



August 18, 2020

Representative Sarah Copeland Hanzas, Chair, House Government Operations Committee
Representative John Gannon, Vice Chair, House Government Operations Committee

RE: H.944 -- Amendments to the Town of Essex Charter

Dear Chair Copeland Hanzas and Vice Chair Gannon,

Thank you very much for your letter of May 29, 2020 addressing proposed amendments to our Town charter for a six-member, district-based selectboard, which were the result of a citizen-backed petition and ballot initiative. The Essex Selectboard has had lengthy discussions regarding the concerns you raised in your letter and wishes to provide some clarification.

1. Board transition. Our charter states, "Unless necessary to fill a vacancy, no more than two selectmen shall be elected at any annual meeting." [VSA 24 § 117-203(c)] As a five-member board currently, the elections for the Selectboard run in a three-year cycle, with two seats up for election in year one, two seats in year two, and one seat in year three. Based on this schedule, a sixth member could be added to the third year of the election cycle without changing the Town charter. The election of 2021 is the third year in the cycle with one seat up for reelection, and will be the soonest opportunity until 2024 to transition to a six-member Selectboard. Notwithstanding the occasional vacancy, the election cycle could be changed to two seats up for election every year without changing the charter.
2. Reapportionment language. We agree that reapportionment language is necessary to ensure that, should the population change significantly in one district, voters in each district would continue to have proportional representation as directed by the U.S. Constitution. To that end, we request that the Committee include the language below, or other language deemed more acceptable, in H.944 if the Committee forwards the bill to the full Legislature for approval:
"The Town of Essex may be divided into wards by ordinance. The Selectboard--or its designee being the Board of Civil Authority or a special commission appointed by the Selectboard--may make changes to the number and boundaries of the wards in order to provide an equal division of population among them in accordance with U.S. Census data. Ward changes shall not be made more frequently than once in ten years. Such changes shall be approved by the Selectboard and shall become effective immediately upon approval unless a later date is established therein."

This language is based on the examples the Committee provided from Barre, Montpelier, and Rutland.

3. Even number of members. The Selectboard acknowledges the unusual nature of an even numbered board. Robert's Rules of Order, which is the procedural guidance the Selectboard traditionally uses, states that "On a tie vote, a motion requiring a majority vote for adoption is lost, since a tie is not a majority." (XIII § 44) This is current practice when one board member is absent (resulting in a temporary even numbered board). Because this is a procedural consideration, it does not necessitate changing the charter to accommodate it.

4. Timing. At the end of your May 29th letter you expressed the hope of “revisiting a charter change once the voters of the Town of Essex and the Village of Essex Junction have approved a plan of merger.” Due to COVID-19 and other pressing business, our boards have not been able to complete the plan of merger in time to put it on the November ballot. As a result the Committee will not see a merged community charter from Essex in the immediate future. As we develop the new charter, a key issue continues to be the governance structure of the merged community. Having clarity on whether or not the Legislature will accept a six-member selectboard will prove invaluable in helping our board and the Village of Essex Junction Board of Trustees present the merger plan to our voters.

As described above, in 2021 the Town’s election cycle will be on year three, with one seat up for election. Therefore, the Selectboard could begin to implement the new cycle of two seats every year as early as March of 2021. If we do not have clear direction from the Committee and approval by the Legislature in time, then we must wait until 2024 to add the sixth seat requested by voters.

The delay in implementing this proposed change to our Selectboard that was approved by voters in March of this year has caused considerable consternation in our community. We understand that in Vermont, municipal charter changes are subject to refinements imposed by the Legislature and must be approved by the Legislature. With respect, we request the clarity of a specific ruling so that our community can move forward.

We thank you very much for the time and consideration you have given our Town’s proposed charter change, particularly in light of the significant burden COVID-19 has placed on our entire state. We would welcome the opportunity to provide you with any further information you may need, and stand ready to meet with you and the Committee to discuss H.944 in open session when you return at the end of August. Thank you again for your consideration.

Respectfully,

The Town of Essex Selectboard
Elaine Haney, Chair
Patrick Murray, Vice Chair
Vincent Franco
Dawn Hill-Fleury
Andrew Watts

cc: Evan Teich, Unified Manager
Greg Duggan, Deputy Manager
Susan McNamara Hill, Clerk
Bill Ellis, Town Attorney
Village of Essex Junction Board of Trustees
Rep. Robert Bancroft
Rep. Dylan Giambatista
Rep. Lori Houghton
Rep. Linda Myers
Rep. Marybeth Redmond