

JOHNSON SELECTBOARD MEETING MINUTES
JOHNSON MUNICIPAL BUILDING
WEDNESDAY, MARCH 6, 2019

Present:

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

Others: Brian Story, Rosemary Audibert, Brian Krause, Lois Frey

Note: All votes taken are unanimous unless otherwise noted.

1. Call to Order

Eric called the meeting to order at 7:05.

2. Reflection on Town Meeting

The board discussed town meeting. There were 190 voters there. Eric said he was a little troubled about the way the article for the skate park was written. Did Casey draft it? Brian said he thinks he did. It was reviewed by our attorney, but we devoted more attention to other articles. Brian thinks he copied it from another town. The intention was for it to function like the Rec Committee and other committees. He thinks the amended language cleans that up better.

Doug said he suspects the amended language means any money they have left over automatically rolls into the capital reserve fund and can only thereafter be spent for capital. We should flag that for budget season in the fall so we don't trap them into having to use money for capital needs. Eric asked if we should we run it by our attorney. Doug said he thinks so.

Doug said he thinks the large amount of trust the voters had in us with regard to the budget is astounding.

Nat said he would like to follow up on Carl Powden's suggestion of looking into the right of first refusal for the Masonic Temple. Doug said what we really want is for it not to be sold. It would be a millstone around our neck if we own it but we want it secured for our community. Mike said he agrees we need to protect ourselves. Carl had a good point. Doug said if we had an option on the building the Masons could say they were going to sell unless we exercised our option. He talked to Steve Engel after town meeting and he said they will never sell.

Doug thinks we ought to have them in for a discussion. Mike agreed. Doug said if we are going to take an option we might want to start setting up a reserve fund to buy. Mike said he doesn't think the town wants to buy it, just preserve it.

Lois said Steve talked about other groups using the facility. That could be a good opportunity.

Nat said he got comments about how nonprofit funding gets voted on and then for the next couple of decades stays there without any review. A couple of ideas came up. One is having a small committee look that over. Mike said the finance committee we have talked about would look into that. Nat said other ideas include having a grant pool available for people to apply to or having someone from the organization show up every few years to talk to us.

Eric said putting their funding as a separate article is a way to get them to show up. We could make it so every 5 years their funding would come up for a vote again. That would be their opportunity to ask for more money.

Brian said the most common approaches towns take are to work nonprofit funding into the budget like we do or to have it voted on all in one article. He can't think of any that vote organization by organization.

Mike said someone spoke to him about a blighted building ordinance. We probably need to work on that this year to get it done before next town meeting. Brian said we have done some work on it and it was getting close to something we could approve but the last time we looked at it in detail we weren't really satisfied. He believes the discussion was about throwing it out and starting over. Doug said he thinks that is what we should do. The attorney sent us two drafts and we should pick one. He thinks it is clear which is the one to pick. Then we should work with that one.

Eric asked if we should look at a conflict of interest policy now. Mike said yes.

3. *Additions, Changes to Agenda*

Brian added an item related to comments from Howard and Casey Romero and presentation of the proposals for the merger study. Eric added items about Amy Thompson and the groomer for the snowmobile club.

4. *Appointment of Municipal Positions*

Eric turned over the meeting to Doug. Doug called for nominations for board chair. Mike nominated Eric for board chair, seconded by Nat. Eric was elected chair.

Eric called for nominations for vice chair. Nat nominated Doug for vice chair.

Nat recommended waiting for Rec Committee appointments until after the Rec Committee meets Monday night. They need to see who is interested.

Brian said he got letters of interest about the openings on the Conservation Commission and Historical Society. Appointments can be made at the next selectboard meeting.

Brian said the board needs to modify who is an alternate and who is a regular member on the Development Review Board. Kim Dunkley will become an alternate. Will Angier would like to be appointed chair so he will need to be a regular member.

