



TOWN OF ESSEX SELECTBOARD REGULAR MEETING AGENDA

Online
Essex Junction, VT 05452
Monday, May 3, 2021
6:30 PM

E-mail: manager@essex.org

www.essexvt.org

Phone: (802) 878-1341

Due to the Covid-19 pandemic, **this meeting will be held remotely**. 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](#). Depending on your browser, you may need to call in for audio (below).
- **JOIN CALLING:** Join via conference call (*audio only*): (802) 377-3784 | Conference ID: 150 964 34#
- **PROVIDE FULL NAME:** For minutes, please provide your full name whenever prompted.
- **CHAT DURING MEETING:** Please use "Chat" to request to speak, only. **Please do not use for comments.**
- **RAISE YOUR HAND:** Click on the hand in Teams to speak or use the "Chat" feature to request to speak.
- **MUTE YOUR MIC:** When not speaking, please mute your microphone on your computer/phone.

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 about Fiscal Year 2022 Water and Sewer Budget and Rates
6. **BUSINESS ITEMS**
 - a. Consider adoption of Fiscal Year 2022 Water and Sewer Budget and Rates
 - b. Hearing for Dog Bite Complaint
 - c. *Consider resident request that the Selectboard share potential texts and messages created during past Selectboard meetings
 - d. Consider approval of Human Services Funding for fiscal year 2021
 - e. Consider approval of focus areas for Human Services Funding in fiscal year 2022
 - f. Consider transferring portion of remaining merger funding to Village of Essex Junction for separation exploration
 - g. Discuss American Rescue Plan Act money and possible process for sharing funding with Village of Essex Junction
 - h. *Legal discussion on Village of Essex Junction's proposed separation from Town of Essex
7. **CONSENT ITEMS**
 - a. Consider awarding 2021 Summer Paving bids
 - b. Consider adoption of fiscal year 2022 Essex Parks and Recreation Program Fund Budget
 - c. Consider approval of annual Arbor Day Proclamation
 - d. Approve minutes: April 19, 2021
 - e. Check Warrants: # 17848 – 4/16/21; #17851 – 4/23/21
8. **READING FILE**
 - a. Board member comments
 - b. Essex Community Justice Center Spring 2021 Newsletter
 - c. Memo from Sarah Macy re: Tax Sale Policy – Threshold for Tax Sale NOT met
 - d. Letter of resignation from Fran Kinghorn, Cemetery Commission
 - e. Committee on Equity for Essex Newsletter, April 2021
 - f. Letter from Andrew Brown re: Independent City of Essex Junction
 - g. Chittenden County Regional Planning Commission April Newsletter
 - h. Upcoming meeting schedule
9. **EXECUTIVE SESSION**
 - a. *An executive session may be anticipated to discuss legal matters
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 Chair, 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 Chair. 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:  4/30/2021

SELECTBOARD

May 3, 2021

TOWN OF ESSEX SELECTBOARD REGULAR MEETING May 3, 2021

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

ADMINISTRATION: Evan Teich, Unified Manager; Chris Ashley, Animal Control Officer; Greg Duggan, Deputy Manager; Bill Ellis, Town Attorney; Rick Garey, Police [Support Services Director](#); Tammy Getchell, Assistant to the Manager; Ron Hoague, Police Chief; Wendy Hysko, Brownell Library Director; Lt. Rob Kissinger, Police; Dennis Lutz, Public Works Director; Brad Luck, Essex Junction Recreation & Parks Director.

OTHERS PRESENT: Bob Burrows, Raj Chawla, Kevin Collins, Annie Cooper, Patty Davis, Jon Demeritt, Karen Deutscher, Erin Dickinson, Karen Dolan, Betsy Dunn, Erin Ennis, Maureen Gillard, Susan Hale, Megan Humphries, Tamara Jaques, Lisa LaBerge, Amber Leventry, Rachael Lizotte, Deb McAdoo, Timothy Miller, Scott Moore, Adam Newhard, Sarah Nosek, Shannon Osborne, Bruce Post, Mary Post, Roseanne Prestipino, Nathaniel Quealy, Mark Roberts, Angel Segarra, Brian Shelden, Ken Signorello, Bill Silverstrim, Gabrielle Smith, Harlan Smith, Margaret Smith, Liz Subin, Mike Sullivan, Melanie T., Mike Thorne, George Tyler, Phyllis Willey, Irene Wrenner, Dennis _____, Jeanne _____, Joe _____, RM.

1. CALL TO ORDER

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

2. AGENDA ADDITIONS/CHANGES

None at this time.

3. AGENDA APPROVAL

No approval needed, as no changes were made.

