

**Village of Essex Junction Board of Trustees
Special Meeting Minutes
December 17, 2019**

TRUSTEES: Andrew Brown, President; George Tyler, Vice President; Raj Chawla (4:05 PM); Amber Thibeault.

ADMINISTRATION AND STAFF: Evan Teich, Unified Manager; Robin Pierce, Community Development Director; Richard Hamlin, Village Engineer; Claudine Safar, Village Attorney; Kristen Shamis, Village Attorney;

OTHERS PRESENT: John Benson, Dubois & King; Corey Mack; Ande Deforge, VTrans; Corey Mack, Resource Systems Group; Eliza van Lennep, Langrock, Sperry & Wool; Diane Clemens; Mike Keller; Brian Breslend, Dubois & King; Charles Ferry; David Skopin; Brian Shelden; Phil March; Bill Kalanges.

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE TO FLAG

Mr. Brown called the meeting to order at 3:00 PM and led the Pledge of Allegiance. Members of the public who wished to give testimony were sworn in.

2. EXAMINATION OF PREMISES (SITE VISIT RAIN OR SHINE)

The Trustees commenced with a visit of the site in question to review properties at 3:03 PM. The Trustees reconvened indoors after the site visit at 3:28 PM.

3. PUBLIC HEARING 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 (2 LINCOLN STREET)

a. Presentations and testimony by staff and engineers regarding condemnation

After introductions, Mr. Hamlin submitted the evidence of the meeting requirements and then provided an overview map of the Village Center. He stated that the key considerations when determining the finding of local necessity are as the project relates to public good, public necessity, and convenience for the Village of Essex Junction. Mr. Hamlin provided a summary of the purpose of and need for the Crescent Connector project, which were included in the scoping study and environmental assessment.

Mr. Hamlin provided historical context for the Crescent Connector project. He noted that the project was born out of a scoping study in 2011 with the goal to find an alternate route around Five Corners without multiple railroad crossings. The study resulted in two routes for consideration—a northern alignment (Alternative 1) and a southern alignment (Alternative 2). Based on input from residents and property owners in the during a March 2011 public meeting process, Alternative 1 was ultimately selected as the proposed and accepted route by the Trustees. After it was announced that the Circumferential Highway would not be built, the CIRC Task Force identified the Crescent Connector project as a CIRC Alternative project, providing a similar impact on traffic levels that the highway would have had. Mr. Pierce provided a list of firms, agencies, municipalities, conservation groups and professionals who reviewed and approved the Crescent Connector as a CIRC Alternative project.

48 As the next step in the process, an environmental assessment (EA) was conducted and presented to the
49 public, which examined how the proposed route would impact the human environment. The Federal
50 Highway Administration issued a Finding of No Significant Impact (FONSI) in 2014, which allowed the
51 project to move into the design phase.

52
53 Mr. Hamlin introduced the project design process, and the layout and right-of-way plans during Phases
54 A and B. The plans mapped easement areas, including four with permanent easement rights and two
55 with temporary easement rights for the construction phase. Mr. Hamlin stated that all of the properties
56 needed for the roadway work to commence have been deeded to the Village of Essex Junction, with the
57 exception of Mr. Kalanges' parcel. Mr. Hamlin provided further detail to describe the property owned
58 by Mr. Kalanges, the permanent and temporary easements requested, and a purpose and need
59 statement that reads, "As defined in the August 2011 Essex Junction Crescent Connector Road Final
60 Scoping Report, the Purpose of the Proposed Action is to facilitate regional travel to/from destinations
61 south, east, and northeast of the Village, as well as improve local circulation in the Village Center,
62 improve safety, and enhance opportunities for economic development and employment growth within
63 the Village Center. The need for the Proposed Action is based on the current levels of traffic congestion
64 that exist within the Village at the Five Corners Intersection, which result in extensive vehicle delays,
65 traffic volumes exceeding capacities of the adjacent roadways, disruptions to adjoining businesses, and
66 a high vehicle crash rate for a portion of the adjacent roadway. In addition, there are properties located
67 within the Village Center and along the NECR rail lines that have not been able to be more fully
68 developed due to a lack of suitable accessibility."