Mike moved and Doug seconded to make the following appointments:

Selectboard Vice Chair: Douglas Molde
Road Commissioner: Brian Story
Road Foreman: Brian Krause
First Constable: Sharon Duffy
Second Constable: Tracy Myers
Fence Viewers: Blaine Delisle, Margo Warden, Kathy Black

Official Weigher: Michael Patch
Tree Warden: Noel Dodge
Vermont Emergency Management: Chairman of Selectboard
Energy Coordinator: Howard Romero
Town Service Officer: Michael Dunham
Inspector of Lumber, Wood & Shingles: Richard Simays
Planning Commission: Phil Wilson, Kim Contoir, Charles Gallanter
Johnson Skate Park Committee: Casey Romero, Howard Romero, Greg Fatigate, George Swanson, Jon Girard, Rick Aupperlee
Conservation Commission: Lois Frey, Eric Nuse, Dean Locke, Sue Lovering, Noel Dodge, Denise Krause, Jackie Stanton, Hillary Emick
Tree Board: Sue Lovering, Rob Maynard, Noel Dodge, Dorcas Jones, Louise von Weise, Jacob Vandorn, Brian Vandorn
Fire Warden: Gordon Smith
Town Historian: Linda Jones
Johnson Historical Society: Linda Jones, Dean West, Lois Frey, Tom Carney, Alice Whiting, Frank Dodge, Duncan Hastings, Dick Simays
Development Review Board: Will Angier, Jim MacDowell, David Butler, William Jennison, David Williams
Development Review Board alternates: Kim Dunkley, Shayne Spence
Beautification Committee: Douglas Molde, Gordon Smith, Brian Story, Kyle Nuse
Official Pound: Lamoille Kennels

The motion was passed.

It was agreed to leave vacant the Trustee of Public Money and Agent to Convey positions. Eric said David Butler volunteered yesterday to serve as Plot Cemetery Agent. Brian suggested appointing him.

Nat checked with Phil Wilson to see if he was interested in serving as LRSWMD supervisor. Phil indicated he was. Nat nominated Phil Wilson for LRSWMD supervisor, seconded by Doug. The board voted to appoint Phil Wilson as LRSWMD supervisor.

5. *Review and Approve Additional Overtime Hours*

Brian K. said currently nobody has gone over in paid overtime. One has gone over 250 hours but he takes comp time. One employee will probably be at 250 hours in this pay period.

Brian S. said we had talked about going to 300 hours for each employee. That would be a total of 400 additional overtime hours. He feels it would be best to authorize a block of 400 hours that Brian K. can allocate to employees as needed. Our more experienced employees are taking more overtime because there is more they can do, so they are likely to use more of the block. At our average rate for overtime, using all the additional overtime would cost \$6,091.50. If our most senior employee took the whole block, which is not realistic, the total cost would be \$6,885.

Eric asked Brian K. if he thinks there will be any issues if he is given discretion over how to allocate the overtime. Brian K. said he doesn't think so.

Doug asked how the crew's mental health is. Brian K. said not too bad. All winter one employee has been taking each weekend off and now 2 are taking weekends off. He is letting one person be exempt from overtime during the week. He is trying to get more down time for employees. Their biggest issue is not having personal time. That starts to wear on people.

Doug asked Brian K. how he is doing. Brian K. said it's wearing on him. Doug asked if he is getting time off. Brian K. said yes; he takes weekends off when it is his turn. Sometimes he will check the roads for the crew but not go out.

Mike moved to authorize 400 additional hours of overtime for public works employees at the discretion of the highway foreman, not to exceed a cost of \$6,885, Doug seconded and the motion was passed.

6. *Review and Approve Highway Access Policy*

Brian S. said he has been working on a draft policy based on the VLCT model policy for highway access but he is widening it to cover more than just access. He wants it to address access and work in the right of way and completely replace the work in the right of way policy. The board has seen an earlier draft. He showed changes in yellow. There are a couple of things he knows he needs to fix. He is not satisfied with the policy yet. The majority of changes are to try to expand the scope to cover any work in the right of way without encompassing things like snow plowing because we found it would be burdensome to have such hands-on involvement. He added more specification about the deposit. The existing VLCT language allowed for collection of a deposit but said no more. He used language we had in our existing policy that says there is a minimum deposit of \$500 and it is held for one full year after completion of a job.

