86 meetings. Ms. Sopchak felt that some of the written comments from the members regarding this issue
87 were aspirational and could not be measured. Ms. Wrenner suggested members of the public hold seats
88 on the subcommittee, and Mr. Tyler disagreed and felt that there should only be elected officials
89 evaluating the work of the Unified Manager. The resulting decision from the discussion was to vote on
90 two members from each board to serve on a subcommittee for this issue.91
92 **ELAINE SOPCHAK MOVED AND ANDREW WATTS SECONDED A MOTION TO APPOINT
93 IRENE WRENNER AND MICHAEL PLAGEMAN TO SERVE ON A SUBCOMMITTEE TO
94 PROPOSE GOALS AND OBJECTIVES, AS WELL AS AN EVALUATION PROCESS FOR
95 THE UNIFIED MANAGER POSITION, FOR REVIEW AND APPROVAL ON JUNE 14, 2018.
96 THE MOTION PASSED 5-0.**97
98 Mr. Andrew Brown arrived at 7:33 p.m.

99 **DAN KERIN MOVED AND ANDREW BROWN SECONDED A MOTION TO APPOINT**
100 **ANDREW BROWN AND LORI HOUGHTON TO SERVE ON A SUBCOMMITTEE TO**
101 **PROPOSE GOALS AND OBJECTIVES, AS WELL AS AN EVALUATION PROCESS FOR**
102 **THE UNIFIED MANAGER POSITION, FOR REVIEW AND APPROVAL ON JUNE 14, 2018.**
103 **THE MOTION PASSED 4-0.**

104 There were no public comments on this issue.

105

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

107

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

121

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

132

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

137

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

139

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

143

144 Mr. Levy noted that the long-term goal identified at the last joint meeting was one municipality with
145 one board, which would address equal representation. He suggested considering a charter change
146 earlier in the process to address this issue. Mr. Teich stated that the work plan addresses representation
147 and tax equity by looking at what the communities can align, share and consolidate, so that the Town is

148 ultimately being good stewards of people's money. Other priorities include the voting process and
149 public engagement, and he agreed that an intermediate step for a charter change might be something to
150 discuss.

151
152 Mr. Mark Banks appreciated the value in sharing different points of views through respectful
153 conversation, which he saw tonight and would like to see continue.

154
155 Mr. Rich Maggiani saw clearly that the charter needs to change to have equal representation and then
156 everything else will flow more easily. He did not think this issue would proceed unless there are equal
157 voices at the table, which needed to happen first.

158
159 Mr. Watts stated that he fully supports the staff work plan and asked that they continue that work and
160 then get more specific as it evolves.

161
162 **c. Discussion about Defining Commonly-Used Words Around Governance and Consolidation –**
163 **George Tyler and Max Levy**

164
165 Mr. Levy suggested forming a subcommittee to synthesize the comments from the members and report
166 back with recommendations to the boards. Mr. Watts proposed talking about the definitions as they
167 come up, instead of having a subcommittee, because there may be other words to define as discussions
168 continue. Ms. Sopchak and Mr. Brown were in favor of defined common language to be able to reach
169 the common goal. Ms. Wrenner thought that it would be handy to have this list of each member's ideas
170 of definitions as a glossary on hand at every meeting to understand each other's perceptions. Ms.
171 Sopchak thought it would be worthwhile to synthesize the various interpretations from all of the
172 members so they have a common set of definitions relative to these conversations. Mr. Kerin reminded
173 Mr. Watts that the public needs to have common definitions so that the members are not
174 misrepresenting anything. Mr. Plageman was concerned about not having clear definitions as it might
175 slow the process down. Mr. Levy thought it was important for the public that the boards have common
176 language. Mr. Teich reminded the members that these definitions can be revisited and tweaked at any
177 time.

178
179 Mr. Mark Banks thought the word "community" was missing from the list.

180
181 Mr. Maggiani asked if all the members were clear on the ultimate goal they are trying to achieve in
182 order to define these words. Mr. Levy stated that, at the last joint meeting, the long-term view from all
183 the members was for one community, one municipality, one board and one vote.

184
185 Ms. Sopchak and Ms. Wrenner agreed to work on synthesizing the definitions.

186
187 **GEORGE TYLER MOVED AND DAN KERIN SECONDED A MOTION TO APPOINT**
188 **ELAINE SOPCHAK TO A SUBCOMMITTEE TO FINALIZE DEFINITIONS TO BE**
189 **BROUGHT BACK TO A FUTURE JOINT BOARD MEETING FOR DISCUSSION AND**
190 **ADOPTION. THE MOTION PASSED 4-0.**

191
192 **MICHAEL PLAGEMAN MOVED AND ANDREW WATTS SECONDED A MOTION TO**
193 **APPOINT IRENE WRENNER TO A SUBCOMMITTEE TO FINALIZE DEFINITIONS TO BE**
194 **BROUGHT BACK TO A FUTURE JOINT BOARD MEETING FOR DISCUSSION AND**
195 **ADOPTION. THE MOTION PASSED 5-0.**

196

197 d. Discussion about General Ideas for Governance and Representation– George Tyler and Max
198 Levy

199
200 Mr. Tyler presented a draft idea and sketch for discussion purposes only. He proposed exploring the
201 idea of a charter change sooner than later. His idea is to create a charter that would amend the two
202 existing charters without abolishing them and to execute a seven-member Council – 3 from the Village,
203 3 from the Town and one new member at-large. If this idea was feasible, he thought it could be a good
204 transition when departments are still working on alignment over time. This would also reduce meeting
205 time and staff time. This Council could address tax equity and representation working towards one
206 budget, one annual meeting and one vote. If it was formed this year, all current holders of seats would
207 be unified into this Council, which would execute both Town and Village charters. Mr. Tyler saw
208 hurdles with this idea, such as there being only 3 members who could execute the Town charter. He
209 believed, however, that they have to trust each other and take a leap together to see if something like
210 this could work.