4. PUBLIC TO BE HEARD

a. Comments from Public on Items Not on Agenda

None at this time.

5. PUBLIC HEARING

a. Public Hearing about Fiscal Year 2022 Water and Sewer Budget and Rates

Mr. Lutz spoke about the proposed water and sewer budget and rates. He noted that the State will contribute professional staff and equipment to examine the Town's water loss issues, based on surveillance data reporting conducted by the Town on its sites.

He noted that the proposed water budget for FY2022 increased by 3.5%, and the proposed rate increase is 2.8%; and the proposed sewer budget for FY2022 increased by 3.7% and the proposed rate increase is 3%. He said that drivers of the increases include salary, fringe, and benefits (one third of the increase), the cost of water from Champlain Water District, and cost to treat it at the Village of Essex Junction wastewater treatment plant. 83% of budget increases are tied to these three areas. He said that an average water bill for an average user (200 gallons per day) would result an increase in \$32.85 per year.

Ms. Dunn asked if there is asbestos in the water lines. Mr. Lutz replied that in the 1950s and 1960s, there were sections installed that have asbestos water lines but that they pose no threat to anyone because they are sealed, and the asbestos is tested regularly. The only danger that it poses is if workers need to cut those asbestos pipes and they breathe it in. He said the EPA is more focused on lead in the water lines, especially those to houses (but not the water main).

DAWN HILL-FLEURY made a motion, and VINCE FRANCO seconded, to close the public hearing. The motion passed 5-0.

6. BUSINESS ITEMS

a. Consider adoption of Fiscal Year 2022 Water and Sewer Budget and Rates

PATRICK MURRAY made a motion, and TRACEY DELPHIA seconded, to approve the proposed budget as submitted, resulting in the following changes to the rate and billing structure:

Water Rates/Fees: 1) increase the water rate from \$5.62/1,000 gallons to \$5.78/1,000 gallons 2) Increase the water initiation fee at \$1000 base fee per connection plus \$5.73/gpd of capacity to \$1000 base fee plus \$5.78/gpd of capacity 3) set the water minimum charge per year at \$180. 4) Interim or Final Billing request at \$35 2) ;

Sewer Rates/Fees: 1) increase the sewer operating fee from \$9.64/1,000 gallons to \$9.93/1,000 gallons 2) maintain the sewer initiation fee at \$1,000 base fee per connection plus \$10.30/gpd of capacity. 3) Interim or Final Billing request at \$35;

Additionally, the rate change and interim/final billing request would go into effect on all water/sewer usage with the billing period starting after the spring 2021 billings. The first Town-wide billing under the new rates would not occur until the fall of 2021.

The motion passed 5-0.

b. Hearing for Dog Bite Complaint

Mr. Duggan noted that on April 26, the Town Manager's Office received a complaint of a vicious dog attack and the victim made the request to have a dog hearing. He noted that the Town is required to hold a hearing within seven days of the complaint.

The Animal Control Officer, Ms. Ashley, spoke about the incident, noting that it occurred on April 25 at Autumn Pond Way. She said that Ms. Osborne (the complainant) was mauled by a dog coming around a corner of the apartment building's hallway and that she was taken to the hospital and received six stitches. She said that Ms. Boulanger had been walking the dog and that the dog was spooked when they met suddenly with Ms. Osborne when they entered the building and the dog subsequently lunged at Ms. Osborne. She said that Mr. Quealy (the dog's owner) is taking measures to keep his dog under control, including: training classes, the use of muzzles, an electric collar, and a short lead and choke collar. She noted that this is not the first dog bite incident with this dog (there was one on March 19, 2021), and that there is the potential for future incidents since the apartment complex is large. She further noted that Mr. Quealy has said he is moving to a house at the end of the month, which should alleviate that risk. She finally noted that she thinks the measures that Mr. Quealy is taking are appropriate and is interested in further measures the Selectboard thinks are appropriate.

SELECTBOARD

May 3, 2021

Ms. Delphia asked if the dog has since been registered. Mr. Garey said the dog has not been registered (registration lapsed in 2020), but that Mr. Quealy has been instructed that it must be. He said that registrations are significantly down due to Covid.

Ms. Osborne was sworn in. She said the reports by Mr. Garey and Ms. Ashley are factual and that she has nothing else to add.

Mr. Murray asked if Ms. Osborne approves of the measures taken thus-far to deal with the incident. Ms. Osborne replied that she would like to avoid euthanasia. She added that despite muzzles and safety precautions, the dog is not socialized properly to be around people and that she has had prior encounters with the animal.

