



Town of Essex Selectboard

Phone: (802) 878-1341

Email: manager@essex.org

www.essexvt.org

REGULAR MEETING AGENDA

Monday, December 6, 2021 – 6:30 pm
81 Main St., Essex Junction, VT 05452

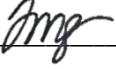
This meeting will be held both remotely and in person. Available options to watch or join the meeting:

- **WATCH:** the meeting will be live streamed on [Town Meeting TV](#).
- **JOIN ONLINE:** [Join Microsoft Teams Meeting](#).
- **JOIN CONFERENCE CALL:** (*audio only*): (802) 377-3784 | Conference ID: 394 904 528#

1. **CALL TO ORDER** [6:30 PM]
2. **AGENDA ADDITIONS/CHANGES**
3. **APPROVE AGENDA**
4. **PUBLIC TO BE HEARD**
 - a. Comments from Public on Items Not on Agenda
5. **BUSINESS ITEMS**
 - a. Presentation from and discussion with Town Meeting TV
 - b. Presentation from and discussion with Essex Rescue about fiscal year 2023 budget request
 - c. Update and potential action on speed VT Route 128 speed study
 - d. Work session on fiscal year 2023 budget
 - e. Potential action to warn public hearing for fiscal year 2023 budget
 - f. Discussion about potential action in response to Vermont Legislature meeting about municipal mask mandates
 - g. Consider request to amend the Town Charter with a recall provision
 - h. *Discussion and potential action on tentative agreements about shared services between Town of Essex and independent City of Essex Junction
 - i. **Discussion and potential action to hire Town Manager
 - j. ***Discussion about grievance
6. **CONSENT ITEMS**
 - a. Consider approval of Error & Omission at 14 Freeman Woods
 - b. Consider approval of Resilient Urban Forests for All Grant
 - c. Approve minutes: November 22, 2021 (Joint)
 - d. Check Warrants: #17926—11/12/2021; #17928—11/19/2021; #17930—12/03/2021
7. **READING FILE**
 - a. Board member comments
 - b. Memo from Dennis Lutz re: Update on capital plan
 - c. 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

- b. **An executive session is anticipated to discuss the employment of public employees
- c. ***An executive session is anticipated to discuss a grievance

This agenda is available in alternative formats upon request. Meetings of the Selectboard, like all programs and activities of the Town of Essex, are accessible to people with disabilities. For information on accessibility or this agenda, call the Town Manager's office at 878-1341.

Certification:  12/03/2021

SELECTBOARD

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TOWN OF ESSEX SELECTBOARD REGULAR MEETING December 6, 2021

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

ADMINISTRATION: Evan Teich, Unified Manager; Greg Duggan, Deputy Manager; Courtney Bushey, Interim Finance Director; Charles Cole, Fire Chief; Ron Hoague, Chief of Police; Dennis Lutz, Public Works Director.

OTHERS PRESENT: Gil Allen, Natalee Braun, Bob Burrows, Alise Certa, Andy Champagne, Raj Chawla, Sandra Chittenden, Diane Clemens, Kevin Collins, Annie Cooper, Karen Danaher, Patty Davis, Susyn Dees, Erin Dickinson, Alise Dubief, Yves Dubief, Betsy Dunn, Bill Ellis, Maureen Gillard, Jerry Himelstein, Brendan Kinney, Suzanne Lawrence, Sarah Macy, Ed Malina, Rachel Mann, Deb McAdoo, Jean McBride, Ross Miller, Timothy Miller, Colleen Nesto, Jillian Niggel, Nate O'Connor, Molly Ormsbee, Meghan O'Rourke, J Percy, Roseanne Prestipino, Rep. Marybeth Redmond, Angel Segarra, Ken Signorello, David Skopin, Richard Smiles, Gabrielle Smith, Harlan Smith, Margaret Smith, Laura Taylor, Dennis Thibeault, Tanya Vyhovsky, Ann Wadsworth, Doug Wilson, Irene Wrenner, Brian, gustercpa44, Jill, Peg, Rachael, RM, SM.

1. CALL TO ORDER

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

2. AGENDA ADDITIONS/CHANGES

None at this time.

