

**VILLAGE OF ESSEX JUNCTION TRUSTEES
TOWN OF ESSEX SELECTBOARD
SPECIAL MEETING MINUTES
Monday September 20, 2021**

TRUSTEES: Andrew Brown, President; Raj Chawla, Vice President; Dan Kerin; Amber Thibeault; George Tyler

SELECTBOARD: Andy Watts, Chair; Patrick Murray, Vice Chair; Tracey Delphia; Dawn Hill-Fleury

ADMINISTRATION and STAFF: Evan Teich, Unified Manager; Greg Duggan, Deputy Manager; Brad Luck, Essex Junction Recreation and Parks Director

OTHERS PRESENT: Danielle Brown; Bob Burrows; Kevin Collins; Annie Cooper; Erin Dickinson; Bill Ellis, Town Attorney; Maureen Gillard; Micah Hagan; Gina Halpin Barret; Deb McAdoo; Claudine Safar, Village of Essex Junction Attorney; Angel Segaria; Kristen Shamis; Ken Signorello; Margaret Smith; Dennis Thibeault; Mike Thorne; Sharon Zukowski; RM

1. CALL TO ORDER

Mr. Watts called the Town of Essex Selectboard meeting to order at 6:32 PM.

Mr. Brown called the Village of Essex Junction Board of Trustees meeting to order at 6:32 PM.

2. AGENDA ADDITIONS/ CHANGES

There were no changes to the agenda.

3. AGENDA APPROVAL

With no changes to the agenda, approval was not required.

4. PUBLIC TO BE HEARD

a. Comments from Public on Items Not on Agenda

There were no comments from the public at this time.

5. BUSINESS ITEMS

a. *Discussion of tentative agreements about shared services between Town of Essex and independent City of Essex Junction

The Selectboard members and Trustees reviewed most recent drafts of the the tentative agreements about shared services between the Town of Essex and the independent City of Essex Junction. The Trustees suggested revisions and discussed, with the Selectboard members assumptions behind their suggested changes.

Draft Memorandum of Understanding (MOU) regarding agreements for shared services:

Referencing the Selectboard's changes to language in the fourth and sixth "WHEREAS", sections, the Trustees discussed their concerns that the draft MOU document's revisions walk back on substantial agreements and specificity. They talked about how this document could help inform the process of getting a charter through the Legislature. Mr. Brown asked why the last portion of the fourth "WHERAS" was crossed out, and why additional language, on the sixth "WHEREAS," was added. Mr. Watts said the Selectboard's changes addressed their concerns about not wanting to bind a future board's ability to legislate and to clarify that this agreement would only be in effect if the separation vote and charter passes. Mr. Chawla wondered, instead, by utilizing the Selectboard's proposed language, there could be a section to clarify that the municipalities would only enter into the agreement upon approval of the charter by the legislature. Ms. Thibeault agreed with this suggestion. Mr. Watts said the drafting timeline would not allow for in-depth

54 conversations about this and Mr. Brown suggested the Selectboard confer with their attorney. Mr.
55 Watts said he was struggling with whether the agreement should be for ten years or if, instead,
56 they should sign the agreement once a City is in place. The Village's Legal Counsel, Ms. Safar,
57 said that a document can be signed off on even if it states that it is conceptual, but the
58 Selectboard's suggestions weakened the document. Mr. Murray said that the Selectboard did not
59 intend for the document revisions to be antagonistic. He said that they wanted to acknowledge
60 this type of process has not been done in one hundred years and is uncertain. Ms. Hill-Fleury
61 agreed. Mr. Tyler also agreed that this is a once in a century event but he encouraged the board
62 members to refer to a local example of how this agreement may work by considering the Essex
63 Junction Wastewater Treatment plant's Tri-Town Agreement. Mr. Tyler suggested changing the
64 word "conceptual" to "tentative" in the sixth "WHEREAS." Mr. Chawla added that it could say
65 "tentative pending legislative approval."
66

67 Mr. Watts said he would like the agreement to mention Stormwater and clarify the transition plans
68 for Finance, Assessors, and IT. He said he would like there to be a discussion about the Indian
69 Brook access, Town residents being able to access EJRP programs and how to manage the Tree
70 Farm. He wondered if the City would have its own Health Officer and Deputy Health Officer. He
71 also asked if they would be hiring a Town Manager. He wondered if the City would pick up the
72 Green Mountain Transit (GMT) routes.
73