Mr. Quealy expressed remorse to Ms. Osborne for the incident. He noted that his dog, Titan, is a 110-pound German shepherd. He disagreed with Ms. Osborne's statement that the dog is poorly socialized around strangers, since he hadn't exhibited this behavior prior to March and has been extensively trained. He said the dog had been spooked by dogs outside and then again when entering the apartment complex. He said he is now the only one who takes Titan out, that he has a muzzle, shock collar, and short lead on at all times outside, and that he tries to take him out at times when there are the fewest people around.

Mr. Murray noted that Mr. Quealy was a state trooper and asked whether this is a police canine. Mr. Quealy replied no.

Mr. Watts asked about a timeline for additional training. Mr. Quealy replied that he doesn't have a timeline yet, but that he has a trainer in mind and will work with the trainer to establish a timeline and payment plan.

Mr. Watts noted that many of the options listed have been put in place already. He said he would recommend the muzzle and the short leash. Mr. Murray suggested banning the dog from dog parks. Ms. Delphia said that she would also like to include immediately enrolling the dog in further training classes. She said this is the second event in two months. Mr. Murray said as far as available trainers, it might not be possible for Mr. Quealy to complete that within a month.

VINCE FRANCO made a motion, and DAWN HILL-FLEURY seconded, that the Selectboard enforces the following restrictions on the dog known as Titan:

That the dog be on a leash and muzzled whenever outside, that he be barred from entry to all dog parks and other parks including Indian Brook Park, and that his owner is required to within 30 days provide proof that he has a training scheduled for the dog within six months to address behavioral issues. The motion passed 5-0.

c. *Consider resident request that Selectboard share potential texts and messages created during past Selectboard meetings

Mr. Duggan said the Selectboard has received a request from Mr. Silverstrim to turn over all text and Facebook messages produced in the past (either 2 months or 1 year) during Selectboard meetings. Mr. Silverstrim asked that Selectboard members turn them over voluntarily and not through a public records request, though staff have recommended that the Selectboard treat this like a public records request to ensure that precedent is followed, the process is transparent, and that all rights are protected.

SELECTBOARD

May 3, 2021

Mr. Silverstrim said he would also like any Facebook chat messages in a group of three or more Selectboard members, regardless of when they took place (since that constitutes a quorum). He also asked whether the Secretary of State and Attorney General be involved.

Mr. Post spoke about transparency as an essential element to open democratic government. He spoke about the strong transparency requirements for public officers in Vermont. He said the Selectboard should consider inviting the Secretary of State to conduct a presentation on transparency for the Selectboard, staff, and public.

Mr. Demeritt asked if the Selectboard members to which this pertains could be excluded from executive sessions on the issue. Mr. Watts replied that all Selectboard members need to be present in the session, especially any members who are violating policy.

Ms. Wrenner noted that voicemails and emails also fall under the purview of open meeting law and public records requests.

Ms. LaBerge asked that the Selectboard also consider that these texts and communications are a violation of open meeting law and need to be investigated as such.

The Selectboard will discuss further in executive session.

d. Consider approval of Human Services Funding for Fiscal Year 2021

Ms. Getchell said new guidelines have been put into place to guide applicants through the process of applying for Human Services Funding. She said that this year the Town received 33 applications and \$270,000 in requests, which is a 45% increase over last year. She said this shows that the Town has been able to get the word out and make the pool of applicants more diverse. She noted that the total grant funding available is \$153,322 and that some grants were recommended to be funded at 90% or 75% of their original ask.

Mr. Teich asked what improvements have been made in the application process in the last several years. Ms. Getchell said she researched what had been done in the past as well as what other municipalities have done in terms of this kind of funding. She said she and the volunteer committee devoted to Human Services Funding then put together a draft policy, draft guidelines, and a timeline for applying for this funding in a standardized fashion. Other changes included revising the focus areas for grants and adding a category for diversity, equity, and inclusion. Ms. Getchell also noted that she conducts rigorous communication and outreach to alert potential applicants to this funding opportunity.

Ms. LaBerge asked about the inclusion of the ecumenical ministry as one of the grantees. Mr. Watts clarified that the ecumenical ministry is a 501(c)(3) organization and doesn't conduct religious outreach.

TRACEY DELPHIA made a motion, and DAWN HILL-FLEURY seconded, that the Selectboard approve contribution to the human services agencies as presented in the attached list, with the caveat that the recommendations for Voices for Inclusion in Essex and Westford is contingent upon their being granted 501(c)(3) status. The motion passed 5-0.

e. Consider approval of focus areas for Human Services Funding in Fiscal Year 2022

The Selectboard reviewed the categories included as eligible for these grants. They are access to health and behavioral health; affordable housing or housing assistance; child or family support for health

SELECTBOARD

May 3, 2021

relationships; diversity, equity and inclusion; and emergency food and disaster relief. Mr. Watts said the categories are based on the Chittenden County Regional Planning Commission's ECOS report, the University of Vermont Medical Center's community needs assessment, and Selectboard requests.