3. AGENDA APPROVAL

There was no approval needed, as the agenda was not modified.

4. PUBLIC TO BE HEARD

a. Comments from Public on Items Not on Agenda

Betsy Dunn noted that on the Conservation and Trails Committee a member has stepped down and there is an open space. Mr. Duggan noted that the Town is currently accepting applications and expects to have interviews for candidates on the agenda later in December or in January.

Ken Signorello spoke about the local option tax, noting that only 5 of the 19 municipalities in Chittenden County have one (not all of them, as someone stated in a previous meeting). He also said that property taxes in Williston are not as low as was stated at a prior meeting. He emphasized that correlation does not equate causation, in terms of a local option tax potentially bringing down property taxes. Mr. Duggan said that information provided by staff at the previous meeting was accurate. Irene Wrenner said George Tyler made the comments noted by Mr. Signorello.

5. BUSINESS ITEMS**a. Presentation from and discussion with Town Meeting TV**

Meghan O'Rourke began by saying that the mission of Town Meeting TV is being improved upon and that working with municipal partners has been positive. She said she hopes that the current hybrid meeting setup for Essex is working well and meeting the needs of the community. She said the ask is for the municipal contribution, which came about due to reduced cable contributions. She said that cable fees will not carry Town Meeting TV's work into the future, and that Town Meeting TV is seeking more fee-for-service revenue, municipal contributions, and legislative appropriations at the state level. She noted that neither Essex nor Essex Junction currently has a representative on the Town Meeting TV Board of Trustees.

Mr. Teich said that Town Meeting TV has been fantastic to work with, especially in their nimble approach to address communities' needs for virtual meetings during COVID.

Mr. Murray expressed gratitude on behalf of the Selectboard for how much the hybrid meeting model has increased communication and exchange with the public.

Annie Cooper thanked Town Meeting TV for their support.

b. Presentation from and discussion with Essex Rescue about Fiscal Year 2023 budget request

Colleen Nesto began by saying that Essex Rescue has been providing services to Essex for the past 50 years and has undergone many changes during that time, including transitioning from 100% volunteer staff to a mix of full-time and part-time staff, and volunteers. She noted that volunteers average 70 hours of duty per month and that some are not able to commit to regular weekly shifts. She said call volume has increased notably over the years and that mutual aid partners are struggling to keep up with volume. She noted that to address this, Essex Rescue decided to increase staffing and add a second truck, which has resulted in a budget deficit of \$232,000 that they are covering through reserve funds that are normally used to fix equipment. She spoke of the enormous burden on volunteers to have the appropriate clinical expertise and training. She said they need a significant increase in funding support from Towns to stay in service. She noted that this is a substantial, unexpected increase, but also noted that the service has experienced a notable number of unexpected circumstances in the last two years to which they have had to respond.

Mr. Watts asked whether call numbers might be inflated due to Covid-19 lockdowns at nursing homes (where ambulance transport was required to move residents to the hospital, should they need services). Ms. Nesto replied that call volume has been increasing for some time. Mr. Watts asked who determines the service area and whether there is a triage system in place. Ms. Nesto replied that the service area is decided based on the towns that want to utilize their services for transport, so Essex Rescue covers Essex, and Essex Junction, Jericho, Underhill, and Westford.

Mr. Murray asked whether future cost increases could be anticipated more gradually, saying that infrequent large increases are difficult to deal with. Ms. Danaher replied that the ramp up included in the memo gets the service to a level where they believe they will be sufficiently

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financed for the next few years. She also noted that it could be further impacted if more volunteers leave and the service needs to hire more paid staff.

Gabrielle Smith and Annie Cooper expressed support for the increased funding for Essex Rescue.

Patty Davis noted that the aging population in Essex is increasing substantially and asked whether Essex Rescue would like someone to help market their need on a volunteer basis.

