

JOHNSON SELECTBOARD MEETING MINUTES  
JOHNSON MUNICIPAL BUILDING  
TUESDAY, FEBRUARY 18, 2014

**Present:**

Selectboard Members: Kathy Black, Nat Kinney, Doug Molde, Eric Osgood, Howard Romero

Others: Duncan Hastings (Manager), Rosemary Audibert (Clerk), Lea Kilvadyova, Sue Lovering, Eric Nuse, Lois Frey

**Note: All votes taken are unanimous unless otherwise noted.**

**1. Call to Order**

Eric called the meeting to order at 7:08.

**2. Review and Approve Minutes of Meetings Past**

**Howard moved to approve the minutes of January 20 with the edits suggested by Eric and the minutes of the joint selectboard-trustee meeting on January 13 with the edit suggested by Duncan, Nat seconded, and the motion was passed.**

**3. Treasurer's Report and Review and Approve Bills and Warrants**

Rosemary said to date, with 3 ½ months left in the year, 68% of budget has been spent, not including any orders signed tonight. Rosemary distributed a summary of overtime accumulated for Steve Smith's crew, which does not include any of this week's overtime. Delinquent taxes went to Sharon Green's office today. We have collected 74% of current year's taxes, a little under the past few years at this time.

Rosemary said the board didn't set a salary for Louise Cross when she was appointed as auditor. She wanted to verify that the board plans to pay her the same salary as Sue Carney. **Nat moved to pay Louise Cross the same salary as Sue Carney, \$11.53 per hour, Howard seconded, and the motion was passed.**

There will be a meeting with Mike Comeau on Feb. 24. He is looking for feedback and ways to increase sales.

**4. Manager's Report**

Duncan asked if the board wants to post town roads for weight restrictions during mud season. He is a believer in it. He would recommend publishing a notice in the papers. Roads also have to be physically posted at any intersection where people can enter. Eric asked, if we say the roads will be closed for a certain window of time, but it dries up earlier or conditions are not muddy, can we rescind the closing? Duncan said yes. March 1 to April 15 is the traditional posting period. In the past, Steve Smith has been concerned about blanket posting the highways as it could interfere with loggers and other people making their living. But many towns post their highways. There is nothing that would bar Steve as road foreman or Duncan as road commissioner from allowing someone to take an individual trip if the road was frozen and there was no danger of damage. Posting gives us the ability to ticket and fine someone if they are on posted roads. He would recommend it. Howard agreed. Eric said in the past Steve had to notify people who would be affected when he was going to close roads. Posting would make it easier for him, because people would know they couldn't use the roads unless they went to him. And it would be a board decision so no one could blame him. If we are investing money in mud abatement, we don't want big trucks on the highways. Doug asked which towns post. Duncan listed towns in the area that do and don't post as far as he knows. He said one year we posted

when there was a particularly bad mud season. It was already mud season when we posted. Nat asked why we haven't done it in other mud seasons. Duncan said Steve's attitude has been that it hasn't been that big a problem and he can deal with the loggers and truckers. But Duncan thinks that time is passing or has passed. Agricultural vehicles are exempt. But even agricultural vehicles are not free to damage the road and could be charged a fine or fee for damage. Doug said he thinks it would be easier to justify doing that if the roads had been posted. **Doug moved to post town highways for weight restrictions from March 1 to April 15, Howard seconded, and the motion was passed.** Nat asked about the expense for signs. Duncan said we can get signs through VTrans, either free or at low cost.

**Howard moved to appoint Gordy Smith as Forest Fire Warden, Doug seconded, and the motion was passed.**

The board needs to sign easements necessary for the bridge replacement on Rte. 15 by W. Settlement Rd. Duncan has read the maintenance agreement and doesn't see any concerns. The state assumes full responsibility for maintenance and replacement of guardrails where they encroach on the public highway. The value of the easements is \$352 dollars. Duncan assumes the board would be willing to waive payment. **Nat moved to sign the Quit Claim Deed for Johnson BRF 030-2(26) necessary to grant easements for bridge replacement on Route 15, and to waive payment, Howard seconded, and the motion was passed.** (*Kathy arrived at 7:31.*)

Duncan said the trustees have voted to have the Planning Commission proceed with development of a plan that covers both the town and village, to be adopted separately by each board. The board consented to request the Planning Commission to proceed on this basis.

Lamoille Cancer Network requested a Waiver of Noise Ordinance for "Bikers Rally Against Cancer" to be held on August 9, 2014 from 8 a.m. to midnight at Lamoille County Field Days. Kathy said she thinks the band should stop playing in time for the event to be wrapped up at midnight. **Nat moved to approve a Waiver of Noise Ordinance from 8 a.m. to 11:00 p.m. for Lamoille Cancer Network's "Bikers Rally Against Cancer" on August 9, 2014, with the condition that appropriate security be provided during the band performance, Kathy seconded, and the motion was passed.**

As part of the second phase of soils investigations, two private wells were tested to check for any possible contamination from the Talc Mill property soil contamination. There was none. There is an 85-page report on the second phase findings. Duncan read the report and his only concern was about the recommendation for another phase of study to include potential PCB contamination on the site because at one time there was a transformer on the property. The consultant agreed this recommendation could be dropped from the report.

