

Resolution 44-50

TOWN OF ESSEX

PO Box 355
2313 Main Street
Essex, New York 12936

Edward Gardner
Supervisor

Patricia Gardner
Town Clerk

TOWN COUNCIL:

Claire LaPine
Bryan Garvey
James LaForest
Gretel Schueller

July 13, 2017

Town Board Meeting

Supervisor Gardner opened the meeting at 6:30 pm leading the Pledge of Allegiance.

Roll Call:

Councilperson LaPine	x
Councilperson Garvey	Excused
Councilperson LaForest	x
Councilperson Schueller	Absent
Supervisor Gardner	X

Supervisor Gardner offered the floor to those in attendance. Tom Stransky spoke saying he heard the restroom outback was not open. Both the Supervisor and Councilperson LaPine replied the situation and that a timer lock will be installed. It should be noted that our cleaning person only comes in once per week making it difficult to keep it clean. He then spoke that the Town should hire a grant writer to apply for a grant for the marina. Supervisor Gardner said that, #1 it is a privately-owned operation not affiliated with the town and #2 there is no money in the budget. It was also noted that the town uses the county grant writers. . Mr. Stransky felt that was the town was not doing enough to support the business. Councilperson LaPine replied that she made the decision to not open the bathroom because of the problems and she is in favor of supporting our local business refuting some rumors that she has heard.

The library is looking to put a deck on the back of the building. They were frugal in spending the grant that they were awarded with money left over. The grantor does not want the money back so this will allow them the funds to do this. They have gone through the APA, and are currently working with the ZBA to permit this. On a motion made by James LaForest and seconded by Claire LaPine to allow the library to go forward with this project it was voted on with all in favor.

**RESOLUTION 44-2017
Essex Water Project Improvements and Enhancements at Beggs Park
RESOLUTION, FINDING and CERTIFICATION OF CONSISTENCY WITH TOWN OF ESSEX LOCAL
WATERFRONT REVITALIZATION PLAN AND LAW
July 13, 2017**

WHEREAS, the NYS Secretary of State approved the Town of Essex’s Local Waterfront Revitalization Plan (LWRP) on July 29, 2003, and;
WHEREAS, the implementation law for local consistency is located in Appendix D of the LWRP document, and;
WHEREAS, the law defines an “action” that will be subject to local consistency review, and the proposed water treatment plant expansion and improvement being undertaken by the Town, notwithstanding the immunity resolution to exempt the activity from zoning, meets the definition of an “action,” and;
WHEREAS, a local consistency review is required, and;
WHEREAS, the LWRP contains 11 coastal policies and a few subpolicies that seek to meet to the intent of the LWRP as set forth in the local consistency law, Section II.3, and;
WHEREAS, the Town Board of the Town of Essex has completed a local consistency review based on a review of the proposed action for consistency with the local coastal policies, a copy of which is appended to this Resolution, and moreover has determined that the proposed action would result in a significant public benefit by providing potable drinking water to the hamlet of Essex,
NOW, THEREFORE BE IT RESOLVED THAT:

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TOWN OF ESSEX
Essex Water Project Improvements and Enhancements at Beggs Park
FINDINGS IN SUPPORT
July 13, 2017

Based upon deliberations of the Town Board of the Town of Essex, the Town Board has reached the conclusion that the Project should not be subject to the Town's zoning laws or regulations for the reasons set forth below:

1. *the nature and scope of the instrumentality seeking immunity;*

The Town of Essex is a municipal corporation duly organized under the laws of the State of New York. The members of its Town Board are elected officials. Additionally, the subject property is wholly-exempt from taxation as owned by a municipal entity.

2. *the encroaching government's legislative grant of authority;*

The Project exists wholly within the municipal jurisdiction of the Town of Essex.

3. *the kind of function or land use involved;*

The land use and function of the proposed Project is to continue to provide quality drinking water to the residents and property owners within the Essex Water District in the hamlet of Essex. The Essex water system's existing source, treatment, and main distribution line were developed and co-located with the development of Beggs Park in the mid-1970s and continue to provide the community with drinking water and recreational amenities. System development pre-dates the local zoning regulations and laws. Utility uses are permitted special uses in the hamlet and the shoreline overlay districts.

