



**CITY OF ESSEX JUNCTION CITY COUNCIL
SPECIAL MEETING AGENDA**

Online & 2 Lincoln St.
Essex Junction, VT 05452
Monday April 3, 2023
7:00 PM

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This meeting will be in-person at 2 Lincoln Street and available remotely. Options to watch or join the meeting remotely:

- **JOIN ONLINE:** [Join Zoom Meeting](#)
- **JOIN CALLING:** (toll free audio only): (888) 788-0099 | Meeting ID: 944 6429 7825; Passcode: 635787

1. **CALL TO ORDER** [7:00 PM]
2. **AGENDA ADDITIONS/CHANGES**
3. **APPROVE AGENDA**
4. **PUBLIC TO BE HEARD**
 - a. Comments from Public on Items Not on Agenda
5. **PUBLIC HEARING**
 - a. Public Hearing on the IT RFP Bid Protest
6. **BUSINESS ITEMS**
 - a. Deliberative session to discuss the IT RFP Bid Protest
7. **CONSENT ITEMS** - none
8. **READING FILE** - none
9. **EXECUTIVE SESSION** - none
10. **ADJOURN**

Members of the public are encouraged to speak during the Public to Be Heard agenda item, during a Public Hearing, or, when recognized by the President, during consideration of a specific agenda item. The public will not be permitted to participate when a motion is being discussed except when specifically requested by the President. This agenda is available in alternative formats upon request. Meetings of the City Council, like all programs and activities of the City of Essex Junction, are accessible to people with disabilities. For information on accessibility or this agenda, call the City Manager's office at 802-878-6944 TTY: 7-1-1 or (800) 253-0191.

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**CITY OF ESSEX JUNCTION
CITY COUNCIL
SPECIAL MEETING
MINUTES OF MEETING
April 3, 2023**

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COUNCILORS PRESENT: Andrew Brown, President; Raj Chawla, Vice President; Dan Kerin; Amber Thibeault; George Tyler.

ADMINISTRATION: Regina Mahony, City Manager; Jessica Morris, Finance Director.

OTHERS PRESENT: Danielle Brown, Charles Bucchioni, Marcus Certa, Brian Curtis, Tamara Jaques, Brett Johnson, Christopher Kline, Resa Mehran, James Pfeiffer, Shaun Robinson, Ken Signorello, Harlan Smith, Jack Smith, Edward Snowden, Tracie Spencer, Chris Sterzinar, Jason Struthers.

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1. **CALL TO ORDER**

Councilor Brown called the meeting to order at 7:00 P.M.

2. **AGENDA ADDITIONS/CHANGES**

None.

3. **APPROVE AGENDA**

No approval needed as no changes were made to the agenda.

4. **PUBLIC TO BE HEARD**

a. Comments from public on items not on the agenda

None.

5. **PUBLIC HEARING**

a. Public Hearing on the IT RFP Bid Protest

Councilor Brown began by noting that the Appellant is Simpleroute and the Appellee is the City of Essex Junction staff, and by swearing in the witnesses that would be giving testimony during this public hearing.

Brett Johnson testified on behalf of the Appellant. He noted that Simpleroute is a managed services provider out of Burlington, Vermont. He noted that his firm was only firm to find vulnerabilities in the NEMRC software that is used by both the City and Town, which exposed bank and social security information for taxpayers and staff. He said that notifying municipalities of this at the company's own expense is a good demonstration that the company puts the values of its clients first. He said that his company is the most qualified for this Request for Proposals (RFP). He noted that the City Manager made comments during his company's walkthrough that were dismissive of the RFP process itself. He also noted that the City Manager arrived late for his company's one-hour interview with the City as part of the RFP process. He noted that while his company is not the cheapest bidder, they typically draft the most comprehensive and strongest proposals, and he was greatly surprised that the most expensive bid was selected as the apparently successful bid for this RFP. With respect to this process, he asked the City Council to consider whether cost considerations were taken into account when selecting the apparently successful bidder. He also asked whether the City's purchasing policy was followed and at least three quotes were obtained from vendors when the City engaged with Open Approach [the apparently successful bidder] on a smaller project with the City's Water Department. He noted that his firm included on-site and off-site support, but that Open Approach's bid included on-site support only for emergency work. He noted that the apparently successful bid included replacement of the majority of core equipment, though several of the City's devices are under active support and warranty and are still viable. He asked whether selecting the bid that is chosen would set a precedent by the City for ignoring price as a qualifier in the RFP process. He said that his firm proposed an alternative approach to splitting

54 the Town and City infrastructure, but that it was dismissed even though it could save the municipalities
55 money. He asked what makes the apparently successful bid stand out as the winning bid.