Nat asked, what if he dumps new gravel on his driveway, which is in the right of way? That won't affect the grade of any highway or right of way. What is his obligation under this policy? Brian S. said he thinks we would want him to inform the town if he is adding or removing anything in the right of way. Nat asked, what if he is filling in a hole? Brian K. said he thinks it would be good to require a permit if the grade is being changed. If he is not going to change the grade he feels it wouldn't be a concern. A lot of driveway work could affect water going out into the road.

Brian K. said he thinks the wording needs to be changed so we are able to charge a deposit even if the work doesn't affect travel on a road.

Doug asked if we can have the ability to waive a deposit. There might be some cases where we wouldn't want to require one. Brian S. said in the past we have not always assessed a deposit. He thinks we could improve the language and change it so we don't have to assess a deposit. Do we want it to be at the road foreman's discretion? Mike said yes. Doug suggested at the town's or road foreman's discretion.

Donna Griffiths asked, if a Class 4 road washes out and a homeowner needs to fix it so they can get out, do they need to get a permit first? Mike said we should make it so a permit is not required in that situation. Brian S. said he is concerned about giving that kind of latitude.

Donna said a lot of maintenance work is already happening on Class 4 roads. People who live on those roads are working on them, not realizing they need permits. Brian K. said he thinks in an emergency people could do the work and then get a permit. Eric said if they don't do the work right they could be held liable for the cost. Or we could give them the option to do the work themselves to fix it.

Donna said if the town is serious about having people get permits for maintenance on Class 4 roads there will have to be a big public relations effort because people don't know they are expected to have permits.

Doug said it will finally come down to the question of whether a homeowner can get a mortgage. Are we going to give them conditions that allow them to do that? He asked if this was an issue we had talked about giving to the Planning Commission. Brian S. said yes, we had talked about having the Planning Commission discuss Class 4 roads. Doug said he has assembled a lot of material to give them.

Brian S. said if at all possible he and Brian K. would like to get this policy out before construction season because one of its major features is that getting a permit is not one step. First the applicant is given permission to proceed, then when the work is done Brian K. does a final inspection and gives them their permit. That will be a huge improvement for a couple of problem areas where people have been reluctant to do work as we have instructed it should be done. Brian K. said this will give us more power. You won't be able to get your permit until you do the work the way we want you to.

Brian S. said he wasn't planning to have the board approve the policy tonight. He was hoping to have a draft for the next meeting that will still need to go for legal review. He would like all the board's comments tonight and next time ideally he would show the draft he had sent for legal review.

Mike asked if this policy is friendly enough to the people who are doing the town a favor. Doug said he doesn't see people as doing the town a favor if they are providing access to their buildings. Without their buildings the access wouldn't be needed. Mike said they are maintaining roads to their property, which has value, which we tax.

Doug asked if this policy includes all roads in Classes 1-4 and trails. Brian S. said he would say yes. Doug asked how that connects to our Class 4 road policy. He wants to tie them together. Brian S. said they are more tied together than he had originally envisioned before discussing this. The goal of the Class 4 road policy is to allow routine maintenance without a permit. Major modifications like culverts or burying wires would require a permit. Brian K. asked, what about cleaning ditches? Doug said that relates to the MGRP. He thinks we should get something into effect and realize that we have to visit it again. Brian S. said we have an existing policy so as much as he'd like to get the new one done quickly it is not like we are currently working with nothing.

Doug said he thinks we want construction control. He might break the tie with Class 4 roads. There we are not assuming responsibility for maintenance but in this policy we are assuming

control and saying people have to ask us. Brian S. suggested a provision saying this is superseded by the Class 4 road policy. Eric suggested we could refer to the Class 4 road policy.

Brian K. said we are responsible under the MRGP for what is going on with water on Class 4 roads. There has to be a balance where we are maintaining control but giving people the right to keep the road improved to get to their house.