Lorraine Zaloom asked how an entity is designated as an essential service. She asked if there's an easier way to make payment to subscribe, since it looks like the only option is to write a check. Ms. Nesto replied that they are developing an online payment system. Ms. Danaher noted that essential services are nationally-designated.

c. Update and potential action on VT Route 128 speed study

Dennis Lutz said the Town has been gathering data to submit to the State to accompany a request for a speed study on VT Route 128, noting that the last speed study was conducted 20 years ago. He said they have obtained some data on accidents, which are significant in that area, though he added that it is up to the State to determine which accidents qualify for speed study. He said staff recommend submitting a letter to the State requesting that they review the speed limits and safety issues, such as improved signage.

Margaret Smith asked whether there would be notification and opportunity for public comment at the State level if they are contemplating modifying the speed limit. Mr. Lutz replied that there should be a public Traffic Committee meeting, which the public could attend.

SUE COOK made a motion, seconded by DAWN HILL-FLEURY, that the Selectboard approve the staff recommendation and forward this request for a speed and safety study on a section of Vermont Route 128 to VTRANS. The motion passed 5-0.

d. Work session on Fiscal Year 2023 budget

Sarah Macy noted that at its initial budget work session, the Selectboard reviewed the initial budget proposal, which contained a 4.6% overall increase and a 5.4% tax levy increase. She noted that there were a number of changes that were made after the last work session and that those changes have brought the overall increase down to 4.2% with a 5.0% tax levy increase.

Mr. Teich asked for a description of Fire Department trends. Chief Cole replied that the department is faced with a reduced number of volunteers to answer calls; in addition to this, they have reduced availability for those volunteers. Mr. Teich asked about what the per diem positions do, and Chief Cole replied that they work during the week during high-volume times.

e. Potential action to warn public hearing for Fiscal Year 2023 budget

DAWN HILL-FLEURY made a motion, seconded by SUE COOK, that the Selectboard warn a public hearing for the FY23 General Fund budget for the Town of Essex, in the amount of \$16,600,169, to be held December 20, 2021 at 6:45PM. The motion passed 5-0.

138
139 **f. Discussion about potential action in response to Vermont legislature meeting about**
140 **municipal mask mandates**

141 Mr. Teich noted that the Governor and legislature have developed legislation enabling
142 municipalities to implement their own mask rules for a period of 45 days, with the possibility to
143 reconsider every 30 days. He said that those rules could come with a fine or no fine. He said the
144 Town has been proactive in its masking requirements and guidance throughout the pandemic.
145 He asked whether the Selectboard would like to consider it, and what components they would
146 like to be included in a rule.

147
148 Ms. Hill-Fleury asked whether the rule would be enforceable. Chief Hoague replied that it would
149 depend on what the Selectboard would like for a rule. He noted that the Vermont League of
150 Cities and Towns (VCLT) had draft rules with a fine (civil ticket) and without a fine (no ticket).

151
152 Ms. Delphia expressed disappointment that there is no mask mandate at the State level, and
153 that each of the other 200-plus towns in Vermont are having the exact same conversation. She
154 compared infection counts and hospitalizations in December of 2020 with the much higher
155 numbers in December of 2021.

156
157 Mr. Murray agreed that a statewide mandate would be easier, recognizing police staffing issues.
158 He proposed ticket fees for non-compliance. He also recommended that children under 2 would
159 not need to be masked and proposed flexibility for restaurants and bars (and that if they screened
160 for vaccination status they would not need to require masking).

161
162 Mr. Watts outlined several decision points. He asked about proposed exceptions, such as those
163 related to health and for places of worship. He asked whether there should be enforcement. He
164 asked what the fines would need to be. He asked about the trespass option. Chief Hoague
165 replied that if a business owner would like a mask mandate inside their business, they can post
166 that and ask any non-conforming members of the public to leave (after which point they are
167 considered trespassing). He noted that trespassing infractions are not currently being
168 prosecuted at the State level, making that a difficult option to pursue. Chief Hoague expressed
169 concerns about time commitment for officers and putting officers in the position of potentially
170 needing to use force.

171
172 Rep. Tanya Vyhovsky said that the disability exemptions are a requirement. She said that there
173 was no precedent for religious exemption except for things like taking communion. She noted
174 that a fine is not required. She noted that the statewide mandate did not use a fine but that there
175 was an uptick in masking. She asked whether this would necessitate sign posting around
176 masking requirements.