The expansion project is designed to be compatible with park-related uses and to improve the quality of drinking water as mandated by the NYS Department of Health (NYSDOH) and the U.S. Environmental Protection Agency. To ensure the expanded Town facility is designed thoughtfully and built to be compatible with the existing community character, additional enhancements, including a railed viewing platform, public restroom, and drinking fountain are included in the design. Furthermore, the façade, storm water, and landscaping improvements will blend better with the park and shoreline landscape than the existing eyesore and unappealing site conditions.

4. *the effect local land use regulation would have upon the enterprise concerned;*

The extent of the Town's non-compliance with local zoning regulations is expected to be minimal and is limited to the encroachment of the shoreline setbacks. The existing treatment plant is already located within the shoreline setback boundary. The proposed expansion and improvements will not further encroach towards the lake and instead will expand the building footprint inland.

The Town of Essex is not proposing a larger footprint than is necessary for the building expansion to accommodate the treatment train equipment required by the NYSDOH and for the provision of a public bathroom to accommodate Office of Parks, Recreation and Historic Preservation requirements. Park users already use the flat-roofed building as a viewing platform, and in its present condition, it is dangerous. The building expansion and improvements will enable the Town of Essex to install a proper multi-purpose room with safety railings. Together these represent the least expansion necessary to protect public health and safety.

The effect of compliance with local zoning will create redundancy in environmental and variance proceedings with those already underway by the APA and the Town's review of potentially significant adverse environmental impacts in accordance with the State Environmental Quality Review Act (SEQRA) More importantly, compliance with local zoning laws will delay construction and institutionalization of improved drinking water quality for the residents and property owners of the water district.

5. *alternative locations for the facility in less restrictive zoning areas;*

There are no alternative locations for the water treatment plant in less restrictive zoning areas, providing the same benefits of its existing location. The Town has control over the project site and to acquire alternate locations, were they available and suitable, which they are not, would substantially increase the Project's budget and timeline, thereby creating a violation of the US EPA and NYSDOH consent orders.

The 432 SF treatment plant built in 1975-1977 already exists within the shoreline setback boundary and is in the best possible location relative to the existing system appurtenances and maintaining open space as the highest and best use of the park. The shoreline restrictions present a practical difficulty because the Essex Water District and its nearly 350 users have relied upon the water treatment plant, located within the shoreline boundary, for its drinking water. Relocation of the treatment building cannot be mitigated by alternative approaches. For example, demolishing the existing treatment building and building another one out of the shoreline setback boundary would be a less practical and costlier alternative, exceeding the amount of grant funds available. Demolition and

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decommissioning of the existing aboveground and underground water system infrastructure would be an exorbitant cost. Building a new facility and redeveloping underground appurtenances would also require blasting and more disruption of the park activities. Building upslope would also interfere more with the companion park functions and visual environs by raising its site elevation, making it more central in the parkland, and interfering with access to the dock and lakeside pavilion.

6. *the impact upon legitimate local interests;*

The Projects entails a municipal public health-public benefit project occurring on lands owned by the Town of Essex. Public health and safety of Town of Essex residents and visitors is of utmost importance. The Town finds that safe drinking water is the lifeblood of the community.

In addition, Beggs Park is an important economic resource for Essex, providing visitors and residents with shoreline access, lake vistas, and recreational space. Once the grant-funded, water improvement project opportunity passes, there are no guarantees that enhancements and park amenities will be made anytime in the near future.

The Project and its park enhancements will not have a detrimental effect on nearby properties in terms of visual or economic factors. The visual character of the site will be enhanced by the proposed improvements to the water treatment plant.

Finally, the Town has a legitimate public interest to protect the value of nearby properties, which may be adversely impacted if the project doesn't go forward and they lose their main source of drinking water.

7. *alternative methods of providing the proposed improvement;*

Lake Champlain provides the Town of Essex with a reasonably unlimited supply of water, but not without concern. Surface water's organic content requires substantial treatment in order to protect public health. Both the NYS Department of Health and the US Environmental Protection Agency require the Town of Essex to filter and treat raw water to remove pathogens and organics.