74 Mr. Tyler said he assumed GMT would be part of the City's budget, along with their own Health
75 Officer. He said they would pick up Green Mountain SSTA as well. Mr. Watts mentioned that this
76 cost may go up if the Town does not run the Senior Bus for the City. Mr. Brown said the Trustees
77 would like to explore sharing the Senior Bus with the Town. Ms. Delphia said she did not think the
78 Selectboard had refused to share senior services but Mr. Teich said there had been hesitancy
79 because it would be based on their unknown future budget. Mr. Watts suggested there was not
80 enough time to include a new section about the senior services in the agreement.
81

82 Mr. Chawla wondered if separation would affect zip codes. Mr. Tyler said these are made by the
83 Postmaster General and suggest they find a workaround instead of trying to change zip codes.
84

85 Ms. Delphia suggested the board members discuss the Manager and other shared positions. Mr.
86 Brown said the Selectboard had concerns about sharing oversight of the Finance department. Mr.
87 Watts reminded the board members that this would be discussed during Executive Session. Mr.
88 Brown offered to draft a proposal with points about sharing Finance. He also said an option for
89 City IT could be for the Town to consider some IT staff to be contracted by the City. Mr. Teich said
90 staff would talk about this and strategize how to address the current architecture of shared IT
91 systems. Mr. Chawla wondered if the Village would still be paying for the IT Department during the
92 transition period.
93

94 The board members discussed the definition of "transition period." Mr. Brown said if the legislative
95 approval happened in June of 2022, the City would be formed July 1, but the Town would still
96 receive revenue from the Village until June FY2023 because the budget would already have been
97 approved. Mr. Luck said that if the Legislature signs the charter in May, the City is formed in July
98 but City residents would continue to pay Town taxes to until July 1 of the following year.
99

100 Mr. Watts said the Selectboard would discuss whether or not to replace the word "conceptual"
101 with "tentative" in the document and whether they think the language would bind future boards. He
102 said the Selectboard members would reconsider removing "Village Trustees" from the fourth
103 "WHEREAS"
104

Draft Police Services Agreement

The Board members acknowledged significant word changes in the fourth “WHEREAS”, and the complete removal of the fifth “WHEREAS”. Town Legal Counsel, Mr. Ellis said the fifth one was removed because the words “duties and obligations” were unclear. Mr. Brown clarified their intent for the section was to form a mutual goal that the Essex Police Department would serve the citizens of both the Town and the City. Ms. Safar clarified that the intent of the wording “trust and support of the taxpayers, to whom they each owe duties and obligations” means policing fairly, consistently, and equitably. Mr. Watts pointed out that some of the residents being policed will not be taxpayers. Mr. Ellis’s position was that the Police have a duty to their policing contract not the taxpayers. Ms. Safar disagreed. Mr. Murray said there were too many undefined parts of the section, but the Selectboard members agreed with the intention. Ms. Safar suggested the wording include “...mutual goal that the Essex Police serve the municipalities of the Town and the City and maintains the trust of the citizens.” The Selectboard said they would revise the wording, to include something other than “taxpayers” or “citizens.”

Mr. Watts was concerned with Section 1 of the document, which proposes a ten-year agreement term with no option to change if costs increase or something new arises. He thought the term may bind the Selectboard for ten years. Mr. Ellis said this is a question for the Legislature. He said some on the Selectboard thought it was too long and some said it needs to be maintained to reinforce staffing. Mr. Teich suggested keeping it at ten years because it would accommodate the two year training process for hiring a new officer, provide time to maintain equipment and facilities, and provide job security for officers. Ms. Safar said the position of binding future boards is that a contract can bind something unless it is binding on an issue of public policy. For example, they cannot bind ordinances, tax rates, laying out streets or other things that are considered governmental services. She said there also cannot be binding for governmental proprietary services. She said that binding future boards to a timeline does not apply to this definition.