177
178 Yves Dubief spoke about his research around aerosols and that he has worked with Essex High
179 School to keep the school safe. He said that action is needed and that decisions around mask
180 mandates should be data-driven. He noted that the CDC offers guidelines around reducing
181 transmissibility.
182

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Gil Allen spoke in support of a mask mandate from his position as a clinician and a concerned citizen. He said the Selectboard needs to be careful in how a mandate is messaged to the community. He said there needs to be buy-in and that the Town should provide rationale for it (such as data points). He said that blanket religious exemptions should not be granted, since they would render the mandate ineffective.

Brian Shelden, Alexis Dubief, Richard Smile, Annie Cooper, Diane Clemens, Suzanne Lawrence, David Skopin, Natalee Braun, and Lorraine Zaloom expressed strong support for a mask mandate.

Gabrielle Smith spoke in support of a mask mandate, but said that it should not have an accompanying fine. She advised vaccination requirements for restaurants with an accompanying ID. Raj Chawla agreed that restaurants and bars should require proof of vaccination status.

Nate O'Connor spoke about a personal loss due to covid and encouraged a strong following of the science and data around a mask mandate. He said a strong and swift action by the Selectboard to implement the mandate would be crucial.

DAWN HILL-FLEURY made a motion, seconded by TRACEY DELPHIA, that the Selectboard representing the Town of Essex pass a mandatory mask mandate to cover all persons over the age of 2, all businesses and house of worship, that it be done by voluntary compliance and not enforcement, to be reviewed every 30 days, and to be put into effect by December 10th.

The Selectboard discussed details and possible friendly amendments to the motion.

DAWN HILL-FLEURY withdrew her motion.

TRACEY DELPHIA made a motion, seconded by SUE COOK, that the Selectboard approve the model face covering rule nonenforcement in packet specific to the Town of Essex with the following exceptions: children under 2 years; a person with a disability who cannot wear a face covering or cannot safely wear a face covering for reasons related to the disability; a person for whom wearing a face covering would create a risk to workplace health, safety, or job duty as determined by the workplace risk assessment; any person who is seated while eating or drinking inside any establishment that serves food or beverage; that all establishments covered under this rule shall prominently display this requirement at their entrance, and that this rule go into effect on December 7. The motion passed 5-0.

g. Consider request to amend the Town Charter with a recall provision

Brad Kennison spoke on behalf of voters and presented a proposal to amend the town charter to include a recall provision for an elected town officer. He said the proposal describes the conditions and procedures of the recall process, including thresholds for petitions and the proportion of votes needed for a recall. He spoke about past examples of recalls in Vermont. He advocated for a simple majority vote rather than a two-thirds majority vote.

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Ms. Hill-Fleury asked about the rationale for this amendment. Mr. Kennison replied that it is an accountability measure for public officials in a democratic system and provides voters with a measure of recourse should a public official engage in egregious behavior.

Mr. Murray asked why Essex would need this measure, given that many other municipalities in Vermont don't have it. He also asked why a simple majority is being recommended rather than a two-thirds vote. He cited concern that a recall vote would come at a cost to the Town. Mr. Kennison replied that this measure would ensure a more proactive process, since the language would be inserted into the Town's charter, should it be needed. He said that every Town with a recall provision has slightly different language, and said the threshold to have a recall vote on the ballot in Essex would require more than a thousand signatures.

Mr. Watts said the Selectboard could reject this request, in which case community members could come back with a petition and the Selectboard would not have any input into specific charter language, or the Selectboard could contemplate enacting this as a proposed charter amendment, in which case they would be able to shape language based on public input.

Ms. Delphia suggested creating a charter change committee that could examine potential charter changes and issues recommendations to the Selectboard.

Irene Wrenner said the purpose of recalls should not be to punish a member for speaking up for a marginalized part of the community or isolate a member for being assertive, but is a way for voters to admit that they were misled, and is a curative action to correct mistakes. She expressed support for a recall provision in the Town's charter and also expressed support for the formation of a committee.

Annie Cooper said she sees the validity of a recall provision, but expressed hesitation for having it in the Town charter.