Duncan said when finalizing town budgets he neglected to change the shared employee insurance contributions in line with the approved shifts in time allocations. The net cost shift from village to town is \$4400. Duncan suggests making the shift (effective July 1 budget year) and absorbing the cost. **Howard moved to reallocate insurance costs for shared town/village employees between the town and village in the same ratio as the agreed-upon reallocation of hours, starting July 1, 2014, Nat seconded, and the motion was passed.**

Jeb Spaulding, Secretary of Admin, sent out a letter reiterating changes to the state formulas of reimbursement for FEMA projects and state highway grants. If the town adopts new flood hazard zoning regulations, the VTrans template for highway and bridge standards, a hazard mitigation plan, and an up-to-date emergency operations plan we can be eligible for 80% state share on state grants instead of 70% and an increase in state share for FEMA reimbursement from 12.5% to 17.5%. We have two out of the four requirements in place. Our flood zoning reg is outdated and we have not adopted the state VTrans Highway and Bridge Standards. Duncan still believes the cost of complying with the new standards would be higher than the reimbursements would warrant. Nat and Eric said they think eventually the standards will be imposed. Kathy asked what percentage of towns have adopted the state highway and bridge standards. Duncan said about 80 towns are holding out. Eric said many towns have adopted the standards knowing full well they will not comply with them. (*Lea arrived at 8:04.*) The FEMA Floodplain maps used to delineate the floodway zones are outdated. Duncan said the state has been claiming they will redo the maps for decades. Duncan asked Lea if doing research necessary to adopt a new flood hazard zoning map would be something we could get a grant for. Lea said yes. She thinks the maximum amount we could get would be \$15K. Duncan and others agreed that would not get us far with actually mapping new zones. Duncan recommended that the board do nothing in response to Spaulding's letter. He just wanted to bring to the board's attention that we miss out on additional funds if we do not meet all the requirements, but meeting all the requirements would probably cost us more money. Board members expressed no desire for action.

**5. *Public Hearing for CDBG Grant Close-Out***

Eric suspended the regular board meeting at 8:13 and opened the warned public hearing on the close-out of the CDBG grant for the Johnson market.

Lea said the purpose of the meeting is to close out on the grant received from the Community Development Program. We got a grant of \$509,000 dollars to help with the grocery store project. We granted \$500,000 to Mike Comeau, which he used to buy equipment for his store. The store opened and is now employing about 29 people.

Duncan asked if we know whether the full \$500K will be available to the town for a revolving loan fund. Lea said she believes so. Mike Comeau started payments in January. For the first 5 years he just pays interest. Then from years 6-20 he pays principal. We are the keepers of the money so far. Lea doesn't know if we will have any obligation to return some to the state but she doesn't think so. Rosemary said the money is kept in a Union Bank account. Doug asked if we can touch the money. Duncan said he doesn't think so. It is a 20 year note so we might not be able to spend any for 20 years. He said Comeau has indicated that if things go really well he may pay his loans down, but he is under no legal obligation to do so. His interest rate is 1%.

The hearing was closed at 8:20 and the board meeting was reopened.

**6. *Journey's End Trail Grant***

Lea reminded the board she had spoken last month about an effort to apply for a grant to build a trail to Journey's End. The River Conservancy would be the formal applicant. The Youth Conservation Corp would build the trail. They are developing a work plan. As landowner, the town needs to approve the work to be done and state that the trail will be accessible to the public for at least 25 years. The grant application will be for a trail, some trailside amenities such as a

kiosk, and a parking lot. The town is not expecting to provide a cash match. She read a letter she had drafted. **Howard moved to authorize the chair to sign the letter supporting the River Conservancy's grant application, approving the Journey's End trail work and guaranteeing public access to the trail for at least 25 years, seconded by Kathy.** Duncan said the work described in the grant application is all work that is in the interim management plan the board has already approved. **The motion was passed.** (*Lea left at 8:24. Sue Lovering, Eric Nuse, and Lois Frey arrived.*)

7. **Tree Board**

Sue Lovering said she wanted to talk about creating a tree board and also about preparedness for the emerald ash borer. The purpose of the tree board will be to take care of the Main St. trees. The trees will be inventoried and then cared for. The board will write an ordinance to lay out specifics of tree care and then write a policy. They will focus on educational opportunities such as tree planting. In the future they plan to plant new trees and incorporate invasive insect preparedness. They may want to plant trees in other areas. They will also work with the tree warden. There are a lot of tree boards in Vermont. They usually serve in an advisory capacity with the tree warden. Noel Dodge is interested in serving as tree warden. He will also be a member of the tree board.