Doug said maybe we could allow routine maintenance that doesn't affect drainage. Brian K. said he thinks if someone is cleaning ditches probably a permit should be required. There are standards that need to happen.

Mike asked if under the MRGP we will need to bring some Class 4 roads up to Class 3 standards. Brian said he doesn't know about that, but he could see us spending more money to meet standards.

Doug said he met with Rob Moore to talk about this. There is pressure on communities to change roads to trails to avoid the obligation of increasing maintenance. Turning roads into trails is not solving any problems with Lake Champlain and streams.

Brian S. said we will have to review the new road and bridge standards the state is asking us to adopt that are much more stringent. We had made some modifications before we adopted them and they may not accept those modifications anymore. Doug said Rob told him that when we submit our mileage we will be certifying that we are up to snuff with their standards. Brian S. said starting next year it will get more severe. Next year we will be certifying we are up to their standards. We will be looking at whether we can substitute our own standards. There is some indication that might not be accepted anymore. Doug said Rob told him these standards still need to be approved by ANR. He would expect that could only make them tighter.

Brian S. said the big thing he is hearing is that we need a better method of dealing with Class 4 roads. On Class 3 roads, how will we deal with emergencies? Eric said it would be up to the highway crew to make emergency repairs on Class 3 roads. Other board members agreed. Brian S. said he doesn't think we should have property owners dealing with Class 3 roads. The board agreed that people should not do volunteer work on Class 3 roads

Nat said he is hoping for a change in language addressing whether he can fill in a sinkhole. He wants the wording Brian K. had talked about saying that it can be returned to the previous standard but the grade cannot be changed. Brian S. said we can say that a permit is not needed to restore the grade in the non-traveled portion of the road. Or do we want to specify driveways? What about work on a lawn that is in our right of way? Brian K. said he feels it is the same for a lawn or driveway as long as the grade is not being changed. It was agreed to refer to the non-traveled portions of the road.

Brian S. suggested saying it is okay to restore the grade in non-traveled portions of the road. Brian K. said he is not sure he likes the word "restore." We need to be careful people don't

change the grades. Brian S. said they are changing the grade if they fill in a sinkhole. Nat said the policy talks about removing or depositing material of any kind but really all we are concerned about is affecting the grade. Brian said if they remove material and put it back we want to get involved, for instance if they are laying cable. Even if they replace the material to what appears to be the same grade, if they do a poor job it will be washed away. Brian K. suggested something like “with the exception of standard driveway maintenance.”

Brian S. reviewed some other changes. He added language about adjacent parcels and properties. A project could affect more than one property. We want to at least know about everyone being affected. If the applicant is not the owner of the adjacent parcels where the project is to be constructed they need to provide the name and contact information of the owner and a signed statement of consent from them.

Eric asked is if that applies outside our right of way. Brian S. said he doesn't think it would apply if they were not inside our right of way. Eric said if they are inside our right of way we wouldn't give a property owner veto power over something we authorize. He feels we wouldn't require anyone's consent if the project was in our right of way.

Brian S. asked if we still want the affected property owners informed in some way. He would like the onus to be on the person who is suggesting the project.

Doug asked for a hypothetical example. Brian S. said if someone is running cable and wants to go under our road that means the cable will have to go from a parcel on one side of the road to the new owner's parcel on the other side. We would want the people on the other side at least informed.

There was discussion about whether a power company needs landowner permission when they run a wire across someone's property.

Mike said he thinks whenever we change a policy or adopt a new policy we should incorporate it in the town report. There are certain things that we have that he thinks a lot of people don't even know we have. People ought to be educated. When we straighten this out it should be in next year's town report. That way people will have no excuse to say they didn't know anything about it.

Doug questioned the word “adjacent” in the policy. If someone is running a line from their personal property to personal property on the other side of our road he doesn't consider those properties adjacent. Brian said he was really thinking of impacted parcels. We would want to know that whoever was proposing the project had consulted with those owning impacted parcels.

