

JOHNSON SELECTBOARD MEETING MINUTES
JOHNSON MUNICIPAL BUILDING
MONDAY, APRIL 18, 2016

Present:

Selectboard Members: Nat Kinney, Doug Molde, Kyle Nuse, Eric Osgood, Mike Dunham
Others: Duncan Hastings (Administrator), Rosemary Audibert (Clerk), Brian Krause, David Butler, Lois Frey, Lea Kilvadyova, Bob Sweetser, David Goddette, Will Jennison, Mary Jennison, Steve Reber, Robert Schulz, Bob Hoag, Daryl West, Renate Callahan, Glen Callahan, Phil Wilson, Charles Gallanter, Marc Cote, several other community members

Note: All votes taken are unanimous unless otherwise noted.

1. Call to Order

Doug called the meeting to order at 7:02.

2. Additions, Changes to Agenda

Duncan added discussion of Whiting Hill Cemetery issues. Doug added an executive session to discuss Section 7 of Act 305 of 1917 of the village charter and an announcement about a Lamoille River Paddlers' Trail meeting. Duncan added an item about Sinclair Road dust and one about appointment of a second constable.

3. Review and Approve Minutes of Meetings Past

Nat moved to approve the minutes of March 21 and March 28, 2016, Mike seconded, and the motion was passed.

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

Rosemary said to date expenditures are at 72% of budget and income is at 91%. Today we received the final state aid to highways payment. Current taxes are at 76% collected, about 1% behind last year at this time. We had a tax sale on April 6. All properties that had land attached were sold. A few trailers did not sell.

Rosemary had the amendment to the \$120K Union Bank construction loan to extend it for one more year. The interest rate will remain the same: 1.75%. Doug read aloud the allonge (attachment.) It extends the maturity date while all other terms and conditions remain the same. **Nat moved to approve the Allonge from Attachment to Note to extend the \$120,000 loan from Union Bank for one more year, Kyle seconded and the motion was passed.**

Wicked Wings and Downtown Pizzeria both submitted requests for liquor licenses.

Downtown Pizzeria also asked for an outside consumption permit, which they have currently. Wicked Wings also has an outside consumption permit but did not submit a request for a new one. The hours requested are the same as those on the current permits. **Nat moved to issue liquor licenses to Wicked Wings and Downtown Pizzeria as requested, with the usual letter to be sent, Kyle seconded and the motion was passed.**

Rosemary got a quote for the new server the board had previously authorized her to purchase – \$4163, which is less than the board had approved spending. We also need to replace the laptop that is used to back up the server. That will cost about \$1800. There will also be some cost to get the computers set up. The computers are shared between the town and village and

the cost will be shared. The trustees have not yet approved purchase of the laptop. **Nat moved to approve paying half the cost of a laptop computer, Mike seconded and the motion was passed.**

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

Brian said we currently contract with Unifirst for uniforms. He would like to switch to G&K. G&K is cheaper and Troy is much happier with their service than Brian is with Unifirst's service. We will save 50% of what we have been paying by switching.

Doug asked how locked in we will be with automatic renewals. Brian said our contract with Unifirst has automatic renewal for 5 years if we do not provide 90 days notice that we are not renewing. We have to notify them by April 21. Duncan said they asked both companies to reduce the 5 years to 3 years. They both have automatic renewals and are not interested in a contract without them. Our current contract with Unifirst includes rug cleaning service. They own and change the rugs. Duncan and Rosemary think we could buy rugs and have Rhonda clean them and that would save money. **Mike moved to authorize signing a contract for uniforms with G&K, Nat seconded and the motion was passed.**

Brian said we have roughly 22K yards left to be removed from our gravel pit. There are parts of the pit that can be reclaimed. There is one area in which we should move forward with doing that, because in its current state it is causing erosion onto the rail trail. Spoil piles are eroding and the last rain washed piles onto the rail trail. He would like to take a dozer and backhoe up there and knock the spoil piles down, moving towards reclaiming that face that we are not going to touch any more. That will prevent more washouts from going onto the rail trail.