Doug asked what the relationship is between the tree board and the Conservation Commission. Sue said there isn't one. Doug asked if the policy Sue mentioned drawing up would be for the town or the village. Sue said it would be about the municipal trees. Sometimes issues arise with trees in rights of way where the tree board can serve as an advisory committee to the tree warden.

Duncan said the village trustees talked about this briefly. Eric asked, if we adopt a tree board and part of its responsibility is maintaining village trees, will the trustees be in support of that? Duncan said yes, but he thinks specifics about removing or placing trees should be discussed with the village. Through the Main St. grant we have some responsibility for maintaining the trees. Lea also got an urban forestry grant. The company that put in the trees is obligated to care for them for 1 or 2 more years.

Sue said the biggest logistical problem will be figuring out how to water the trees. They might need some money in the budget for that. Nat asked who owns the trees. Duncan said there are trees planted in the highway right of way on Main St. as part of the project and he thinks the village has ongoing responsibility for their maintenance. At some point that may go away and the property owner may be able to claim ownership, but now he thinks the village owns them. Sue said there is a \$500 fine for cutting down a tree and a \$50 fine for defacing one. We might want to consider enforcing these. Nat said he is wondering about the distinction between trees planted under the Main St. project and a tree in his front yard in the highway right of way. Where are the distinctions spelled out? Duncan said his understanding is that you own the tree in your yard, but within the highway right of way the town has limited rights to trim, prune or remove it. The town can remove brush and shrubs without anyone's permission but a property owner can claim a tree is a shade tree or fruit tree and prohibit the town from cutting it. Sue said then the tree warden has a hearing. Then the decision can be appealed to the selectboard. They usually end up deciding the tree can be taken down and then the wood belongs to the landowner. The people who want to be on the tree board feel it pays to keep the landowner informed and ask their permission. But she thinks the trees on Main St. kind of belong to all of

us. They are in the right of way, aren't they? Duncan said they are in the VTrans right of way. But under the permit we were issued for construction we were not only authorized to plant the trees but we have an obligation to care for them. Doug asked, what about the trees on the Tuesday Night Live field? Sue said those would fall under the tree board's and tree warden's responsibilities because they are publicly owned. Duncan said the trees in the cemetery would also.

Eric said if the tree board got a water tank he is sure the village would donate water. Howard said he thinks the water should be pumped out of the river. Sue said the water tank has to sit on a truck. Duncan said he thinks the amount of water we are talking about could be provided out of the taps. We could fill the tank from a hydrant. Probably the wastewater plant would be the quickest place to get water. They also have processed water, which might be an option. He said we have a couple of small trailers the tree board might be able to use. Maybe the tank could be left on a trailer and it could be parked inside the wastewater plant fence. We may even have a tank the tree board could use.

Eric asked how many people would be on the tree board. Sue said she has 5 people lined up. She doesn't think there would be more than 7.

Eric asked what the ordinance would address. Sue said the type of care the trees would get and who would do what. She has the Town of Hartford's bylaws and ordinances and she thinks we could pretty much adopt the same ones. Hartford is a town about the size of ours. She can give the board a copy. Duncan said ordinances are adopted by the selectboard. The tree board could propose bylaws for their group which would be approved by the selectboard. Lois said she thinks the ordinance would cover some operational items that would come up. Sue read a piece entitled "What Is a Tree Ordinance?"

**Kathy moved to sanction in concept a tree board with 5 to 7 members, seconded by Howard.** Kathy said the board looks forward to seeing the proposed bylaws which will make the group official once the selectboard reviews and approves them. Eric said at some point the selectboard will approve all the members of the tree board. Nat suggested broadcasting as widely as possible that they are looking for members. **The motion was passed.**

Sue distributed information about why we need an emerald ash borer preparedness plan. She said 2400 ash trees have been identified in town rights of way, not including state roads. All those will die within 2-5 years, when the ash borer gets here. Her group will start drafting a plan and will want to present it to the board. The estimated cost to take down all the ash trees identified would be \$960K.

Howard asked if trees killed by the ash borer are still useful for lumber. Sue said they are if they are kiln dried and the outside 1 inch is removed. If the ash borer gets here, this will be a quarantined area and no hardwood firewood will be able to be moved out of the quarantined area.

Doug said the ash trees in our rights of ways are just a drop in the bucket compared to what is in the woods. Will we just let trees die in the woods and leave them there? Sue said if they are on private property there is not much else people can do. Some people are starting to cut down

ashes now, but she doesn't want to see them do that. Some could prove to be resistant and we want to save the species. We will have a lot of dead trees at once because the ash borer kills them very quickly. Doug asked, do we have to haul them away or can we just leave them there? Others pointed out that then the dead trees would end up in the ditches. Sue said the best way to handle them is to get a chipper and collect the trees to chip them. That kills the larvae and then the chips can be sold. Things like that will be included in the draft plan. There may be a way to work together with other towns in the area to save money. Eric said we could chip the trees and give the chips to the elementary school.