Over several years, the Town of Essex has conducted a very comprehensive comparative cost and feasibility analysis in order to determine the most efficient alternative for upgrading the water treatment ability of the Town. Unfortunately, the Town does not own lands within the village that are in close proximity to the existing potable water distribution system. If the Town were to purchase new land, it would need to remain close to the existing distribution system so that a connection could be economically feasible. Additionally, if the Town were to purchase new land for the development of a potable water treatment and distribution facility, the land would also need to have adequate water supply in the form of a well or available surface water. As there are no lands matching these requirements, the Town investigated the possibility of constructing well sites on lands owned by local residents.

Over several years, a comprehensive groundwater study was conducted by a professional hydrologist proximate to the water district. Four private parcels with potential groundwater were selected together with the Fire District property. These private properties did not yield sufficient or adequate water to replace the current supply. There is no municipally owned property available that offers an adequate ground water supply, strategic location for source, treatment and access to the Town of Essex's existing distribution system.

The Town also had the project engineer evaluate the option of moving the water treatment plant up to the parcel hosting the water tower and constructing a new main to bring water from the lake up to a new treatment plant. Several problems became apparent. First, the acreage at the water tower was insufficient to accommodate the treatment plant. Second, the cost of this option was prohibitive, particularly due to the archeological and historic district resources located between the park and the water tower. The cost of this option significantly exceeded the amount of public funds available. Third, insufficient funds would not provide for decommissioning the old treatment plant, leaving Beggs Park with an eyesore, no public restrooms, or stormwater management.

The Town of Essex further evaluated the feasibility of contracting with the Town of Willsboro to the north for water and installing a water main to connect the Town of Essex systems. This proved cost-prohibitive, far exceeding the amount of grant funds available and resulting in excessive annual user fees. The NYSDOH has previously recommended installing wells close to the existing treatment building. Two of the three test-wells in the vicinity of the treatment plant on Beggs Point produced an adequate supplementary supply to the lake water. Blending the two supplies would provide adequate volume to meet demand and help address water quality concerns associated with the surface supply treatment. Due to increased water use in the summer months, the Town of Essex must supplement raw water flow with surface water from Lake Champlain. Thus, the existing site is the most suitable as it offers the ability to treat groundwater and surface water in the same location.

8. *the extent of the public interest to be served by the improvements;*

In the opinion of the Town Board of the Town of Essex, not moving forward on the Project will cause a material detriment to the public health and welfare and the loss of public drinking water will be injurious to property in the vicinity.

The impacts on public health and safety are significant and completely outweigh any minor, site-specific or temporary impacts caused by modestly expanding the building footprint within the shoreline boundaries. The

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proposed Project improvements provide a significant public benefit and serve the public interest by improving the natural, scenic, aesthetic, and open space resources of Beggs Park. Such improvements also address site specific stormwater management issues near Lake Champlain, and change the aesthetic character of the facilities in a positive manner. These public benefits would not otherwise occur and accrue to residents and visitors of the Town of Essex. The public interest is best served if residents have safe drinking water, an improved park character, and a modern, aesthetically pleasing building appearance that is consistent with the community character.

9. intergovernmental participation in the project development process and an opportunity to be heard.

The APA Variance Proceedings that are currently underway are open to the public. The APA will provide notice to property owners within 500' of Beggs Park and will schedule a public hearing in the Town of Essex sometime in late July or early August.

The Town of Essex is also Lead Agency for the SEQRA compliance proceedings that are also underway. The Town has begun to solicit and consider comments from other involved and interested agencies, including NYS Office of Parks, Recreation, and Historic Preservation, NYS DEC, NYSDOH, and US Army Corps of Engineers. Accordingly, the public, and other interested and involved agencies will have the opportunity to be heard and comment on the Project.

**RESOLUTION 46-2017
TOWN OF ESSEX**

July 13, 2017

Resolution 46-2017 is being made to revise the Standard Work Day and Reporting for Elected and Appointed officials as attached.

