

**VILLAGE OF ESSEX JUNCTION
BOARD OF TRUSTEES
MINUTES OF MEETING
November 12, 2019**

TRUSTEES PRESENT: Andrew Brown; George Tyler; Dan Kerin; Amber Thibeault; Raj Chawla

ADMINISTRATION and STAFF: Evan Teich, Unified Manager; Sarah Macy, Finance Director/ Assistant Manager; Robin Pierce, Community Development Director

OTHERS PRESENT: Chris Chiquarn; Diane Clemens; Jeff Davis; Karen Dolan; Nick Meyer; Tim Shea; David Wechsler

1. **CALL TO ORDER and PLEDGE OF ALLEGIANCE**

Mr. Brown called the meeting to order at 6:30 PM and led the assemblage in the Pledge of Allegiance.

2. **AGENDA ADDITIONS/ CHANGES**

Mr. Teich suggested removal of items 5a and 5b from the agenda because the interviewees were not present. He explained that Mr. Wicks withdrew his application and Mr. Howard, who was unavailable due to the weather conditions, will be rescheduled.

3. **APPROVE AGENDA**

DAN KERIN made a motion, and GEORGE TYLER seconded, to approve the meeting agenda, as amended. VOTING: 5-0; motion carried.

4. **PUBLIC TO BE HEARD**

a. **Comments from public on items not on the agenda.**

There were no comments from the public at this time.

5. **BUSINESS ITEMS**

~~a. *Interview for Bike Walk Advisory Committee: James Wicks~~

~~b. *Interview for the Village Capital Program Review Committee: Brad Howort~~

c. *Interview for the Village Capital Program Review Committee: Karen Dolan

* Ms. Dolan agreed to an open-session interview by the Trustees for a position on the Village Capital Program Review Committee. Mr. Brown asked her to introduce herself and her interest. Ms. Dolan described herself as an Essex homeowner, a landlord and a local employee of the Community Justice Center (CJC). She explained that she would like to give back to the community by using her collaboration and prioritization skills. Mr. Tyler explained the committee's role in prioritizing capital needs with limited resources. Ms. Dolan said her CJC job includes working through difficult conversations with people and she would apply these skills to the committee position. She said she would also appreciate the opportunity to learn and grow through serving in this role. Mr. Tyler asked her impression of Essex's infrastructure and she praised it in comparison to her rural hometown experiences. Ms. Dolan told Mr. Brown that she read previous Capital Program Review Committee minutes and is ready to start the position, if selected. She stated her preference of this committee over others but would consider a different committee if the Trustees choose to select a different candidate. Mr. Brown explained the timeline for their interviews and that they would follow up with Ms. Dolan in 2-4 weeks.

d. Approve Champlain Valley Expo (CVE) Financial Contribution Agreement

Mr. Teich invited the Trustees to continue discussion on the issue of CVE's Financial Contribution Agreement, which had been tabled during their 10/29/19 meeting. He pointed out that the two-year agreement has since been amended to increase CVE's second year contribution to the Village of Essex Junction, up from \$15,000 by 2%. Mr. Brown expressed appreciation to Essex staff and CVE for their consideration of the Trustees suggestions and for developing the amendment. The Trustees agreed with this sentiment.

GEORGE TYLER made a motion, and RAJ CHAWLA seconded, that the Trustees accept the financial agreement with Champlain Valley Expo as amended. VOTING: 5-0; motion carried.

e. Approve Champlain Valley Expo (CVE) Sound Indemnification Agreement

Mr. Teich explained that the 5-year Sound Indemnification Agreement supersedes the Village Noise ordinance for CVE's concerts and events. It includes a requirement of sound monitoring and a fine structure if sounds exceed the agreed upon decibel limits. A sound/noise report was included in the Trustee meeting' informational packet by Essex Junction staff, clarifying this issue.

David Wechsler, Senior Scientist/Principal from Vermont Air Testing Services, Tim Shea, Executive Director of CVE, and Mr. Pierce discussed sound level monitoring processes and results with the Trustees. Chris Ciquarn made a comment from the public about his concerns with the agreement's hourly average noise monitoring practices, which he feels do not adequately document instantaneous maximum noises related to Category A waivers. Mr. Ciquarn shared his point of view that the noise waivers used with CVE do not support the health and safety of CVE neighbors. He also recommended that the word "noise" be reinstated or to use the words "sound pollution" in the Agreement where it states "sound". Mr. Pierce agreed to provide Mr. Ciquarn data related to Category A waivers. Mr. Kerin wondered if clarification is needed for how Category A waivers are determined and Mr. Chawla asked if the log scale noise monitoring method used with CVE is an accurate representation of the noise generated. Mr. Wechsler explained that the sound level monitoring practices he uses are in accordance to Act 250 and OSHA standards which focus on raw average sound monitoring versus logarithmic averages. Mr. Tyler pointed out that the Sound Indemnification agreement allows Essex Junction residents to benefit from CVE concerts.