Doug asked, if the ash borer is in the whole state, what will be the no shipping zone? Sue said at first probably the quarantine zone will be one county, unless the borer is found on the edge of a county. There is talk about quarantining the whole state once the ash borer is first found in the state. That would be bad environmentally but good for the economy. The Conservation Commission will put door knob hangers on every house in town to try to educate people with ashes in the right of way. Nat mentioned that they got a small state grant to pay for that. Sue said yes, and a grant to start up a tree board.

8. *Manager's Report (continued)*

**Kathy moved to approve and sign the Certificate of No Appeal or Suit Pending stating there are no lawsuits pertaining to grand list challenges pending, Howard seconded and the motion was passed.**

LCPC wrote asking for a prioritization on high crash locations. This forms the basis for the VTrans grant for signage and other improvements. Prioritizing the roads would let us later apply for the grant. Duncan doesn't see a lot of value in the grant, but since the deadline for response was prior to this meeting he called LCPC and gave a prioritization.

The Historical Society Building Committee has met four times now. Work is ongoing to develop a joint use agreement identifying who is responsible for what and setting forth Historical Society rights to use of the building. A lease for the existing tenants has been drafted. Work with Doug Williams is progressing to develop bid specs for work. Doug has also determined that we should qualify for insulation of the entire building and some other services for free from Central Vermont Community Action Council. Howard said he did a preliminary drawing of the new entrance. He wants to make sure people think it is okay.

The library trustees requested a state fire and electrical inspection. There are a couple of minor violations and corrective actions needed. Two sprinklers need to be installed over the furnace. Installation of a hard-wired fire and CO2 alarm is recommended but not required.

There was a fire and electrical inspection of the Holcomb house prior to purchase. We accepted responsibility for correction of some of the violations. We just need to install backlit illuminated exit signs.

The bank was not able to process the Sterling Market loans the way the Promissory Note was created. It was set up for fixed quarterly payments. The payments need to be based on the number of days between quarters. A revised Note to that effect was executed and the first quarter payment was made.

Duncan will be asking the listers to review the Listing of Assessed Values – ANR State Lands. We have almost 4000 acres of state land in Johnson. Eric said he thought there were 4600 acres of state land. Duncan said that might include the college, but the figure he gave is just for ANR land.

Bruce White was in a minor accident. Reports were filed as required.

**9. *Selectboard Issues/Concerns***

Doug said he would like to know what other towns are doing about the emerald ash borer. Eric said he brought it up with VLCT and no cities or towns were doing anything, except one city that was cutting down all of the ash trees in its rights of way. Nat said Doug should email Sue. She has been working with people in other towns who are working on this at a grassroots level. Doug said he would be interested in knowing how many of our ash trees are going to pose a problem for us. Duncan said he is hearing that smaller ash trees are less likely to be infested. The borer goes for the biggest ones first. So there is some hope among the environmental community that some trees will survive. He also heard on NPR that foresters think an arctic chill in another state may have killed ash borer larvae and knocked back the infestation. Doug said he thinks we probably have an obligation to try not to pass on the ash borer, but he doesn't understand how dealing with the 12 feet of our rights of way will help. Eric and Kathy said it is not a question of stopping the ash borer. We just need to manage the cost of dealing with the dead trees. Duncan said it is not really a \$196K problem because we are not going to hire people to cut the trees down.

Kathy asked if the Planning Commission will have someone at town meeting. Doug said David Butler said he would come. Kathy asked if someone from the Historical Society will be there. Eric said the board wants to make sure someone from the Historical Society is there and prepared to speak. Board members said Steve Smith should be there.

Nat brought up the vote asking the selectboard to do something about wind power. Eric said VLCT is involved in something related to that. Doug said he thinks the town could have a lot of say if it wanted to about placement of wind towers in the community, but Bob Selby is opposed to taking those steps because he thinks it is our obligation to be green. He thinks we could regulate it if we chose to. But there is a limited amount we can do because the area potentially affected is bigger than our town. Eric said there is something in the town plan now about not being able to develop above a certain height. Howard said the height is 1500 ft. Duncan said the town plan can essentially prohibit wind development but Act 248 is not obligated to honor a municipal plan. Doug said it has to be taken into consideration. The problem is that the towers that would affect us most would be in Cambridge. Duncan said he doesn't think there are any commercially viable wind power sites in Johnson.

**10. *Adjourn***

The meeting was adjourned at 9:36.

*Minutes submitted by Donna Griffiths*