Harlan Smith asked if there are provisions in the Selectboard's code of conduct or policies to remove a member if they are behaving egregiously. Mr. Watts replied that no, they must wait until the member's term ends. Mr. Smith expressed concern that a recall provision could lead to witch hunts.

Alise Certa said that any recall action should have a high threshold, both in terms of the number of residents needed for a petition and the reasons for which an official could be removed through a recall.

Patty Davis said she could see the advantages and disadvantages of proactively modifying the charter to include a recall provision.

Staff will research other municipalities' charter committees to determine best practices and develop recommendations for the Selectboard.

h. *Discussion and potential action on tentative agreements about shared services between the Town of Essex and independent City of Essex Junction

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The Selectboard reviewed changes to shared services agreements with the Independent City of Essex Junction, based on discussion at the last board meeting with the Village Trustees. They reviewed and proposed changes to the Delinquent Tax Agreement and the Information Technology Agreement. They additionally reviewed the Right of First Refusal Agreement, the Stormwater Agreement, the Police Services Agreement, and the Reappraisal and Assessor Services Agreement.

DAWN HILL-FLEURY made a motion, seconded by TRACEY DELPHIA, that the Selectboard remain in session until 11:30 PM. The motion passed 5-0.

i. **Discussion and potential action to hire Town Manager

This discussion took place later in executive session.

j. *Discussion about grievance**

This discussion took place later in executive session.

6. CONSENT ITEMS

- a. Consider approval of Error & Omission at 14 Freeman Woods
- b. Consider approval of Resilient Urban Forests for All Grant
- c. Approve minutes: November 22, 2021 – (Joint)
- d. Check Warrants: #17926—11/12/2021; #17928—11/19/2021; #17930—12/03/2021

TRACEY DELPHIA made a motion, seconded by SUE COOK, to approve the consent agenda. The motion passed 5-0.

7. READING FILE

- a. Board member comments
- b. Memo from Dennis Lutz re: Update on capital plan
- c. Upcoming meeting schedule

8. EXECUTIVE SESSION

- a. ***An executive session is anticipated to discuss negotiation of contracts and agreements between the Town of Essex and Village/City of Essex Junction**

No executive session was held regarding this topic.

- b. **** An executive session is anticipated to discuss the employment of public employees**

SUE COOK made a motion, seconded by TRACEY DELPHIA, that the Selectboard enter into executive session to discuss the employment of a public employee in accordance with 1 V.S.A. Section 313(a)(3), to include Town Attorney, Unified Manager, and Deputy Manager. The motion passed 5-0.

- c. ***** An executive session is anticipated to discuss a grievance**

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SUE COOK made a motion, seconded by TRACEY DELPHIA, that the Selectboard make the specific finding that general public knowledge of a grievance would clearly place the Town at a substantial disadvantage. The motion passed 5-0.

SUE COOK made a motion, seconded by TRACEY DELPHIA, that the Selectboard enter into executive session to discuss a grievance, pursuant to 1 V.S.A. § 313(a)(1)(D), to include Town Attorney, Town Manager, and Deputy Town Manager. The motion passed 5-0.

The Selectboard entered into executive session at 10:55 PM.

DAWN HILL-FLEURY made a motion, seconded by SUE COOK, to exit executive session. The motion passed 5-0 at 11:25 PM.

DAWN HILL-FLEURY made a motion, seconded by SUE COOK, that the Selectboard offer Deputy Manager Greg Duggan the position of Town Manager and authorize the Board Chair and Vice Chair to enter into negotiations to finalize a contract good through June 30, 2024. The motion passed 5-0.

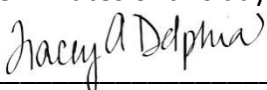
DAWN HILL-FLEURY made a motion, seconded by SUE COOK, to exit executive session. The motion passed 5-0 at 11:25 PM.

9. ADJOURN

DAWN HILL-FLEURY made a motion, seconded by SUE COOK, to adjourn the meeting. The motion passed 5-0 at 11:29 PM.

Respectfully Submitted,
Amy Coonradt, Recording Secretary

Approved this 20th day of December, 2021
(See minutes of this day for corrections, if any)



Tracey Delphia, Clerk, Selectboard