Mr. Chawla wondered if they should be agreeing to an overall, higher-level framework, which could include a per-capita funding strategy and defined level of service. He said this would allow the board members to draft a thorough, negotiated contract during the first year and the Finance Department would not have to determine indirect costs right away. Mr. Kerin agreed with this strategy and said it could make the process easier. Mr. Teich suggested that the framework could be a percentage of cost split between the municipalities. Mr. Brown said there should be a regular plan of communication between the Town and City managers to review this. Mr. Watts said he would discuss with Legal Counsel about whether a clause should be included that describes how the contract can be revisited if something new comes up during the first ten years. He wondered if there should be a periodic joint meeting regarding shared services. Ms. Delphia said the wording of part two already covers this. Mr. Chawla said the issues of policing and public safety could benefit from a delineated schedule for meetings of the Town and City Managers and Police Chief.

Mr. Watts said paragraph two of part three is confusing. Mr. Tyer, Mr. Watts, Ms. Delphia and Mr. Luck word-smithed it to read “If a discrepancy is found during an audit” Instead of “if an audit is conducted...” Mr. Chawla wondered what formula would be used to determine indirect costs, since the words “and limited to” were removed from the first paragraph of section three. Mr. Teich said he would provide a formula and Mr. Brown requested it be available to the Trustees within a week. Mr. Brown and Mr. Chawla said they would like the contract to describe indirect costs. Mr. Chawla talked about how to monitor if an additional indirect cost is added. He suggested they include language about finding mutual agreement between the City and Town before a new indirect cost is added. Mr. Watts said there should also be clarity about how a Town-only service could be added so the City would not have to pay for it. The board members reviewed and discussed page three’s language about what would happen if the police budget changed by 10%.

156 They also discussed a revision intended to address police overtime. In paragraph two section
157 four, the Selectboard had changed the number of special event services to a dollar figure of
158 \$6000. The board members decided to remove the \$6000 and focus, instead, on language about
159 overtime expenses. Mr. Watts clarified for Ms. Thibeault that special events include parades,
160 fireworks, 5k runs, and other planned events. Mr. Brown suggested that the paragraph clarify that
161 special event services not planned in advance may not be covered in the contract. Mr. Chawla
162 stressed the importance of making sure the Town cannot unilaterally change costs or levels of
163 service and leave the City with no recourse.
164

165 Mr. Tyler disagreed with the changes in section five, paragraph two, where the “shall” action verbs
166 for the Town Manager’s efforts were changed to “may” . He thought it would make sense for the
167 contract to set expectations that the Manager will seek input from other parties. Mr. Brown agreed
168 also because the City would be paying for indirect administrative costs.
169

170 Mr. Chawla said he disagrees with changes to the section six that seems to remove equal
171 representation from the City on the Equity and Inclusion Group. He suggested that this could set
172 up an inequitable precedent. Mr. Watts said that because the group is for Town advisory, the
173 Selectboard wanted to have more control of it. He said they would discuss this change.
174

175 Ms. Thibeault requested that the Police Chief review the agreement before it is complete. The
176 board members had no further comments about the draft Police Agreement.
177

Draft agreement for shared services of reappraisal

179 Mr. Watts asked for a discussion of the added, sixth “WHEREAS”, which would have the City
180 contribute 50% of costs of the Town’s Office of Assessor. Mr. Brown wondered why they included
181 the flat rate of 50% instead of the previously discussed strategy of paying based on numbers of
182 appraisals required by the City or by per-capita. Mr. Watts said the Selectboard would discuss
183 whether 50% is the right number. Section nine was similarly questioned and noted. Mr. Brown and
184 Legal Associate, Ms. Shamis, interpreted section nine as: if an assessment is unfinished by the
185 Town Assessor, the City will be unable to form their own Office of Assessor until it is completed.
186 Mr. Brown was concerned with the possibility that the City would be required to pay for 50% of
187 legal costs if an appeal process in for a property in the Town. Mr. Luck added that the sixth
188 “WHEREAS” and section nine suggest that the City would pay 50% of the cost of the Town’s
189 Office of Assessor but does not say that the office of the Assessor would then provide the
190 assessor services to the City. Mr. Watts said the Selectboard would discuss these issues.
191

192 There were no other comments on the Draft Agreement for shared services of reappraisal, but Mr.
193 Watts wondered if there should be an agreement about how to handle delinquent taxes. Mr. Teich
194 provided an example to ask legal counsel about would be responsible for assuming continued
195 pursuit of delinquent taxes. Mr. Watts suggested creating an agreement to clarify this.
196

Draft right of first refusal to purchase the Town Offices at 81 Main St.