69
70 Mr. Hamlin provided several charts with Intersection Level of Service (LOS) with and without the
71 Crescent Connector. The LOS study determines the traffic at the Five Corners intersection would be
72 reduced as a result of the project and would improve by 2025 from LOS F with 93 seconds of delay
73 under no-build conditions to a LOS E with 63 seconds of delay. Mr. Hamlin presented study results
74 charting improved air quality, improved safety for vehicles, cyclists, and pedestrians, improved rail-
75 highway crossings, street lighting, and enhanced economic opportunities within the Village with positive
76 socioeconomic impacts.

77
78 Mr. Hamlin presented into evidence a letter from Mr. Kalanges received by the Village in 2010
79 expressing his preference for Alternative 1 from the Scoping Study.

80
81 As the final segment of the presentation, Mr. Hamlin described the costs of the project, noting that it
82 would be approximately 81.08% funded by the Federal Highway Administration, 18.92% by the State of
83 Vermont, and no local match. The current total projected construction cost of the Crescent Connector
84 project is \$7 million, and as of December 9th, \$2,736,871.51 has been expended.

85
86 Mr. Brown asked about the current state of what would become the Crescent Connector. Mr. Hamlin
87 responded that a portion is an access drive, a portion is parking lot and residents are not being
88 displaced.

89
90 Mr. Tyler stated he has observed people jump into the oncoming traffic lane on Maple Street and back
91 into the left-turning lane during busy hours, and asked Mr. Hamlin to confirm if there is a left turn lane
92 at the connector to alleviate left-turning cars from having to enter Five Corners. Mr. Hamlin confirmed
93 there would be a left turn lane at the connector, no left turn lane ahead at the Five Corners, and added
94 there will be full bicycle lane accommodations.

95 Mr. Tyler stated the number of children currently crossing the Village Center requires police presence
96 twice a day and improvements providing increased pedestrian safety could have an impact on the need
97 for police presence. Mr. Hamlin confirmed many students will be able to avoid Five Corners altogether.
98 Mr. Teich said there would likely still be police presence due to library traffic and business traffic in
99 addition to school traffic, but is encouraged by the idea that cars would no longer block the intersection,
100 creating safety issues.

101
102 Mr. Tyler restated this project takes Five Corners from a level F to a level E and asked Mr. Hamlin to
103 speak to his experience for what this means. Mr. Hamlin responded that a 30-second reduction in delay
104 adds up and is noticeable.

105
106 Eliza van Lennep, attorney for Mr. Kalanges, asked what the number of feet of impact from the
107 centerline of the roadway into Mr. Kalanges' property by type of taking, specifically for each type of use
108 such as bicycle, green strip, pedestrian, lighting, slope easement, construction easement. Mr. Hamlin
109 stated that the centerline does not follow property line, but the farthest distance is the dimension from
110 the property line to the back of the walk zone, which is 24.75 feet and it reduces from there. Ms. van
111 Lennep asked if that measurement includes the construction easement. Mr. Hamlin said no and that
112 beyond that, the temporary easements revert back to Mr. Kalanges after construction. Ms. van Lennep
113 asked if Mr. Hamlin could offer a description of the expected physical design of the proposed drive, both
114 in terms of access from the Crescent Connector into Mr. Kalanges property as well as the parcel along
115 the proposed parking area. Mr. Hamlin replied that in regard to the access drive, its configuration is in a
116 location that Mr. Kalanges indicated was his preference and will meet the standards for commercial
117 access. The drive will be fully paved to commercial drive standards and adjacent areas will be
118 landscaped.

119
120 **b. Public comment and testimony by interested parties regarding condemnation**

121 Ms. van Lennep provided an outline of Mr. Kalanges' position by stating that they contest the necessity
122 of the project and their position is that the benefit to the public is not outweighed by the inconvenience
123 and expense to the condemning property and to the owner. Ms. van Lennep further stated the benefit
124 to the public and marginal improvement in traffic is out of scope with the impact on Mr. Kalanges and
125 his property ownership. It is their position that the materials and appraisal provided in the Village
126 presentation demonstrates an inadequate consideration of the impact of the proposed taking and an
127 undue impact to Mr. Kalanges' significant tenant, Bailey Spring & Chassis. They believe that the project
128 can be completed without the taking as proposed and there is no necessity for the taking.

