



**Town of Essex
Selectboard**

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Regular Meeting Agenda

**Monday, October 3, 2022 – 6:30 PM
81 Main St., Essex Junction, VT 05452**

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

- **VISIT** www.essex.org/zoomselectboard for direct meeting links and options to participate.
- **JOIN ONLINE:** Zoom Meeting ID: 987 8569 1140; Passcode: 032060
or <https://zoom.us/j/98785691140?pwd=WENqeFhITGVDS0Q5bIROdkhuS3RkZz09>
- **JOIN CALLING:** (*toll free audio only*): (888) 788-0099 | Meeting ID: 987 8569 1140; Passcode: 032060

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. **PUBLIC HEARING**
 - a. Public hearing on Public Nuisance Ordinance
6. **BUSINESS ITEMS**
 - a. Consider final adoption of, or warning of second public hearing for, Public Nuisance Ordinance
 - b. Presentation from and discussion with Essex Rescue about financial report
 - c. Consider appointment of representative to Essex Rescue Advisory Board
 - d. Discussion of the draft Vermont League of Cities and Towns' Municipal Policy
 - e. Presentation from and discussion with Town Meeting TV about budget
 - f. *Discussion and potential action on the Memorandum Of Understanding, Lease Agreement and Management Agreement between the Town of Essex and City of Essex Junction related to the Tree Farm Management Group
7. **CONSENT ITEMS**
 - a. Approve minutes: September 12, 2022
 - b. Approve check warrants: #18026 - 9/9/22; #18033 - 9/16/22; #18035 - 9/23/22
 - c. Consider adoption of proposed Amendment to the Town of Essex Tree Care Policy
 - d. Consider approval of warning for Special Town Meeting on November 8, 2022
 - e. Review and possible adoption of 2022 All-Hazards Mitigation Plan and Annex
8. **READING FILE**
 - a. Board member comments
 - b. Upcoming meeting schedule
 - c. Sexton's Report - Bob Covey
 - d. Chittenden County Regional Planning Commission Press Release - Broadband Vote

9. EXECUTIVE SESSION

- a. *An executive session is anticipated to discuss the negotiating or securing of real estate purchase or lease options

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Certification: _____  _____

**TOWN OF ESSEX SELECTBOARD
REGULAR MEETING
MINUTES OF MEETING
October 3, 2022**

SELECTBOARD: Andy Watts, Chair; Tracey Delphia, Vice Chair; Ethan Lawrence, Clerk; Dawn Hill-Fleury.

ADMINISTRATION: Greg Duggan, Town Manager; Ron Hoague, Police Chief; Rob Kissinger, Police Lieutenant; Marguerite Ladd, Deputy Manager; Ally Vile, Parks & Recreation Director.

OTHERS PRESENT: Colleen Ballard, Gina Halpin Barrett, Patty Davis, Maureen Hoague, Brad Kennison, Hubert Norton, Meghan O'Rourke, Peter Mutolo, Bruce Post, Mary Post, Ken Signorello, Gillian Smith, Irene Wrenner, Lorraine Zaloom.

1. CALL TO ORDER

Andy Watts called the meeting of the Town of Essex Selectboard to order at 6:30 P.M.

2. AGENDA ADDITIONS/CHANGES

None at this time.

3. AGENDA APPROVAL

No approval needed as no agenda changes were made.

4. PUBLIC TO BE HEARD

a. Comments from Public on Items Not on Agenda

Hubert Norton spoke about sign replacement for Village signs. He also noted that there should be signs erected to denote the border of the City and Town in several places.

5. PUBLIC HEARING

a. Public hearing on Public Nuisance Ordinance

Chief Hoague noted that at a previous public hearing there was a concern raised by a Selectboard member about the aggravated panhandling section of the ordinance. He said that they have taken that back to the Town counsel for analysis, and that the Town counsel is advising that the aggravated panhandling section be struck from the ordinance, as it could be contested in court and potentially found unconstitutional. Mr. Duggan noted that there is another section on disorderly conduct that would cover much of the content in the panhandling section, were that section to be stricken.

Brad Kennison spoke about Table A, which relates to excessive sound. He asked how the numbers in that table were derived. Lieutenant Kissinger said that they mirrored decibel levels from the Town of Williston, as they wanted a measure of sound that is not subjective. Mr. Kennison expressed concern that some of the proposed levels are low when compared to the Centers for Disease Control and Prevention (CDC) guidelines for noise. He advised that the Town consider other sources of guidelines for decibel readings. He pointed out that statute and the Constitution take precedence over the ordinance, so some language may be unnecessary. He noted that noise ordinances cannot limit the uses of sport shooting ranges in existence since 2006, which was upheld by the Supreme Court.