TRACEY DELPHIA made a motion, and VINCE FRANCO seconded, that the Selectboard approve the focus areas as presented in Attachment C as human services priorities for FY2022 Human Services Funding. The motion passed 5-0.

f. Consider transferring portion of remaining merger funding to Village of Essex Junction for separation exploration

Mr. Teich said that in the past several years, the Selectboard has chosen to use surplus funds for the purposes of the merger discussion, for legal opinions, printing costs, or extra costs related to the elections. He noted that roughly \$70,000 in surplus funds remains, and with the Village now exploring separation, he asked whether the Town Selectboard would consider reallocating some of that funding to the Village to conduct work related to pursuing separation.

Ms. Hill-Fleury said that given that the funding came from surplus funds and was designated for now-dead merger, the funds should be returned to the surplus and designated later on.

Mr. Franco said the funding could be used for the Town to evaluate separation without using the Village's tax dollars to do so. Mr. Murray agreed with this, saying that this is an equitable way to pay for legal fees for both entities.

Ms. Delphia said that until scope and timeline around separation are better understood, this conversation about surplus funding is premature.

Mr. Watts said that by approving, this would reallocate surplus funds for a new purpose.

Ms. Dunn expressed concerns about reallocating funding for the Village to pursue separation while they are conducting the pursuit behind closed doors.

Ms. Lizotte said she missed public to be heard, and spoke about accessibility to local government, saying that the Town Selectboard's meetings, while more inviting to participation given that they are currently held virtually, are not held at a time or duration that is accessible for the general public. She said the population who will be most adversely impacted by separation are unable to attend these meetings. Mr. Watts replied that the first discussion about separation will occur later this meeting.. He also noted that the Village has not made a request for this funding.

Mr. Silverstrim agreed that this discussion about moving funding is premature.

Mr. Moore noted that this funding was raised through Town taxes and that whichever way it is spent will be for the benefit of all Town residents.

Mr. Roberts said that money should not be spent in ways that will not benefit the Town. He suggested either returning it to the General Fund or using it for the Town's legal fees.

Ms. Ennis said the Village residents are also Town residents and that he supports splitting the funding equitably.

SELECTBOARD

May 3, 2021

241
242 Ms. Humphries said the funding in question includes both Town and Village tax dollars. She echoed
243 thoughts about making these meetings more accessible.
244
245 Ms. Davis asked if one Town attorney could be the attorney representing two components of the Town.
246 Mr. Watts replied that there are different legal entities involved for the Town and the Village.
247
248 Mr. Smith said that these fees could be used for outreach in addition to legal fees. Mr. Watts replied that
249 a question arose at a prior meeting about the fairness of Village residents paying Town legal fees and
250 vice versa, which is where this legal discussion came in. He said the money was intended for any
251 purpose around merger, which does include outreach.
252
253 Ms. Cooper reiterated how confusing it is in the context of merger or separation conversations that
254 Village residents are also Town residents.
255
256 Ms. Gabrielle Smith said this is less about actual money than about a feeling of equity and fairness
257 during the separation conversation. She expressed appreciation that the Selectboard is willing to weigh
258 these options.
259
260 Mr. Post said this is a question of giving money to a separate municipality. He said that given how much
261 of a tax increase could potentially occur were separation to move forward, the Town should retain as
262 much funding as possible to prepare for that.
263
264 Ms. Wrenner commented that any funding from the Town should be used to protect the Town's
265 interests.
266
267 Ms. McAdoo spoke about long-held tax inequities between the Town and Village and urged
268 collaboration to fix it.
269
270 Mr. Signorello said the funding should be allocated to the Town as a whole's cost of separation that it
271 would be likely to encounter.
272
273 Ms. Dunn said that since merger has ceased to be an issue, the surplus funds should go into the General
274 Fund and should be determined by the Selectboard how they should be used.
275
276 Mr. Franco said that any negotiations that will occur will be between the Selectboard and the Trustees,
277 not with residents. He said that reallocating the funds would be a show of good faith.
278
279 Ms. Delphia said that any money spent on communications and public relations benefit the entire Town,
280 including the Village. She said that a clear scope and timeline need to be defined if these funds are to be
281 used for legal fees.
282
283 Ms. Hill-Fleury asked if the Selectboard can legally use funds that were dedicated for one initiative to
284 somewhere else. Mr. Watts replied that yes, they can be reallocated to another source if the Selectboard
285 chooses to do so. Ms. Hill-Fleury added that she would like to see a plan prior to allocating this funding.
286
287 The Selectboard will continue discussion of this item at its May 17, 2021 meeting.
288