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57 He submitted evidence along with his testimony, including the Purchasing Policy from the Town of
58 Essex/Village of Essex Junction, the FAQ under the Village Website from August 21, 2021, and a
59 September 2, 2022 Town of Essex Accounts Payable posting from August 5, 2022.

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61 Regina Mahony, City Manager and Appellee, declined to cross-examine the witness.

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63 Councilor Tyler asked for clarification on the connection between the conversation about the Town and
64 Village separating and the current issue around the IT department and this bid. Mr. Johnson said he
65 brought it up because the separation conversation discussed how the Village could save money by
66 separating their IT costs from the Town, and that statements made about the IT department's cost to
67 the Village should be compared to the current costs proposed by the apparently successful bidder's
68 quote.

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70 City Manager Mahony testified on behalf of the Appellee. She spoke to several points in the appeal letter
71 received from Simplero. She said that with regards to the RFP process being a forgone conclusion,
72 she assured the Council that the process was fair, sound, a thorough process to secure the best vendor
73 for the City. She said she has no recollection of making remarks that would compromise the RFP
74 process. She acknowledged that she was late to the interview with Simplero, but noted that the City
75 had an 8-person review committee for this RFP and that the process was in good hands while she was
76 unavailable for the beginning of the interview. She said that this was an involved process, including the
77 issuing of the RFP in October, 2022 with site visits scheduled in November, and that 5 proposals were
78 received. She said that interviews were conducted with finalists and that staff sent additional information
79 to finalists prior to final proposal submission. She noted that the migration approach proposed by
80 Simplero would not have worked for the City for security reasons, citing stringent federal
81 cybersecurity requirements in a contract that the Police Department holds with the Federal Bureau of
82 Investigation (FBI). She outlined the scoring approach and results from the 8-person bid review team,
83 noting that Open Approach scored the highest for 5 out of the 8 individuals on that team. She said that
84 staff recommended selecting Open Approach as the finalist and Dominion Technologies as the second
85 choice for bidders, and that she made the final decision to select Open Approach as the apparently
86 successful bidder. She said that the contract between the City and Open Approach is currently being
87 negotiated. She spoke about the scoring criteria used in the RFP process, which included experience,
88 understanding of services to be provided, personnel expertise, compatibility with end users, project
89 approach, satisfaction of clients and users, and cost. She said that Open Approach scored highly
90 because it had a realistic project approach that included conducting a more in-depth, investigative step
91 of inventorying the current equipment before narrowing in on a more refined cost proposal. As a result
92 of this, Open Approach's cost proposal in the bid was "worst-case scenario" and would be refined if it
93 were selected as the bidder and able to conduct that more investigative inventory step. She said that
94 additionally, the migration approach was in line with the direction provided to vendors prior to final
95 submittal, the monthly service fees were inclusive of licenses, the addendum was a helpful explanation
96 of security risk and mitigation, and while the proposal was more costly, the bid review team felt that the
97 approach best matched current needs. She noted that with regards to Simplero's proposal, their
98 migration approach would violate the Police Department's service agreement with the FBI, and they did
99 not provide an alternative approach even when they were notified that their initial approach would not
100 meet the City's needs. She noted that while Simplero uncovered security weaknesses in NEMRC's
101 data, the repeated statement of that by Simplero didn't sit well with the scoring team, as the City has
102 a relationship with NEMRC as a current vendor. She submitted evidence along with her testimony,
103 including talking points and confidential pages from vendors' bids that she submitted under seal.