Ms. Macy recommended that the security deposit requirement in the document be removed, based on confidence built with CVE over the previous 10 years. Mr. Teich described this as a basic administrative change based on trust that CVE will pay fines when warranted.

Ms. Thibeault recommended that the approval of sound waivers B and C be granted by the Trustees, not the Unified Manager, for public input and awareness. Mr. Kerin stressed that opening the approval of these waivers to the public risks that public discussions move into event politicization. The Trustees discussed and debated how or if they should navigate public input in the approval of these waivers. Mr. Teich explained that "opportunity events" or special concerts require a short turnaround so, if the Trustees were to change the process, the Unified Manager should still have the authority to approve short-turnaround waivers.

AMBER THIBEAULT made a motion, and RAJ CHAWLA seconded, that the Trustees amend the Agreement so Sound Waivers B and C would be approved by the Trustees, except in emergency situations in which the Unified Manager or their designee would have approval. VOTING: 1-4; motion not carried, with minority vote by Amber Thibeault.

The Trustees discussed paragraph 14 of the Sound Indemnification agreement. Mr. Teich clarified that all fireworks displays in Essex Junction must be approved by the Trustees in accordance with the fire ordinance.

RAJ CHAWLA made a motion, and **AMBER THIBEAULT** seconded, that the Trustees strike the security deposit requirement for the Champlain Valley Exposition. **VOTING: 5-0; motion carried.**

GEORGE TYLER made a motion, and **DAN KERIN** seconded, that the Trustees approve the Champlain Valley Expo Sound Indemnification Agreement as amended. **VOTING: 5-0; motion carried.**

f. Staff Report on storm damage

Ms. Macy showed a video of water damage caused by the severe rain received October 31-November 1. She and Mr. Teich provided a brief overview of road damage, explained how and where the flooding occurred, and discussed next steps for fixing the damage. Mr. Teich said public works used stone to fill the washed out section of Densmore Drive. He said temporary paving will be laid for the winter and a blockage downstream, from where the river went over the road, will be removed. He also shared that the housing development next to the road is temporarily being allowed through a back exit, now open for them so they can avoid the road damage by going through a parking lot. He explained that the municipality will be filing with FEMA, hoping for at least 75% funding. Mr. Brown and the Trustees thanked Public Works for their response to the flooding.

g. Update on downtown development- Robin Pierce

Mr. Pierce discussed updates on projects happening around five corners, including 3 Maple Street, the Crescent Connector, 9 Park Street, Railroad & Main, Railroad work and at the Amtrak Station. Mr. Pierce clarified for Mr. Tyler that the 3 Maple Street project will build through the winter. He explained to Mr. Chawla that the project will be closer to the road than the previous building on this site and will include parking. Mr. Kerin and Mr. Tyler commented that the project design looks good. Regarding the 9 Park Street project, Mr. Chawla wondered how lights would be mitigated if parking is planned for the roof level. Mr. Pierce said that the final designs will be presented to the Essex Junction Planning Commission (EJPC) in December or January but, to his knowledge, the design will no longer include parking on that level. He said a patio deck with roof greenspace may be in the design at this point. Regarding the Crescent Connector railroad work, Mr. Brown explained that the pre-bid meeting will include a walk-through of the project with contractors. With approval, the road may be built in the Winter of 2020. Railroad crossing work, Mr. Pierce explained, will include pedestrian and traffic gates at all crossings. Mr. Chawla asked about the status of bike racks that were planned to be installed and Mr. Pierce explained that the racks arrived in October and will be installed soon, at a date TBD. Mr. Tyler brought up concerns about the building on Railroad and Main Streets. Mr. Pierce explained that the EJPC approved the building that with a totally different architectural design and color. Because the new building is so different from what was approved, a list of stipulations and changes to the building are required by June 2020.

Nick Meyer expressed concern with downtown development, stating his opinion that the new Comprehensive Plan does not seem to be in line with new buildings being designed or the Land Development Code. Mr. Meyer gave examples of designs approved that lack of green space and outdoor areas. He suggested holding developers to a higher level so people can enjoy downtown.

Mr. Chawla discussed the inclusion of bike facilities and picnic areas in some of the new developments. Mr. Tyler noted that the development near the Park Street School ensures very affordable senior housing.

h. Approve proposal to secure sidewalk easement on Park Terrace

Property owners on the north side of Park Terrace agreed, in principal, to grant the Village a 5' sidewalk easement from School Street to the underground parking entrance at the rear of 4 Pearl

Street. Trustees discussed the importance of securing easements, even if the project is prioritized for a later date. Mr. Tyler said there have been discussions regarding sidewalks on this length of road before, so this is a good new opportunity. Mr. Brown pointed out that that these easements could help with future downtown development. The Trustees discussed the option of using the “penny on the tax rate” economic development funds to pay for the easement process costs, which could be between \$8k-\$10k. Ms. Macy estimated \$150K left in the economic development funds, after earmarks. Mr. Chawla suggested that the developer of land on the opposite side of the street be approached during the approval process to discuss including the sidewalk costs in their budget.