SELECTBOARD

May 3, 2021

g. **Discuss American Rescue Plan Act (ARPA) money and possible process for sharing funding with Village of Essex Junction**

Mr. Teich noted that billions of dollars have been set aside for states and municipalities in federal funds related to ARPA. He said the federal government will use 2019 census data to allocate funds on a per-capita basis. Details are still not known about requirements around the funding (how it can be spent and on what). He noted that the funds will come to the Town for roughly 21,000 people and that the Town will have roughly 3 years to expend the funds. He asked the Selectboard to contemplate how the monies could be allocated between the Village and Town and processes for doing so.

Mr. Watts noted that he attended the latest Vermont League of Cities and Towns' advocacy meeting and they'd noted that they anticipate receiving guidance from the U.S. Dept of Treasury this week. He also noted that incorporated villages may get their own allocation, so it wouldn't be necessary to figure out allocating between the Town and Village.

Mr. Murray suggested setting aside funding for a community committee, to receive community input on how to use certain funds. Ms. Delphia concurred.

h. ***Legal discussion on Village of Essex Junction's proposed separation from Town of Essex**

This discussion happened later in executive session.

7. **CONSENT ITEMS:**

- a. **Consider awarding 2021 Summer Paving Bids**
- b. **Consider adoption of Fiscal Year 2022 Essex Parks and Recreation Program Fund Budget**
- c. **Consider approval of annual Arbor Day Proclamation**
- d. **Approve minutes: April 19, 2021**
- e. **Check Warrants: #17848-4/16/21; #17851-4/23/21**

DAWN HILL-FLEURY made a motion, and VINCE FRANCO seconded, to approve the consent agenda. The motion passed 5-0.

8. **READING FILE:**

- a. **Board member comments:** Ms. Hill-Fleury thanked Fran Kinghorn for her service on the Cemetery Commission. Mr. Watts noted that this is public service recognition week and thanked municipal staff, the Police Department, the Fire Department, teachers, and other invaluable public service workers for their service.
- b. **Essex Community Justice Center Spring 2021 Newsletter**
- c. **Memo from Sarah Macy, re: Tax Sale Policy – Threshold for Tax Sale NOT met**
- d. **Letter of resignation from Fran Kinghorn, Cemetery Commission**
- e. **Committee on Equity for Essex Newsletter, April 2021**
- f. **Letter from Andrew Brown re: Independent City of Essex Junction**
- g. **Chittenden County Regional Planning Commission April newsletter**
- h. **Upcoming meeting schedule**

9. **EXECUTIVE SESSION:**

- a. ***An executive session may be necessary to discuss legal matters**

SELECTBOARD

May 3, 2021

TRACEY DELPHIA made a motion, and DAWN HILL-FLEURY seconded, that the Selectboard make the specific finding that general public knowledge of confidential attorney-client communications made for the purpose of providing professional legal services to the body would place the Town at a substantial disadvantage. The motion passed 5-0.

TRACEY DELPHIA made a motion, and DAWN HILL-FLEURY seconded, that the Selectboard enter into executive session to discuss 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)(F) to include the Town Attorney, Unified Manager, and Deputy Manager. The motion passed 5-0 and the Selectboard entered into executive session at 9:18 PM.

DAWN HILL-FLEURY made a motion, and VINCE FRANCO seconded, to exit executive session. The motion passed 5-0 at 10:40 PM.

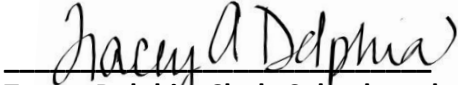
ANDY WATTS made a motion, and DAWN HILL-FLEURY seconded, that the Selectboard treat Mr. Silverstrim's request as a public records request and authorize staff to work with Mr. Silverstrim to respond to the request. The motion passed 5-0.

10. ADJOURN:

TRACEY DELPHIA made a motion, and DAWN HILL-FLEURY seconded, to adjourn the meeting. The motion passed 5-0 at 10:43 PM.

Respectfully Submitted,
Amy Coonradt
Recording Secretary

Approved this 17th day of May, 2021
(See minutes of this day for corrections, if any)


Tracey Delphia, Clerk, Selectboard
(see minutes of this day for corrections, if any)