Hubert Norton asked for the reason and rationale for the changes in this ordinance. He asked for data that supports the introduction of a noise ordinance for the Town. He asked for the number of noise incidents and complaints that have been handled by the police for the Town over the last 5 years. He said that sound is very subjective and difficult to measure and enforce. He expressed concern that the parameters within the ordinance are unreasonable. He said that the police should have a deal of latitude when issuing tickets for these instances, due to the subjective nature of the topic being enforced. He recommended striking much of 6.11.40 and retaining language in Sections A and B.

Lorraine Zaloom said that there may be a lack of data on complaints for certain noise-related incidents, as residents do not see the point in calling the police to lodge complaints (because there is currently no language to enforce in terms of noise violations). She expressed concern about rising levels of noise pollution as the Town increases its density. She asked whether noise issues could be enforced through existing ordinance language.

Patty Davis said that the Town needs standards and ordinances, since it is growing.

Ken Signorello expressed concern that the settings within the decibel table would limit the activities of residents, since they may be set too conservatively.

DAWN HILL-FLEURY made a motion, seconded by ETHAN LAWRENCE, to close the public hearing on the Public Nuisance Ordinance. The motion passed 4-0.

6. BUSINESS ITEMS

a. Consider final adoption of, or warning of a second public hearing for, Public Nuisance Ordinance

Ms. Hill-Fleury asked if ordinances are only enforced if someone calls or otherwise lodges a complaint. Chief Hoague replied that they enforce the ordinance for residential or commercial violations if there is a complaint, but they will be patrolling and enforcing the ordinance for excessive noise for vehicles.

Mr. Lawrence asked for clarification with regards to firearms, panhandling, and public nudity (respectively), which was provided by Town staff and Chief Hoague.

DAWN HILL-FLEURY made a motion, seconded by TRACEY DELPHIA, that the Selectboard pass the Public Nuisance Ordinance with amendments to strike the panhandling section of the draft ordinance and authorize staff to warn a public hearing to consider final passage of the ordinance on October 17, 2022. The motion passed 4-0.

b. Presentation from and discussion with Essex or about financial report

Essex Rescue Executive Director Colleen Ballard and Board of Directors President Peter Mutolo presented on Essex Rescue's financial challenges and resulting budget request. Ms. Ballard outlined Essex Rescue's assets and revenue sources (subscriptions, insurance billing, donations, municipal contributions, and grants). She cited a number of problems that have arisen in the past several years, including insurance companies refusing to pay for transport they deem medically unnecessary, people using false names, and frequent over-use of transport by individuals, whose insurance companies then refuse to pay. She noted that reimbursement is limited by what is allowable by insurance companies, that they generally collect around 82% of allowable charges (which is above the national average), and that increased call volume

has not necessarily led to increased revenue. She noted that Essex has a high population of elderly people, who tend to be higher uses of ambulance services. She noted that other financial challenges are inflation (fuel, equipment, supplies, and payroll), low or fixed reimbursement rates, exhausted options to increase funding, needing costly repairs to buildings and response vehicles, current building constraints, and workforce challenges such as burnout. Ms. Ballard noted that the new staffing model being proposed would make providers more independent and allow them to function at the top of their scope of practice and licensure. Mr. Mutolo noted additional organizational changes, including redefining membership and a focused board of directors including municipal representatives and more community involvement.

Ms. Delphia asked why the municipal contribution as a percentage of operating expense is being proposed to increase significantly. Ms. Ballard replied that the per capita rate has been held constant for longer than it should have (and has been the second-to-lowest in the State), and necessitates a significant increase.

Ms. Hill-Fleury asked about the feasibility of combining services with a fire department. Ms. Ballard replied that that would entail becoming a municipal service. Mr. Mutolo noted that combining with a fire department may not realize the efficiencies that one may expect.

Mr. Watts asked about the feasibility of phasing in proposed increases. Mr. Mutolo replied that they felt that the proposed increase is the best approach, but could explore tapping into capital reserves with an expectation of replacement.

Mary Post said that Essex Rescue provides a valuable service and should be given the funding that they need.

Lorraine Zaloom asked whether Essex Rescue is able to access grant and other funding opportunities. Mr. Mutolo replied by describing different grant opportunities at the federal and State levels.

c. Consider appointment of representative to Essex Rescue Advisory Board

Mr. Duggan said that Essex Rescue has offered to have municipality representatives appointed to their advisory board to give more input.

DAWN HILL-FLEURY made a motion, seconded by ANDY WATTS, to appoint Ethan Lawrence to the Essex Rescue Advisory Board. The motion passed 3-1 (Mr. Lawrence dissenting).

ANDY WATTS made a motion, seconded by TRACEY DELPHIA, to reorder the agenda to move item e ahead of item d on the agenda. The motion passed 4-0.

d. Presentation from and discussion with Town Meeting TV about budget (previously item 6e).

