

JOHNSON SELECTBOARD MEETING MINUTES  
JOHNSON MUNICIPAL BUILDING  
MONDAY, FEBRUARY 18, 2019

**Present:**

Selectboard Members: Mike Dunham, Nat Kinney, Doug Molde, Kyle Nuse, Eric Osgood

Others: Brian Story, Rosemary Audibert (8:49), David Butler, Frank and Giselle Eldred, Charles Gallanter, Phil Wilson, Duncan Hastings

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

**1. Call to Order**

Eric called the meeting to order at 7:10.

**2. Additions, Changes to Agenda**

Brian added items related to committee resignations, a letter of support for the River Conservancy, and a request from Cambridge for a resolution related to their school merger situation. Eric added an item related to the Historical Society going for a grant and looking for the board's acceptance and he will give an update on the Silver Jackets program; we did not get the funding. Brian added an update on the status of the merger study. Eric added planning for the February 25 meeting and the appointment meeting after town meeting. He suggested rearranging the agenda to have the treasurer's report after Rosemary arrives.

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

**Nat moved to approve the minutes of January 21 and January 28, 2019, Kyle seconded, and the motion was passed.**

**4. Road Commissioner/Road Foreman Report and Action Items**

Brian said he and Brian Krause have been working on the highway budget and it is within the increased margin the board set for it.

Eric said he and Brian S. talked about making sure Jason Whitehill doesn't have to work on town meeting day. That was passed on to Brian K. If the town forced him to work and he lost the election there could be an insinuation that we were trying to determine the outcome of the election. Brian S. said we are not forbidding Jason from working that day but barring an extreme emergency he will not be required to work.

**5. Planning Commission Report**

David Butler said after Hurricane Irene the state legislature adopted river corridor statutes that apply to any application such as Act 250 that requires state approval. The Planning Commission found out that in order for Johnson to adopt them it would mean adopting another set of zoning bylaws. The Planning Commission is not really in favor of that. River corridor definitions and maps are changing. The Planning Commission doesn't see a clear-cut definition of what a river corridor is. It is written that the river corridor is 50 feet from the top of a bank. But where David lives the bank might be 150 feet above water. So where is the top of the bank? The state can't answer that right now. If we were to adopt river corridors we could get more in emergency state aid. Charles Gallanter said we could get up to an additional 5% but they are not obligated to give us another 5%. We could adopt the zoning bylaws and be stuck with them and not get the money. David said he and Charles are in agreement that the zoning bylaws would constitute a public taking. A landowner couldn't do anything in a river corridor zone. The Planning Commission decided to table any

recommendation to the selectboard for a year. They are unanimously in support of river corridor restrictions in any areas where public safety is affected such as along the Lamoille and Gihon. But there are other areas where even if the stream changes it won't create a public safety hazard.

Mike asked what is classified as a river. David said he believes it is any waterway that drains 200 acres or more. The map continues to extend further and further up the mountains. (*Phil Wilson arrived at 7:22.*)

David said the selectboard could adopt a portion of the river corridors but they may not get any benefits from doing that.

Phil said the national flood insurance restrictions we currently have relate to building in the floodplain. That is based on FEMA maps designed to represent inundation flooding. River corridor maps represent channel migration. The corridor is where the state expects a stream may migrate some day. David said he doesn't see 90% of what they have mapped as ever being an issue. The banks are just too steep and there is no way they will ever move their channel or if they do it will never come near people.

Eric suggested saving this discussion for when the selectboard meets with the Planning Commission. It was agreed to meet with the Planning Commission as part of the February 25 meeting.

Duncan Hastings said he thinks the Planning Commission is aware the LCPC is interested in getting feedback on regionally significant ridgelines that the town wants to designate. David said there are not a lot of ridgelines this town owns. There are a lot we can see that are owned by different towns.

Eric suggested meeting with the Planning Commission at 8:00 on February 25. Kyle asked if the Conservation Commission should be there too. Brian said he can get together with Phil and decide who should be involved.