GEORGE TYLER made a motion, and RAJ CHAWLA seconded, that the Trustees recommend staff work with the Village Engineer and Attorney to obtain easements for a sidewalk from the corner of Park Terrace and School down to its terminus and use economic development funds. VOTING: 5-0; motion carried.

i. Warn Public Hearing to consider the laying out of damages relative to Railroad Street
Mr. Teich described the Public Hearing process regarding the issue of whether the Village Trustees would consider initiating proceedings and a petition pursuant to 19 V.S.A Chapter 7 to lay out a road to be named Railroad Street, a portion of the Crescent Connector project, including associated parking areas, appurtenances, and improvements, and to determine whether property owners through whose land the new section of Railroad Street passes or abuts are entitled to damages and the amount of those damages. The Trustees discussed the hearing’s process.

DAN KERIN made a motion, and AMBER THIBEAULT seconded, that the Village Board of Trustees warn a public hearing for Tuesday, December 17, 2019 at 3:00 PM to begin at 2 Lincoln street, Essex Junction to initiate proceedings and a petition pursuant to 19 V.S.A. Chapter 7 to lay out a road to be named Railroad Street, a portion of the Crescent Connector project, including associated parking areas, appurtenances, and improvements and to determine whether property owners through whose land the new section of Railroad Street passes or abuts are entitled to damages and the amount of those damages. The new section of Railroad Street is to be located beginning at a point on Park Street just south of the New England Central Railroad (NECR) Burlington branch; and then extending along the southeast side of NECR’s Burlington branch and crossing NECR’s main line (Roxbury Subdivision line); continuing north along the east side of NECR’s main line (Roxbury Subdivision line); continuing north to Maple Street. The new parking area is located east of the NECR Main line (Roxbury Subdivision line) and adjacent to the new portion of Railroad Street. The proceedings will include notifying persons owning or interested in land through which the highway may pass or abut, posting notice, scheduling a site visit and holding a public hearing on the matter where testimony may be received. The Village Board of Trustees will determine damages only for those properties that may have not previously provided an easement or come to an agreement with the Village as to damages. VOTING: 5-0; motion carried.

j. ** Discussion of real estate matters
An executive session on this matter took place as item 8b.

6. CONSENT ITEMS

GEORGE TYLER made a motion, and DAN KERIN seconded, that the Trustees approve the Consent agenda, as amended:

a. Approve wastewater treatment facility capital expenditures for Primary Digester Block Reface and Flow Equalization Crack Sealing- Jim Jutras

- To increase the wastewater facility capital plan budget for the primary digester block reface and the flow equalization concrete crack sealing to a combined project total of \$150,000
- b. Approve Minutes: October 29, 2019**
 - Mr. Chawla proposed an amendment to the Minutes of October 29, 2019: On page 2, in Section 4b, paragraph three's third line, replace "lease" with "least".
 - Ms. Thibeault proposed a friendly amendment to the Minutes of October 29, 2019, to correct her name on page 2, in Section 4b, paragraphs three and four.
- c. Check Warrants #17170—10/28/19; #17171—11/4/19**

VOTING: 5-0; motion carried.

7. READING FILE

- a. Board Member Comments**
 - Mr. Brown thanked Public works for their continued, high quality efforts.
 - Mr. Kerin described an email he responded to from Alana Knight in support of a Hometown Heroes idea. He said he will bring more information on this to a future meeting of the Trustees.
- b. Budget Status Report October 2019**
- c. Vermont League of Cities & Towns Ordinance Enforcement Training**
- d. Email from Jeff Benjamin re: Merger Discussions**
- e. Thank you card from Mary and Jim Melone**
- f. Letter from Thomas Donovan, Vermont Attorney General re: Opioid Litigation**
 - Mr. Brown clarified that municipalities will be included in this unless they choose to opt-out.
- g. University of Vermont Extension 75th Annual Town Officers Education Conference**
- h. Upcoming meeting schedule**

8. EXECUTIVE SESSION

- a. *An executive session may be necessary to discuss the appointment of a public officer.**
No executive Session took place for this.
- b. **An executive session is anticipated for the discussion of real estate matters**

GEORGE TYLER made a motion, and DAN KERIN seconded, that the Trustees enter into executive session for the purpose of negotiating or securing of real estate purchase or lease options, pursuant to 1 V.S.A. § 313(a)(2), to include the Unified Manager, Assistant Manager, and Community Development Director. VOTING: 5-0; motion carried at 8:41 PM.

DAN KERIN made a motion, and AMBER THIBEAULT seconded, that the Trustees exit executive session. VOTING: 5-0; motion carried at 8:53 PM.

ADJOURN

DAN KERIN made a motion, and AMBER THIBEAULT seconded, that the Trustees adjourn the meeting. VOTING: 5-0; motion carried at 8:54 PM.

Respectfully Submitted,
Cathy Ainsworth