

Potential Governance Options

From the Selectboard and Board of Trustees Subcommittee on Governance

July 16, 2018

(Discussed by the Selectboard and Trustees on July 18, 2018)

Scenario A:

- Retain the Village Board of Trustees as long as there are Village-specific needs (5 members).
- Create an equivalent Town-outside-the-Village (TOV) entity for TOV-specific needs (5 members).
- Also maintain and expand existing Town Selectboard (SB) to include the membership of both the above boards, so that the SB has 10 members.
- This model would entail 3 separate charters, one for each board.

1) What would be the legal process needed (to update our current town charter) in order to allow the current SB to expand from 5 to 10-members -- including having Village Trustees (so long as there is a Village Charter in force) to populate the 5 TIV seats and electing 5 TOV residents to populate the 5 TOV seats? (IW)

In a town with an incorporated village, is it legal for the area not inside the village to form its own governing body, similar to the village's, to make decisions for that area, separately from decisions made by the town governing body? (ES)

- Can a committee-of-the-whole model apply to a town with an incorporated village?
- Are there decisions made by a town governing body that do not apply to its incorporated village?
- If this model were valid, what changes would be made to taxation? If there were a separate TOV entity making decisions on TOV related issues, would there by necessity need to be TIV representation on that board, since TIV residents also pay for the things the TOV entity would be making decisions on?

Scenario B:

- Dissolve both Village and Town charters, and write a new, single charter for one community.
- Form a new board of 5 to 7 members, all elected at-large.
- Create a Rural Essex advisory board and a Village advisory board, the members of which would be appointed by the elected board.

Are there examples of communities in VT that have advisory boards like this? (ES)

What is the recommended process for writing a new charter? (ES)

Scenario C:

- Create a single, consolidated board but maintain 2 charters.
- Each charter adopts the same amendment to allow this to happen.

I would still like to know if it's legally feasible to have a single elected body execute two charters. I'm curious about this because maintaining two charters might be a basis for creating separate taxing districts which could provide a mechanism for equalizing tax rates without a dramatic tax increase for Essex outside the village. It might also obviate needing to select a new place name, which has been a hurdle in the past for a variety of reasons. There might be other advantages as well. (GT)

Can a town board merge itself with the governing board of its village? Can each board amend its charter to allow both boards to merge into one governing body? (ES)

- Is it legal for the former members of the town board to make decisions regarding village business, and vice versa?
- If these two boards merge, how would taxation of the village be affected? Village residents would no longer have representation by a board that makes spending decisions solely on their behalf. Would taxation have to be adjusted at the same time as the joining of the boards, or could the adjustment proceed at the slower pace anticipated?
- If these two boards merge, what would be their process for acquiring debt? How would the two communities bond?

Scenario D:

- Consider overlay districts, and whether they apply outside of the realm of planning.

2) Assuming we'd need an overlay district to allow proper voting for the latter, how would TOV residents set one up (with their own Trustee Board similar to the Village's) -- including: petition wording, number of signatures, who would be allowed to vote (TOV only or TIV also), sample charter?, for example, (IW)

3) If the TOV were an overlay district, which unconsolidated depts and budgets would it be fair for its new Trustee Board to take on policymaking and budgeting for -- including anticipated budgetary effects? That is, if the Essex Free Library were so designated, for example, its entire budget might be covered by TOV taxpayers only, and the entire Brownell Library budget might be covered by TIV taxpayers. No library expenses would appear in the Town budget, unless and until the libraries merged in a way that put the control of both under the 10-member Town SB. (IW)

I'd also like to know more about 'overlay districts.' Town staff often refer to the Village as an overlay district (we in the Village know better!). It isn't. The Village has the same legal, jurisdictional authority as any other VT municipality. But Vermont planning statues do allow 'overlay districts,' which are designated sub-units within towns established for zoning or development restrictions, which can include preserving historic character. Whether this sort of thing might be applicable to our situation will likely require substantial research, but, again, why go there if most of us don't think it's a worthwhile question to investigate. (GT)

Scenario E:

- Create a single board of 7 to 9 members.
- Create two voting districts: Village and TOV.
- Elect 3 members from the Village, 3 members from TOV, and 3 at-large.

Scenario F:

- Dissolve the Village charter, keep Town charter.
- Adjust Town Selectboard membership based on geography.

Scenario G:

- Dissolve the Village charter, keep Town charter.
- Maintain 5 member, at-large Selectboard.

Scenario H:

- Form a city with a mayor and city council.

Scenario I:

- Maintain two charters, the Village BOT, and the Town SB.
- Complete current consolidation efforts but do not consolidate any further.

Other questions not related to a particular scenario:

Would Lauren be able to update the Tax Rate History chart (which currently ends at 2007) before she retires? It gives a picture of the tax inequities (and more) over time that we are trying to remedy. (IW)

What is the legal or logical precedent / justification for TOV (only) residents paying a sizable highway tax since at least 1951 without TOV (only) representation? (IW)

What is the general legal or logical precedent / justification for states / populations having equivalent representation at the state and federal legislative levels? (IW)

We understand that inter-municipal agreements are allowed by state law. The Town and Village are not two separate municipalities, however, as Jericho and Colchester are. The Village is both its own municipality as well as a part of the entire Town. What state law, if any, allows inter-municipal agreements that are, at the same time, intra-municipal agreements? (IW)

Much has been made of the ability of Village residents (who happen to be Trustees) to sit at the board table and discuss the future of the Town government, while the very idea of TOV residents sitting at that same board table has been rejected. Under the Town Charter, who (if anyone) has the legal right to formulate Town policy alongside Selectmen? (IW)

What statute, if any, suggests that uneven numbers of board seats are preferable to even numbered ones? (IW)

What statute, if any, encourages elected at-large seats in any governing body over elected ward (or district) representation?' (IW)

I remain very concerned about the Essex community (town and village) losing a seat on the CCRPC. Having two seats puts us in a fairly advantageous position which I think is appropriate given the traffic burden we're coping with and our rapid growth in population. Other Chittenden communities probably don't see it that way.

I'm specifically concerned about losing a significant portion of the revenue that CCRPC disperses every year. (GT)

(7.16.18 – I want to emphasize, again, the need for us (Town and Village) to perform our own internal analysis of this question and not just accept an answer from an outside entity. The CCRPC's membership board debates and decides the TIP each year, so it is ultimately a political process, despite efforts to make rational, evidence-based decisions. Right now the Essex community has two votes in that process. We absolutely must consider this question very carefully and the question of how to analyze it must be decided collaboratively between elected officials and staff.) (GT)

What would happen to the town's and village's representation on regional governing boards if the two boards were to merge into one? (ES)

- We already have one representative for both municipalities on at least two boards--CSWD, Channel 17--and have retained 2 votes on each board. Would the village lose its representation if both boards merged?
- Would funding received from bodies like CCRPC be reduced to reflect one municipality? Would village funding be rolled into town funding?

What are the ways that other Vermont towns have used to merge? (ES)

If the two boards merged, would there still be an annual meeting for each municipality? (ES)

Would there be any impact on municipal committees like planning commissions if the two boards merged? (ES)