David said the Planning Commission cancelled its March meeting, as it would have been on town meeting day.

#### **6. *Historical Society Grant Application***

Duncan said the Historical Society discussed at its last board meeting possibly hiring a facilitator to assist with the process of developing a strategic plan. There was general support for that. There is a potential grant that could provide up to \$2500 to hire a professional facilitator. The Historical Society would like selectboard authorization to submit an application.

Doug asked if there is a local share. Duncan there is one and it would be picked up by the Historical Society. The grant would cut their costs in half.

**Mike moved and Kyle seconded to authorize Duncan Hastings to submit an application for a grant to help pay for a facilitator to assist the Historical Society in developing a strategic plan. The motion was passed.**

**7. *Frank and Giselle Eldred to Discuss Solid Waste Disposal***

Frank Eldred said since he and Giselle complained to the town about their neighbor's property on River Road East nothing has been done. The town has a solid waste ordinance that the neighbors are violating. He is asking the town what they want to do to enforce that ordinance.

Eric said the town has been dealing with this for over a decade. The town writes tickets and the property owners don't comply. They don't comply with court orders. The town has asked the state to get involved and probably the state ordered them to comply. Eric is not sure what happened with the state but he thinks the state probably found what we did, that we can order them to do something but there is no good way to enforce it. We could put a lien on the property but they are not going to sell it. We could spend money having our attorney take them to court but it might not be successful.

Frank said his neighbor had a mobile home that burned down this past summer. What became of that with the state?

Brian said we have had the state and our health officers out to the property. They weren't able to observe the owner burying anything. They didn't see evidence of disposal of anything toxic.

Frank said there are fresh excavator tracks and piles of earth. Brian said the owner offers explanations for that. We have issued tickets for what we can observe. Brian hopes the state will be a little more active on something like the mobile home, which has more contamination than routine garbage.

Nat asked which state agency is involved. Brian said the Department of Environmental Conservation.

Doug asked if we have information that the mobile home is buried on the property. Brian said we believe it is but do not have evidence to confirm that. Frank said he saw a rented excavator there for 4-6 days and no roll-off dumpster.

Giselle asked what the state says about it. Brian said it doesn't look like they are taking any enforcement action. They are trying to get the owner in touch with support services for people who have a hoarding problem but at this time there is no enforcement action scheduled.

Nat asked if we have written tickets. Brian said yes.

Mike said he thinks we ought to have larger fines and put a lien on the property.

Nat said when he first got on the board the town had a similar issue with a neighbor complaining. We took the violator to court and the judge knocked down the fines considerably. And the fines still went uncollected, as far as he knows. He agrees that if we have the ability to put a lien on the property we should.

Doug suggested it might help if we had a blighted building ordinance. He thinks we need to do something. Brian said he thinks we would run into a similar situation with a blighted building ordinance. If someone is determined not to cooperate it becomes very difficult for us to do anything if the owner doesn't have money and is not selling the property.

Doug said he is thinking about injunctions rather than fines. He feels we should dig for the possibly buried mobile home.

Kyle asked, is there nothing the sheriff's department can do to get involved? Brian said they have relatively limited authority on this. Mostly the relevant ordinance would be our local solid waste ordinance. We are working on that with our constables and health officers. Applicable state laws usually require more investigation and specialization than what the sheriff's department can do. They are a good resource when there is a problem like the physical obstruction of the Eldreds' driveway but not so much for investigating whether there is contamination or the owners have been burying things they should not.

Doug said he would focus on the mobile home. Is it there? Where did it go? He suggested maybe our legislative representatives could help us.

Frank asked what the next steps are. Brian said he thinks we can find out more about what it would take for us to do our own investigation and we can work with our representatives on progressing the state's investigation. Eric said he doesn't see value in paying our attorney to take the owner to court only to have the judge slash the fines.