129
130 Ms. van Lennep questioned Mr. Kalanges as direct testimony. Mr. Kalanges testified that he believed
131 that a road could be constructed that does not go onto his property. Mr. Kalanges testified that he does
132 not believe the appraisal completed for the Village by Michael Keller properly considers the impact of
133 the taking on his entire property. Mr. Kalanges testified that he is concerned that he will lose Bailey's
134 and possibly other tenants if the road is built as proposed. Mr. Kalanges testified that he does not want
135 the road built on his property.

136
137 Mr. Brown asked Mr. Kalanges what professional experience he has to determine that the road could be
138 built without going onto his [Kalanges'] property. Ms. van Lennep confirmed that Mr. Kalanges is not
139 testifying as a roadway expert, but that he has reviewed the plans and believes that there is land the
140 road could be on that he does not own. Mr. Tyler asked Mr. Kalanges if he has a professional
141 engineering analysis or opinion that points to a technical engineering flaw in the proposed plans. Ms.

142 van Lennep responded that the opinions given during Mr. Kalanges' testimony are his own and relative
143 to the summary of his position.

144
145 A brief statement was made by David Skopin stating that as a bicycle rider, having a lane at the
146 intersection would be where a bicycle rider really needs it and he feels that traffic could improve to
147 better than an "E" rating. He thinks that the proposed plan is the solution.

148
149 Mr. Brown announced the evidence as closed for the necessity hearing at 4:42 PM.

150
151 **c. Break**

152 Mr. Brown excused the members at 4:42 PM for a brief recess. The meeting was reconvened at 4:56
153 PM.

154
155 **d. Presentations and testimony by staff and engineers regarding compensation**

156 Mr. Hamlin began the compensation hearing providing a presentation stating the project is in the right-
157 of-way phase and that all required rights have been acquired for all properties except the Kalanges
158 parcel. Mr. Hamlin stated that all projects receiving federal highway funds impacting real property, such
159 as the Crescent Connector project, must comply with Title 19 of the Vermont State Statutes and the
160 Uniform Relocation Act (Uniform Act) to provide just compensation. Mr. Hamlin provided detailed
161 information on the four permanent and two temporary right-of-way easements required for the project.
162 Mr. Hamlin provided documentation to show that an offer was tendered to Mr. Kalanges on October 30,
163 2019 and rejected by Mr. Kalanges.

164
165 Mr. Hamlin questioned Appraiser Michael Keller and proceeded to present the appraisal. Mr. Keller
166 testified the most appropriate methodology to provide the appraisal was by sales comparison and
167 included the evaluation of land only. Mr. Keller testified that permission was not granted to gain access
168 to buildings for the appraisal. Mr. Keller stated no buildings are impacted by the project and do not
169 have an impact on his final determination of just compensation.

170
171 Mr. Hamlin asked Charles Ferry, Review Appraiser for VTTrans if he reviewed and checked the appraisal.
172 Mr. Ferry confirmed that he had, that it meets guidelines and he signed off on the report. Mr. Hamlin
173 provided details from the Appraisal Report including comparable parcels. Mr. Keller testified that the
174 appraisal did not take into an account any special benefits that occur to Mr. Kalanges based on the
175 roadway relocation and is based on how circumstances are currently.

176
177 Mr. Hamlin provided the description of the rights to be acquired which include four permanent
178 easements with a total of 6684 square footage and two temporary easements with a total of 2502.4
179 square footage. The summary in the appraisal documentation provides a permanent taking value of
180 \$102,060 and a temporary taking value of \$7,625 for a total of \$109,685. Mr. Ferry testified he has
181 determined that it is just compensation.

182
183 **e. Public comment and testimony by interested parties regarding compensation**

184 Mr. Brown asked if Trustees had questions. Mr. Brown asked why the appraiser did not have access to
185 the buildings. Mr. Hamlin confirmed that Kalanges did not permit entry. Mr. Hamlin did not feel that it
186 would have made a marked difference.