211
212 Mr. Watts asked about the end goal, and Mr. Tyler replied that it could be a realigned Council that
213 works towards a final consolidation. Mr. Watts suggested a Unified Municipal District, instead of the
214 charter. He thought that it would give either party and “out” if things are not working. There was
215 further discussion about the legality of both of these ideas.

216
217 Mr. Teich suggested having the Town or Village Attorney present to address these questions. Mr. Kerin
218 suggested having a representative from the League of Cities and Towns. Mr. Plageman, even though he
219 was against smaller charter changes, liked this idea, and Mr. Brown thought it would be a great step to
220 solving the current issues. Ms. Wrenner would like to see a 10-member board with members who have
221 geographic wisdom and institutional knowledge. She wanted five people from the TOV and five from
222 the Town Inside the Village (TIV) with equal power at the table.

223
224 Mr. Brown wondered about having a “tie breaker” if there was a stalemate vote. Ms. Wrenner didn’t
225 think there should be any vote close to a stalemate, and she felt that a tie breaker gives one district a
226 chance to have more weight than the other. Mr. Kerin felt that, even within the Town, there were
227 different geographic areas. He thought Mr. Tyler’s idea was a great way to have a trial run and was a
228 positive step.

229
230 Mr. Watts suggested having three budgets based on how people are being represented and what services
231 are being provided to which citizens. Mr. Tyler thought that the budgets should remain the same as the
232 Council wrestles with these questions. Members further deliberated on these ideas, including the
233 legality of them, the meeting processes and the procedures for voting and taxing residents. Ms.
234 Sopchak struggled with the TOV voting if the TIV is still paying taxes. Mr. Watts felt that the TOV
235 should have the same right to vote to tax themselves and spend money for things in the TOV. Ms.
236 Sopchak thought that sounded like a single town with two incorporated villages, and she preferred it be
237 less complicated with one budget. Ms. Wrenner added that ordinances would also have to be aligned.
238 Mr. Brown reminded the members of the vision of reaching the end goal, not separation. Members
239 agreed that legal advice is warranted before discussing any details.

240
241 Mr. Fox saw equal representation with this idea, but it also scared him that it might perpetuate the
242 current situation. He wondered how to provide for provisions so things don’t take 50 years.

243
244 Ms. Banks thought this was a good idea so that there are five from the TIV and five from the TOV all
245 agreeing on the larger goals, which might get the community there sooner.

246
247 Mr. Maggiani didn't think the boards need to be deterred by an even number of members on the
248 Council because he thought all votes of that board should be unanimous before moving forward.

249
250 Mr. Teich would contact legal counsel and the VLCT for a future discussion on the ideas of an Essex
251 Council and a UMD.

252
253 Ms. Sopchak asked that the Town receive assistance from experts on taxation and finances for this issue
254 in such a way to establish tax equity from a mathematical standpoint.

255
256 Mr. Watts pointed out that another option is to continue with alignments as proposed by Mr. Teich. Mr.
257 Levy pointed out that the work plan doesn't address the representation issue. Mr. Brown stated that Mr.
258 Watt's suggestion is another idea on the table.

259
260 **e. Discussion about Top Three Priorities to be Accomplished by Consolidation– George Tyler and**
261 **Max Levy**

262
263 Mr. Tyler introduced the issue of synthesizing all individual priorities to one list to see what is
264 overlapping. He asked if staff could do this work, and Mr. Teich agreed.

265
266 **f. Determine Whether to Establish Subcommittees with Missions and Responsibilities Around**
267 **Governance and Consolidation– George Tyler and Max Levy.**

268
269 Ms. Sopchak suggested a subcommittee for Economic Development, which desperately needs attention.
270 Mr. Levy agreed that there were a lot of other Town and Village projects that need attention. Mr. Tyler
271 liked the idea of looking at all the existing committees and commissions in the Town for alignment and
272 for increased communication between them. Ms. Wrenner and Mr. Levy agreed.

273
274 Ms. Diane Clemens suggested having a subscription based service for sending minutes to the various
275 committees and commissions to facilitate discussion.

276
277 **g. Discussion about Areas Where Experts Should be Hired to inform Governance and**
278 **Consolidation– George Tyler and Max Levy**

279
280 Mr. Teich and staff will explore getting experts in the following areas: library, finance, legal, VLCT,
281 government structure, taxation and assets.

282
283 Mr. Teich asked if members wanted to consider a third-party attorney, which could be more objective,
284 and members agreed.

285
286 The next step is a joint meeting in June. Members will keep talking about ideas, but wait for legal
287 opinions on the ones discussed tonight.

288
289 **READING FILE**

290
291 a. Memo to Trustees and Selectboard, and Board Member Responses

292
293
294

295 **ADJOURN**

296

297 **DAN KERIN MOVED AND ANDREW BROWN SECONDED A MOTION TO ADJOURN AT**
298 **9:25 P.M. THE MOTION PASSED 4-0.**

299

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

302

303 **Respectfully submitted,**

304

305 Saramichelle Stultz

306 Recording Secretary

307

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 ~~\$500~~ 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 An Issuing Municipal Official is authorized to recover civil penalties in the following amount for each violation:

First offense - \$50

Third offense - \$200

Second offense - \$100

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:

<u>First offense - \$0 (warning)</u>	<u>Third offense - \$500</u>
<u>Second offense - \$250</u>	<u>Fourth - and subsequent offenses - \$750</u>

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.