Giselle asked what the findings of the health officer were. Brian said he hasn't seen the written report but the owner was fined for improperly disposing of solid waste.

Giselle asked how many fines he has received. Brian said this is his first recent one. Giselle asked if it will be reported anywhere. Will it be in the minutes of this meeting? Brian said yes, and in the town office records. Eric said the ticket will be in the municipal court system.

Nat asked if we can look into getting a lien. Brian said he will find out more about that. (*The Eldreds left at 7:58.*)

#### **8. Administrator's Report and Action Items**

Brian said we had set the size of the broadband committee at 5 and there are 6 people interested. Does the board want to raise the number to 7 and look for a 7<sup>th</sup> member or keep it at 5 and appoint the 5 who have expressed the most interest? The people interested (in addition to the 2 previously appointed) are Una Lee, Charlotte Reber, Brian Cohen and Robin Story.

Charles Gallanter said they would like people with marketing and finance experience on the committee.

Mike said as hard as it is to find committee members, he hates to turn anyone away. He would rather have a 7 member committee. **Mike moved to increase the size of the broadband committee to 7 members and to appoint Una Lee, Charlotte Reber, Brian Cohen and Robin Story to the committee, seconded by Doug.** Eric said the committee can operate with 6 people, though there may be a split vote.

Kyle said she thinks we should reach out to the college about a marketing person to serve on the committee.

Nat asked if Charles is against a 7-member board. Charles said he wants 2 of the 4 people to be appointed, leaving 3 seats.

**The motion was passed.**

Board members signed the conflict of interest policy that was approved at the last meeting.

Brian said he is trying to get more microphones for town meeting. The elementary school currently only has one. He will see if the tech center can provide some. If not he will try reaching out to Bill Loscomb about using Tuesday Night Live sound equipment.

Brian said he talked to Dave Williams about making it easier to tell who is participating in town meeting and who is observing. They came up with the idea of making it clear that the seating up front is where people are recognized and that those in the back of the room are only spectators. Brian doesn't think we need to change the layout from last year, but we might use a couple of poles with a ribbon to designate the line between areas. We won't check ID's. We will be operating on the assumption that if someone comes forward who isn't a voter enough people will recognize the person is not a Johnson resident. We don't have a problem with people voting who aren't Johnson residents. There is more of a problem with it being a little chaotic, with people shouting back and forth between the back of the room and the front.

Doug said his sense was that that non-voters were sent over to the bleachers but some voters also ended up in the bleachers and it was confusing. He thought the problem was voters mixing with non voters. He thinks if voters are in the front and non-voters are in the back it will be hard to tell if only residents are voting on a voice vote.

Kyle said there are a variety of reasons people are in the back. Some just prefer not to sit. There are volunteers at booths, people selling things, and people with kids. There will always be people back there who deserve to be heard. Brian said people can come and go between areas. We are not forcing them to choose one or the other.

Mike said he doesn't see what the problem is. Doug said last year it appeared that there were non-voters and voters in the same area. He doesn't think cheating was going on, but you

didn't know who the non-voters were. He would rather see them on the side. Mike agreed. They should sit in the bleachers.

Eric asked, if people are asked to stand for a vote and there are people already standing in the back, how do we know if they are standing for the vote?

Brian said we just want to codify that if you go far enough back you are communicating that you aren't voting. Mike said maybe we should move more chairs out. Eric said there are always empty chairs. Kyle said we could always put one or two of the lunch tables out, but the audience gets further away the more seating there is. Brian said he thought the bleachers in the back were fine with people back there who wanted to sit down. He would like to make it clear to people that when they are talking or voting they should come forward. His biggest problem with having people in the back was shouting. He thinks sometimes when people are shouting it makes it easier for the discussion to become heated.

Eric suggested maybe the town and village could buy sound equipment together. Brian said the school is not unwilling to provide microphones; it is just that their equipment is currently down.