187
188 Mr. Scopin asked the appraiser if a landowner can make an annual profit on that commercial piece of
189 land that is not being used. Mr. Keller replied that it would depend on what the land is used for.

190
191 Ms. van Lennep asked if Mr. Keller considered the impact and downstream effects of the loss of tenants,
192 specifically Bailey Spring & Chassis, on the value of the property. Mr. Keller replied no.

193
194 Ms. van Lennep and Mr. Kalanges provided a summary statement contesting the summary of damages
195 and the types of considerations made in valuing his property. Mr. Kalanges asserts that the proposed
196 project plan as well as the construction easements from the parking area, negatively impact his tenant,
197 Bailey Spring & Chassis, mentioning the possibility of extended construction timelines and the significant
198 impact on special accommodations. Mr. Kalanges is concerned about the unsafe angles Bailey Spring &
199 Chassis may need to make when operating large trucks and this may cause them to leave. If Mr.
200 Kalanges loses one or more tenants, he would incur considerable loss both in revenue and the potential
201 need to retrofit the building and its surroundings. Mr. Kalanges testified that he objects to the proposed
202 taking of his property and the loss of tenants could cause considerable financial hardship. Mr. Kalanges
203 testified that he does not believe the appraisal amount of \$109,685 provides just compensation.

204
205 Mr. Brown asked Mr. Kalanges what he believes just compensation to be. Mr. Kalanges responded he is
206 not prepared to answer at this time as his own appraisals are being conducted and are not completed.
207 Mr. Brown asked Mr. Kalanges if any tenants have any access issues getting to their property now. Mr.
208 Kalanges responded no.

209
210 Mr. Tyler asked for confirmation that the proposed turn off location from the new road was determined
211 by Mr. Kalanges. Mr. Hamlin provided an analysis of turning movements for the largest fixed-unit
212 vehicle with the largest turning radius requirements to access Bailey Spring & Chassis. Mr. Hamlin
213 confirmed access will be easier from the south because the sharp right turn becomes a soft right turn.
214 Mr. Hamlin confirmed the proposed construction provides a wider road and two entries onto the
215 property, instead of one. Mr. Tyler asked Mr. Kalanges what negative and downstream effects the
216 proposed construction has to Bailey Spring & Chassis based on the information given. Ms. van Lennep
217 responded on behalf of Mr. Kalanges with the assertion that there are not two accesses, but two
218 directions of approach, which do not improve access to the parcel. Ms. van Lennep further asserted the
219 analysis diagram does not show any right hand turns and believes that trucks, particularly inoperable
220 trucks, would have difficulties in maneuvering.

221
222 Mr. Brown asked if there is any evidence that Mr. Kalanges will lose tenants. Mr. Kalanges responded
223 no and is basing it on his experience when changes are made with tenants.

224
225 Mr. Brown asked Mr. Hamlin if loss of income was considered in the appraisal. Mr. Hamlin confirmed
226 that it was not and it was based strictly on the current value of the land only as outlined in the Uniform
227 Act.

228
229 Mr. Chawla asked Mr. Hamlin to point out where the construction access will be during construction
230 phase. Mr. Hamlin explained where access to the Kalanges parcel would be during each construction
231 phase and a brief construction timeline.

232
233 Mr. Tyler commented that 18-wheelers are currently making the same degree turns at Five Corners.

234
235 Mr. Skopin asked if a piece of commercial land without easy access gains improved access, if it would
236 increase in value and if there is an ability to place a value on the future status of tenants. Mr. Brown

237 and Mr. Hamlin responded by confirming the appraisal is based on the current state and not a future
238 state, with no prediction of what might change in the future.

239

240 **f. Close the hearing**

241 Mr. Brown announced the evidence as closed for the compensation hearing at 5:55 PM.

242

243 **4. DELIBERATIVE SESSION**

244 The Village Trustees adjourned the public hearing and entered into a deliberative session at 5:55 PM
245 with their legal counsel and the Unified Manager.

246

247

248 Respectfully Submitted,

249 Tammy Getchell, Assistant to the Manager

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