Doug said if he were looking at it as a lawyer he would want to see an easement. But notice may be sufficient. Brian S. said we currently don't ask for anything. It hasn't really been a problem. We could remove this entirely and make the assumption that it is up to the person who is constructing the project to obtain permission and notify affected neighbors.

Doug said he thinks there is good reason to have something like this in here. Someone else could say we issued a permit to do work on their land.

Donna asked if someone could request a permit for work on the right of way on their neighbor's property and if the town would issue a permit in that situation. Brian said that is why the requirement to get permission is important. Someone might want to put logging access across someone else's property.

It was agreed to strike the word "adjacent" and use "affected" instead in the section about consent from neighbors.

Nat brought up the requirement for a signed document. He said some people are hard to find. Brian S. said he is not sure how else we would want to document that they talked to affected landowners. Eric said we could have a disclaimer that it is their responsibility. Doug said he thinks a signed statement would keep us out of trouble. He thinks if they are doing something like this they really should talk to their neighbor. It resolves a lot if they get it in writing. Eric said as long as they do the work. Brian agreed; we don't want the responsibility to inform neighbors. The person proposing the project has to do it. Nat said it is hard to find the owner of a lot of properties. You might need to go to the town clerk's office. Rosemary said the owner could live out of state. Doug said you shouldn't do work on an out-of-stater's property without permission. Nat said he was thinking the requirement was to notify owners of any adjacent property. If notification is only when work is to be done on a property then his point is moot.

There was discussion about whether references in the policy should be to the selectboard or to the road foreman. Eric suggested that the policy should reference the road foreman except to say that if someone is unhappy they can appeal to the selectboard. Other board members agreed.

Nat said a question that is related to this is the question of the width of the right of way of Sinclair Road. Most town-owned highways are 3-rod roads. Duncan did research and determined that Sinclair used to be a state road and he assumed it was a 5-rod road. He thinks if we are going to do this sort of work on what can be done in the right of way it would be a good time to have the selectboard clarify whether Sinclair is a 3-rod road. Mike said the state should be able to tell us if it was a state road at one time. Brian S. said he can reach out to the state. There must have been some work on that for the twin bridges project.

Brian S. said he will see how this comes together over the next week. He hopes to make the changes the board suggested and send a copy out for legal review at the same time the board discusses it.

7. *Request from Howard and Casey Romero*

Brian S. said Howard and Casey Romero were extremely grateful and surprised about the road named after them. They give their thanks and appreciation. Right now the road is named Park Loop and they would like to keep "Park" in the name. Howard asked if we would let them purchase a new sign with the name Romero Parkway and donate the Romero Lane sign to them. **Mike moved to allow Howard and Casey Romero to purchase a Romero**

Parkway sign for the loop road around the skate park and to donate the already-purchased Romero Lane sign to the Romeros, Nat seconded and the motion was passed.

(Brian K. left at 8:44.)

8. *Merger Study Proposals*

Brian S. distributed copies of the merger study proposals that had been received.

Eric asked, what about the college? Brian S. said they will not be suitable for the current RFP. We would have to write a new one. What the college could provide would not be 100% comparable to what these consultants are offering. These proposals are more comprehensive. If the college did the work they would start work based on when college starts and ends. We would write a different scope of work.

Eric asked if Brian and Meredith will review the proposals and bring recommendations to the boards. Brian said that is the idea. He suggests a joint meeting, perhaps combined with the next selectboard meeting. Eric said maybe we are not ready to meet jointly yet. First Meredith and Brian should discuss the proposals and come to the boards with recommendations.

9. *Card for Amy Thompson*

Eric asked if it would be appropriate for the town to send a card for Amy Thompson's card shower. The board agreed it would be.

10. *Snowmobile Club Groomer*

Eric said he recently rode in the groomer the snowmobile club uses for its trails. It was interesting to see the challenges they deal with. He can see why they came to us to ask about taking out some trees on our land. There were times when the groomer missed trees by inches.

11. *Adjourn*

The meeting was adjourned at 8:51.

Minutes submitted by Donna Griffiths