Kyle asked if the equipment Bill Loscomb uses is something the town bought. Eric and Brian said they don't think so. Nat said he thinks there is some sound equipment Concept 2 gave to the town for Tuesday Night Live. Brian said he will go to the tech center first because they might be able to provide technical support.

Doug suggested seeing if the school could turn off their bells during town meeting. Brian said he will make that request.

Mike asked if the legislators will just show up or be scheduled. Brian said he will meet with them tomorrow and can reiterate that we would like a better idea when they can be there. Nat said he would prefer that they speak at the beginning, during lunch, or at the end. Kyle said she likes the idea of them speaking during lunch. Brian said we suggested to them that they try to have a specific time to arrive. He can reiterate that.

Mike said the sheriff's budget often gets a lot of pushback at town meeting. He talked to a state trooper the other day who said we could get 135 hours of State Police coverage a week for the money we are spending for sheriff's department coverage. Also, a state trooper lives right in Johnson. He feels the sheriff's budget is getting out of hand. We need to look at alternatives, maybe find out if Cambridge is happy with their coverage. The State Police have an outpost in Cambridge so they are fairly close by. Many of our calls are from the area by the college but the PILOT money we get from the college doesn't anywhere near cover our sheriff's department budget. The cost we are putting on the townspeople is far outstripping any raise people get.

Eric said Roger Marcoux is also concerned about that. He doesn't know how to control his costs. His big cost is labor. He is looking for help from a citizen group with members from all 3 communities that could come up with ideas for how to do policing differently.

Nat said in terms of what the State Police officer said, he wouldn't necessarily take it as gospel truth. An officer on patrol doesn't necessarily have the insight someone higher up in the chain of command would have. There was a recent news article in which the chair of the Senate Operations Committee, which overlooks State Police, said the State Police should not be acting as de facto town police. They do provide contract services for some towns but they can't do that for every town in the state. They don't have the capacity. If we contracted with the State Police we wouldn't get the detective position that is designated only for the 3 towns. That person primarily deals with sex crimes, mostly against kids. He thinks we definitely need to look at the question further. We need to look at all our options. We will have that committee but he thinks we need to support our budget for this year.

Kyle suggested it would be helpful for Roger Marcoux himself to come to town meeting so there will be someone there who can actually answer people's questions.

Nat said he works with someone who is on the Wolcott selectboard who thought his board would be interested in joining a study committee. Nat is in favor of getting a committee together sooner rather than later.

Kyle said the article on the inclusivity statement could be emotionally charged. She is hoping we can get Dave Williams up to speed so he is prepared to handle it. She is also concerned that people may not know we already have an inclusivity statement we adopted as a board and that the one being voted on would replace the one we adopted. She is wondering how the board feels about having the existing statement projected or somehow physically present. Eric suggested a handout with both statements so people can see the difference.

Doug said he thinks we should break for lunch at a certain time no matter where we are.

Kyle said she will be mostly outside this year during the social before town meeting starts.

Brian said there will be another information session on the recreation coordinator position a week from Wednesday at 7:00. Last week's was well attended and productive.

Mike said it would be nice to have a video presentation at town meeting, for instance of kids participating in recreation programs. Kyle said Johnson Works has talked about setting up a YouTube channel.

**Nat moved to approve and sign the Highway Mileage Certificate, with no changes from previous years, Doug seconded and the motion was passed.**

Brian said the village updated language in the fire contract about what constitutes emergency calls. The new language is not too restrictive but should help with future discussions. We discovered some issues with timing of the contract. It is a calendar year contract but we have been treating it as a fiscal year contract. It asks for quarterly payments, which we have not been doing. We have been paying once annually.

Eric said we have technically had no fire contract since January 1. Brian said our routine has been to sign the contract in January or February, which is after it has technically expired.

Eric said neither board has authorization yet from voters when the contract is approved.

Brian said we have been paying in November, which was within our financial year and the village's calendar year so it didn't really make a big difference. But that is not the correct way to do it. His recommendation is that we fix the problem for next year. It is a little late to get into it now.