Meghan O'Rourke, the Channel Director for Town Meeting TV, spoke about Fiscal Year 2022 activities, Fiscal Year 2023 plans, and its Fiscal Year 2024 municipal contribution request for Essex (which is \$13,230).

Mr. Watts asked if Town Meeting TV interacts with Vermont League of Cities and Towns in terms of lobbying on its behalf. Ms. O'Rourke replied that they interact with VLCT in terms of best practices for public meetings and hybrid options, but they have not discussed funding with them.

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e. **Discussion of the draft Vermont League of Cities and Towns' Municipal Policy (previously item 6d).**

Ms. Hill-Fleury noted that VLTC included a statement around supporting the requirement that commercial, forestry, and agricultural custom service vehicles comply with all motor vehicle laws when operating on state and local highways, which would entail farmers needing to obtain a commercial driver's license. Mr. Watts said that he will note this concern at the VLTC meeting.

Ms. Delphia asked about the rationale for applying Open Meeting Law and Public Records Act to the legislative and executive branches of State government, and why that is being supported by VLTC. Mr. Watts replied that VLTC advocates aggressively for shifting power from the State level to municipal level, and that they see Open Meeting Law as being more burdensome on municipalities than the State.

Selectboard members discussed how to operationalize a potential requirement for making the remote option a permanent feature of Open Meeting Law, particularly when it comes to Town Meeting and voting.

f. ***Discussion and potential action on the Memorandum of Understanding (MOU), Lease Agreement and Management Agreement between the Town of Essex and City of Essex Junction related to the Tree Farm Management Group**

Ms. Vile noted that the Memorandum of Understanding (MOU) between the Town and Essex Junction needs to be updated by 12/31/22 in order to proceed with a new lease agreement. She said that the MOU should detail how the facility will be operated between the two municipalities (the City and the Town).

Mr. Lawrence asked what changes are being proposed between the prior iteration of the MOU and this version. Ms. Vile replied that the main updates to the scope of the MOU include the addition of a 5-year capital improvement plan for infrastructure, a maintenance plan and any other plans the Tree Farm Management Group may have related to improvements, meeting with the Management Group halfway through the lease to discuss progress, additional reporting requirements, and changes to the subdivision section to prohibit subdivision unless by mutual agreement of the parties.

Mr. Watts said that he supports the framing of third-party management as the default arrangement for this agreement. Mr. Duggan noted that the Selectboard is generally supportive of having third-party management, but the Essex Junction City Council is not as supportive of that. He asked whether more flexible language could be incorporated into the MOU regarding management of the property, in order to allow the two parties to explore options.

Bruce Post expressed support for the new language ensuring that subdivision wouldn't occur unless there is mutual agreement.

Lorraine Zaloom asked if there has been a needs-based assessment conducted of who has and has not been able to use the fields when they need to. Ms. Vile replied that she can reach out to the Tree Farm Management Group for that information, but she does not think that any requests have been turned down.

7. CONSENT ITEMS

a. Approve minutes – September 12, 2022

b. Approve check warrants: #8026 – 9/9/22; #18033 – 9/16/22; #18035 – 9/23/22

c. Consider adoption of proposed Amendment to the Town of Essex Tree Care Policy

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- d. Consider approval of warning for Special Town Meeting on November 8, 2022.
- e. Review and possible adoption of 2022 All-Hazards Mitigation Plan and Annex

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

8. READING FILE

- a. Board member comments: Ms. Hill-Fleury thanked staff for the very positive experience at the Essex Experience event this past weekend.
- b. Upcoming meeting schedule
- c. Sexton's Report – bob Covey
- d. Chittenden County Regional Planning Commission Press Release – Broadband Vote

9. EXECUTIVE SESSION

- a. *** An executive session is anticipated to discuss the negotiating or securing of real estate purchase or lease options**

TRACEY DELPHIA made a motion, seconded by DAWN HILL-FLEURY that the Selectboard enter an executive session to discuss the negotiating or securing of real estate purchase or lease options in accordance with 1 V.S.A. Section 313(a)(2) and to include the Town Manager, Deputy Manager, and Director of Parks and Recreation. The motion passed 4-0 at 10:04 P.M.

DAWN HILL-FLEURY made a motion, seconded by ETHAN LAWRENCE, that the Selectboard exit executive session. The motion passed 4-0 at 10:50 P.M.

10. ADJOURN

ETHAN LAWRENCE made a motion, seconded by TRACEY DELPHIA, to adjourn the meeting. The motion passed 4-0 at 10:51 P.M.

Respectfully Submitted,
Amy Coonradt,
Recording Secretary

Approved this 17th day of October, 2022
(see minutes of this day for corrections, if any)


Ethan Lawrence, Selectboard Clerk