104
105 Mr. Johnson cross-examined the Appellee. He noted that Open Approach, the awardee, needs to do a
106 review of work to provide a price. He asked why none of those questions were asked up front, prior to
107 the second round of questions and responses. City Manager Mahony replied that the process was the
108 same and fair for everyone and that Open Approach’s response to the proposal said that their first step
109 would be taking a more investigative approach to refining its cost proposal. Mr. Johnson clarified that
110 Simpleroute’s approach to migration would in fact not run afoul of federal requirements or violate the
111 Police Department’s service agreement with the FBI. He asked for a summary of the water resources
112 project that the City engaged Open Approach for. City Manager Mahony replied that she was not
113 employed by the City at the time of that project. Mr. Johnson asked if other quotes were received for
114 that work. City Manager Mahony replied that it was a sole source contract. Mr. Johnson asked about the
115 scoring methodology for the bid and how each criteria was weighted. Ms. Mahony replied that the criteria
116 were weighted equally, that the score was between 0 and 10 for each, and that they were summed to
117 arrive at a total score for each bid.
118

119 Councilor Chawla noted that mention of the uncovering of NEMRC vulnerabilities didn’t sit well with the
120 bid review team and asked how much of an impact that may have had on scoring. City Manager Mahony
121 said that it did not seem to have much of an effect on scores and that the scores were all relatively close.
122 She said that NEMRC was brought up in every interaction with Simpleroute, and that it didn’t sit well.
123

124 Councilor Brown asked about the updated inventory that was shared with two of the three vendors later
125 on in the process. City Manager Mahony said that the inventory was shared with all three vendors
126 following the interviews and prior to the final submission of bids. Councilor Brown asked if Open
127 Approach’s “worst case scenario” cost estimate was unique to that vendor or whether all vendors shared
128 a “worst case scenario” estimate, and City Manager Mahony replied that the cost estimate provided by
129 Open Approach was unique and that they proposed to conduct an investigatory step to narrow and
130 refine their estimate as part of their proposed scope of work.
131

132 Councilor Chawla asked about the level of information each vendor was given and City Manager Mahony
133 replied that each vendor was invited to a site visit to tour the City’s facilities and view its equipment and
134 given the same level of information.
135

136 The Appellant, Mr. Johnson, made his closing remarks. He spoke in more detail about the NEMRC
137 software and its security flaws and said that his company designs software around that. He spoke about
138 the RFP process, saying that every firm was afforded the same opportunity and the same level
139 information. He said that it is concerning that Open Approach was not able to provide a more accurate
140 cost estimate than its “worst case scenario” estimate, given that other vendors were able to provide
141 more accurate and definitive cost estimates when submitting their final bids.
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143 The Appellee, City Manager Mahony, made her closing remarks. She expressed confidence that the
144 RFP process was thorough, comprehensive, and well-executed. She said that the bid review team felt
145 that Open Approach’s costs would not come in as high as their initial proposal and that she still believes
146 that selecting Open Approach was the right decision.
147

148 Councilor Brown closed the public hearing.
149

150 **6. BUSINESS ITEMS**

151 a. Deliberative session to discuss the IT RFP Bid Protest
152

153 **ANDREW BROWN** made a motion, seconded by **RAJ CHAWLA**, that the City Council enter into a
154 deliberative session to discuss the IT contract award appeal, pursuant to 1 V.S.A. §312(e) & (f)
155 to include the City Council and City Attorney. The motion passed 5-0 at 8:11 P.M.
156

157 **ANDREW BROWN** made a motion, seconded by **RAJ CHAWLA**, to exit deliberative session. The
158 motion passed 5-0 at 9:55 P.M.
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160 7. **CONSENT AGENDA** – none.
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162 8. **READING FILE** – none.
163

164 9. **EXECUTIVE SESSION**

165 a. *An executive session is not anticipated
166

167 10. **ADJOURN**
168

169 **DAN KERIN** made a motion, seconded by **RAJ CHAWLA** to adjourn the meeting. The motion
170 passed 5-0 at 9:56 P.M.
171

172 Respectfully Submitted,
173 Amy Coonradt