He attended the last trustee board meeting to explain that there is an issue with calendar year vs. fiscal year. We both need to regard it the same way. And if we are signing this before town meeting we should have a termination clause and so should they if they are signing before they have their village meeting.

Mike said they suggested they give us a year and a half contract next. Brian said the extra 6 months would bring it around to ending at the end of the fiscal year. But the village did not formally vote to do that. We will want to sign the next contract before December 31 so there will be no period without fire service. Eric said we would need a budget number in December or January but in the future we would not sign the contract until June, as we do with the sheriff's department or NEMS contracts.

**Mike moved to authorize the chair to sign the fire contract with the village, seconded by Kyle and the motion was passed.** *(Rosemary arrived at 8:49.)*

Eric said next Monday we will meet with legislators to talk about a health clinic. We will also meet with the Planning Commission. He brought up the question of whether to meet on Wednesday after town meeting to make appointments or wait until the following Monday to have a meeting that could also include some other items.

Brian said when we talked about starting to meet twice monthly we talked about starting in March. The first Monday is before town meeting. Do we want to meet the Wednesday right after Town Meeting and also the third Monday? He would suggest not meeting 3 times next month. Maybe we could include more in the Wednesday meeting that just appointments or maybe we could do appointments the following Monday as part of one of the semimonthly meetings.

It was agreed to meet the Wednesday immediately after town meeting and to include agenda items other than appointments.

Eric said on February 25 we will meet with legislators. We will invite the new director of CHSLV and Roger Marcoux. Valerie Valcour of the state Department of Health has also been invited.

**9. Treasurer's Report / Review and Approve Bills, Warrants, Licenses / Any Action Items**

Rosemary said we have spent 58% of budget. We are trying to schedule a tax sale for the end of March. Current taxes are 75% collected, which is slightly less than the past 2 years.

The assessors gave us a certificate of no appeals or suits pending to sign. **Kyle moved to accept the certificate of no appeals or suits pending, Doug seconded and the motion was passed.**

The town received liquor license applications from Maplefields and NVU. **Nat moved to approve liquor licenses for Maplefields and NVU with the usual letter to be sent, Kyle seconded and the motion was passed.**

Rosemary gave the board copies of the response NEMRC issued about the possible security breach. As far as she knows there has been no security breach in any town. Our new IT people sent out a generic statement saying our town could have been affected. She can ask them if they have been checking on this. Nat asked, those vulnerabilities have been patched? Rosemary said yes.

Rosemary said the town report will go out any day now. Brian said two justices of the peace were left out of the town report.

***10. Administrator's Report and Action Items (continued)***

Brian said if we are having two meetings a month we may want to try to have certain types of items on the agenda for the first Monday and others for the third Monday. He was thinking it might be helpful to have mainly informational items on first Mondays and action items on third Mondays.

Eric said Rosemary had spoken about the opportunity for orders to be signed in a more timely way so we may want a brief treasurer's report each time, along with signing of orders, liquor licenses, etc. He would like to see third Mondays staying pretty much with the traditional meeting format and using first Mondays for items that need to take more time, such as meeting with legislators or tonight's discussion with the Eldreds.

Doug said he doesn't think discussion should be separated from votes.

Brian said he thinks we might sometimes have a discussion without action first to make sure people have their questions answered and then act at the next meeting.

Brian said we did not receive the Municipal Planning Grant for the light industrial park. We still have an EDA grant application in progress. We will apply for grant funds for final engineering and also construction. We will apply for a Northern Borders Regional Grant for most of the construction costs.

Highway department employees have come back with another suggested number for on-call pay. The "work 8 hours and then go home" policy the board has adopted is pretty unpopular with the highway department. They are willing to work with it but their view of the on-call pay is very tied up with that policy. They have asked for \$190/week for on-call pay.