198 There were no concerns with the revisions to this draft agreement.
199

200 Ms. Cooper requested clarification on what the public comment session could include.
201 There were no other comments from the public.
202

203 ** The Selectboard members entered into executive session, as agenda item 8a, to discuss
204 whether they agree with, would compromise, or would reject the suggestions and/or concerns to
205 the draft agreements,
206

207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258

b. **Discussion about personnel**

This discussion took place in executive session as agenda item 8b.

6. **CONSENT ITEMS**

TRACEY DELPHIA made a motion, seconded by DAWN HILL-FLEURY, that the Selectboard approve the consent agenda. The motion passed 4-0.

GEORGE TYLER made a motion, seconded by DAN KERIN, that the Trustees approve the consent agenda. The motion passed 5-0.

a. **Consider approval of revisions to Agreement for the Development and Operation of the Community Outreach Program (Selectboard only)**

- The Selectboard authorizes the Unified Manager to execute an Agreement for the Development and Operation of the Howard Center Community Outreach Program.

b. **Consider approval of 2A banner and waiver of fee for Village and Town Out & About event (Trustees only)**

- The Trustees approve a banner for the "Out & About in Essex" event and waive the \$250 banner fee.

7. **READING FILE**

a. Board member comments

- Mr. Duggan gave an update of the Out & About event plans and invited the community to attend.
- Mr. Delphia wondered how many applicants had come forward for the vacant Selectboard seat. Mr. Duggan said there were five or six.

b. List of Boards/Committees/Commission openings

c. Update on shared priorities from June strategic planning session

d. Out & About event information October 2-3, 2021

e. Upcoming meeting schedule

8. **EXECUTIVE SESSION**

a. ***An executive session may be needed to discuss negotiation of contracts and agreements between the Town of Essex and Village/City of Essex Junction**

TRACEY DELPHIA made a motion, seconded by DAWN HILL-FLEURY, that that the Selectboard make the specific finding that general public knowledge of contracts and confidential attorney-client communications made for the purpose of providing professional legal services to the body would place the Town/Village at a substantial disadvantage. The motion passed 4-0 at 9:28 PM.

TRACEY DELPHIA made a motion, seconded by DAWN HILL-FLEURY, that that the Selectboard enter into executive session to discuss contracts and confidential attorney-client communications made for the purpose of providing professional legal services to the body, pursuant to 1 V.S.A. § 313(a)(1)(A) and (F) to include the Town Attorney, Unified Manager, Deputy Manager. The motion passed 4-0 at 9:28 PM.

b. ****An executive session may be requested to discuss the employment of public employees**

TRACEY DELPHIA made a motion, seconded by DAWN HILL-FLEURY, that the Selectboard enter into executive session to discuss the employment of public employees in accordance

259 with 1 V.S.A. Section 313(a)(3), to include the Selectboard/Trustees, Village Attorney, and the
260 Town Attorney, Unified Manager, Deputy Manager. The motion passed 4-0 at 9:28 PM.
261

262 DAN KERIN made a motion, seconded by AMBER THIBEAULT, that the Trustees enter into
263 executive session to discuss the employment of public employees in accordance with 1 V.S.A.
264 Section 313(a)(3), to include the Selectboard, Village Attorney, and Town Attorney and Unified
265 Manager, Deputy Manager. The motion passed 5-0 at 9:28 PM.
266

267 DAWN HILL-FLEURY made a motion, seconded by TRACEY DELPHIA, for the Selectboard
268 continue until 11:30 PM. The motion passed 4-0.
269

270 Mr. Murray left the meeting at 11:02 PM.
271

272 DAWN HILL-FLEURY made a motion, seconded by TRACEY DELPHIA, for the Selectboard to
273 exit executive session. The motion passed 3-0 at 11:17 PM.
274

275 **9. ADJOURN**
276

277 DAN KERIN made a motion, seconded by RAJ CHAWLA, to adjourn. The motion passed 5-0 at
278 10:35 p.m.
279

280 DAWN HILL-FLEURY made a motion, seconded by TRACEY DELPHIA, for the Selectboard to
281 adjourn. The motion passed 3-0 at 11:18 PM.
282

283 Respectfully Submitted,
284 Cathy Ainsworth
285 Recording Secretary
286

287 Approved this _____ day of _____, 2021
288 (See minutes of this day for corrections, if any)
289
290