Motion Made by James LaForest

Seconded by Claire LaPine

Roll Call Vote:	YES	NO
Councilperson LaPine	X	
Councilperson Garvey	Excused	
Councilperson LaForest	X	
Councilperson Schueller	Absent	
Supervisor Gardner	X	

**RESOLUTION 47-2017
TOWN OF ESSEX**

July 13, 2017

Resolution 47-2017 is being offered to state the intentions of the unspent proceeds in the Sewer Capital Project. The amount of \$30,890, the unspent balance will be used to make an additional payment to the General Fund for money owed from the Capital Project, per Resolution 88-2015.

Motion Made by James LaForest

Seconded by Claire LaPine

Roll Call Vote:	YES	NO
Councilperson LaPine	X	
Councilperson Garvey	Excused	
Councilperson LaForest	X	
Councilperson Schueller	Absent	
Supervisor Gardner	X	

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**RESOLUTION 48-2017
TOWN OF ESSEX**

July 13, 2017

Resolution 48-2017 is being offered to allow the Supervisor to sign an adjusted contract with Ann Ruzzo Holland, Consultant for the Essex Water Project. The scope of work was budgeted for \$20,000. Because of added permitting involved it is estimated to need an additional \$18,000. The letter of amendment changes are in paragraph 4 of section 3 to read, *“Compensation for the performance of the scope of work is budgeted at \$38,000 (thirty-eight thousand dollars for a 15-month period) based upon what is known now about the project scope and scale.*

No other terms and conditions in the original agreement are changed.

Motion Made by James LaForest

Seconded by Claire LaPine

Roll Call Vote:	YES	NO
Councilperson LaPine	X	
Councilperson Garvey	Excused	
Councilperson LaForest	X	
Councilperson Schueller	Absent	
Supervisor Gardner	X	

**RESOLUTION 49-2017
TOWN OF ESSEX**

July 13, 2017

Resolution 49-2017 is being offered to put out for bid, the equipment needed for the new water filtration system. The attached is the actual specification for the filtration system.

Motion Made by James LaForest

Seconded by Claire LaPine

Roll Call Vote:	YES	NO
Councilperson LaPine	X	
Councilperson Garvey	Excused	
Councilperson LaForest	X	
Councilperson Schueller	Absent	
Supervisor Gardner	X	

**RESOLUTION 48-2017
TOWN OF ESSEX**

July 13, 2017

Resolution 48-2017 is being offered to adjust the wording of the Town of Essex Sewer District #1, Wastewater Treatment/User Charge Ordinance as follows:

Under article 8 page 6 8.1.14 add “Code Enforcement Officer” at the end of the second sentence.

Under Article 11, page 10 11.2 to “Town of Essex Wastewater Treatment Officer (T.E.W.W.T.P.O.) in place of shall notify the T.E.C.E.O.

Motion Made by Claire LaPine

Seconded by James LaForest

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	Roll Call Vote:	YES
	NO	
Councilperson LaPine	X	
Councilperson Garvey	Excused	
Councilperson LaForest	X	
Councilperson Schuller	Absent	
Supervisor Gardner	X	

Old Business: Shared Services for Beach was tabled again until more information is given.

Supervisor Gardner again asked if there was anyone in the public who wanted to speak. Jen Hughes informed the board that EI has a work party at the beach to improve the tunnel access with the help of Brad French. He spoke of their newsletter and asked of the status of the bathrooms.

Andy Buchanan commented on the appraisal that was done on the Grange building, stating the only reason for one was for a sale. He was disappointed that the board did not communicate with the Grange board over this matter. Supervisor Gardner and Councilperson LaPine responded that this was done because the fair market value must be obtained for rental and sale purposes. The NYS law does not allow any municipality to give gift to any organization and by having our liaison at the Grange meeting is illegal because it constitutes a quorum for a Town Board Meeting. After much discussion James LaForest suggested that the two boards should meet to go over these issues.

Motion made by James LaForest and seconded by Claire LaPine to accept the Town Clerks and Supervisors Reports. All in favor no nays.

Motion by Claire LaPine and Seconded by James LaForest to accept the Supervisors Report. All in favor no nays.

Supervisor Gardner made a motion to enter Executive Session to discuss personnel matters. James LaForest seconded it.

At 7:55 on a motion by Claire LaPine to end the Executive Session with no action being taken. All in favor.

James LaForest made the motion to adjourn, seconded by all.

Respectfully Submitted
Patricia Gardner
Town Clerk