Eric said the policy of working 8 hours and going home was instituted a few boards ago. It is a way to give the highway foreman flexibility on how to manage overtime hours. They can't

have unlimited overtime. If they don't work 8 hours and go home, what tools will there be for the foreman? Not having them come in on certain days?

Brian said he thinks the crew would say that if we can't afford to pay them their overtime they would like to see us appropriate more money for overtime. They feel the policy of going home after 8 hours is limiting the amount of overtime they are eligible for.

Mike read off the pay figures for a highway employee he had picked out of tonight's orders. He said he would say they are getting their overtime and then some. It has been a pretty good year for overtime.

Nat asked, if we weren't limiting ourselves to those 8 hours a day we would be way over on overtime in a year like this, right? Brian said that is right.

Brian said employees are fine with keeping the policy but they would like us to consider that when talking about on-call pay. They feel the policy is negatively impacting what they can take home.

Doug said that is the principle. Brian agreed. The purpose is cost control for us, so they are taking home less.

Eric asked, since we have had this policy has there been any year they didn't max out their overtime? Rosemary said no.

Mike said this was a condition of employment when they took the job.

Doug asked where this stands with our budget for next year. Brian said we can't afford this for our budget for next year. He thinks this is a farther into the future discussion.

The board agreed that the new proposed figure of \$190/month is still too high.

Eric asked if Brian showed the employees comparables from other towns. Brian said they believe they do more than other towns, so those are not really comparable to ours.

Brian suggested that the board have a discussion with employees about this. The board agreed to meet with highway employees sometime after town meeting. Brian suggested that it might be easier for them to come after winter is over.

Brian said the merger study RFP is posted again for the remainder of the month. We haven't received any proposals but he has received a couple of questions asking for clarification on the upper limit of funding. They indicated our scope of work is on the order of \$20-40K. Brian has encouraged consultants to submit a proposal even if it is that high.

Mike said he thinks we need to go with college students. Brian said they are interested. After we review the applications we receive would be an appropriate time to decide if we are going

to pursue a different path. His idea would be have him and Meredith determine the scope of work with the college and then have the boards vote it up or down.

**11. Request from Cambridge Selectboard**

The Cambridge selectboard asked this board for a resolution related to the vote to accept Cambridge into the unified school district. Eric said he honored their request to bring this to the board but he would not necessarily be in favor of it.

Mike said it is too little, too late.

Nat said he forwarded the email from Cambridge to our school board representatives from Johnson and to Dave Manning. Dave was the only one who responded. His response was just to provide information about the tax implications. What is in the best interest of Cambridge voters may be different from what is in the best interest of Johnson. We would see a tax decrease.

**12. Resignations**

Brian said Laura Branca is resigning from the Conservation Commission and as Green Up Day coordinator. The Conservation Commission was able to perform Green Up Day coordination last year. He will check whether they can still do that. And Jane Marshall is resigning from the Historical Society.

**Doug moved and Mike seconded to accept the resignations of Laura Branca and Jane Marshall.** Eric asked Brian to send letters thanking them for their service. **The motion was passed.**

**13. River Conservancy Watershed Grant**

Brian said the River Conservancy wants to apply for a watershed grant for trail improvements at Beard Recreation Park. Since the board was not going to have the opportunity to meet in time to he sent out a letter of support focused on the history of our relationship with the River Conservancy and general support of their organization. There is no financial commitment from Johnson.

**14. Silver Jackets Funding**

Eric said we were not approved for Silver Jackets funding. We will try to coordinate with Swanton on reaching out to congressional leaders for help in the next funding cycle. We are the top priority in Vermont, but may not be the top priority in New England.

**15. Executive Session – Personnel**

**Nat moved to enter executive session for a personnel issue as permitted by 1 V.S.A. § 313(a)(4), inviting Rosemary and Brian to remain, Mike seconded, the motion was passed and the board entered executive session at 9:41.** The board came out of executive session at 10:23.

**16. Adjourn**

The meeting was adjourned at 10:24.

*Minutes submitted by Donna Griffiths*