Kyle asked if our employees can do that work. Brian said we will need to get a dozer and excavator from a contractor. It will cost \$7 or 8K. Duncan drew the board's attention to a spreadsheet prepared by Rosemary with estimates of money that will be remaining at year's end. She estimates there will be about \$33K at year's end for the highway department. It seems to him there should be enough money available to spend \$8-10K at the pit.

Mike said he would like to get prices from a couple of contractors before authorizing the expenditure. Brian said he would try to get estimates by the April 20 work session meeting.

Duncan said there is an agreement in concept that two landowners will accept the value of work performed by the town to place two new culverts on Basin Road as payment for the easements needed for the Coddling Hollow bridge project. Brian's cost estimate for the work, including all labor and materials, is about \$9K. If we back out tools, equipment, and labor because that is part of the normal budget process the cost is about \$7200. We budget \$5K annually for work on Class IV roads. His thought was to use some of that and to assign some of the cost to purchase of easements, considering the value of each easement to be \$4K. The State Stream Alteration Engineer met with Brian and has said there is no permit needed in one location and he will issue a permit for a 5 ft. diameter culvert for the other location. Brian said the permit for the culvert won't be issued until June 1.

Doug said he happened to speak to the owners of one of the properties yesterday. He thinks they are anticipating cash and not a trade for work. Duncan said they indicated in an email that they would accept the value of our work. He will clarify with them.

Duncan asked, if all parties agree, is the board comfortable with the type of transaction proposed, as opposed to a cash transaction? Board members said yes.

6. *Planning Commission Report*

David said the Planning Commission has received David Bergh's resignation. Does the board want to advertise the vacancy or appoint Eben Patch, who has already been vetted by the Planning Commission? Eben Patch would be acceptable to the Commission.

Eric arrived at 7:34. He asked how long ago Eben Patch was vetted. David said last month. The consensus at the time was that Eben was perfectly acceptable but they had to pick only two people.

Lea said David Bergh offered to serve through the end of June. She suggested that perhaps the Planning Commission could discuss this at their next meeting and form a recommendation for the board. Eric said it is quite a process to advertise. It hasn't been that long since we last advertised. We might not get more candidates. Lea said it would seem silly to her to invite Eben Patch for an interview when that was already done a month ago. Doug said he thinks he would like the Planning Commission to make a recommendation. Eric said they recommended that Eben Patch be appointed if a third seat came up. David agreed that he did recommend that to the board. Lea said the whole commission supported that.

Mike moved to appoint Eben Patch to the Planning Commission, seconded by Kyle. David said he would finish David Bergh's term. He doesn't know when that term is up. Doug pointed out that the board should first accept David Bergh's resignation. Mike withdrew his motion.

Nat moved to accept David Bergh's resignation from the Planning Commission, effective immediately, Mike seconded and the motion was passed.

Mike moved to appoint Eben Patch to the Planning Commission if he is so willing, Kyle seconded and the motion was passed.

David Butler said the Planning Commission will need a new recording secretary now that Lea is leaving. Duncan asked Donna Griffiths if she would be able to do the minutes from a recording until someone is found who can attend the meetings in person. She said she could.

David said the Planning Commission approved applying for the grant for the electric vehicle charging station. Phil Wilson said the commission ironed out some disagreements on form based code at the last meeting. They lowered the minimum for window glazing from 80% to 65% and lowered the minimum first floor height to 10 feet. Lea said there is a small committee working to make the administrative language in the code easier to read.

Lea said last month she gave the village trustees the opportunity to provide some feedback on the town/village plan. She noted their comments and has been following up with those who commented to incorporate suggested changes. This board could likewise provide some quick feedback now or board members could provide feedback later. The Planning Commission wants feedback before they begin the process of formal adoption. They want the new plan in place by August 2016, when the current town plan expires. The village plan doesn't expire until 2018. In April and May the Planning Commission will have time to incorporate suggestions from feedback before they start public hearings.

Eric said he didn't note huge changes from the prior plan. Lea said there are some new segments relating to flood resiliency. Otherwise there are mostly statistical updates. The plan prepares somewhat for form based code but there is not a lot in it related to that because it is not known if form based code will be adopted. There is some language about renewable energy. David said there has been heated discussion about the renewable energy language. Eric said he doesn't think the board has time tonight for much discussion of the plan, but they are also meeting on Wednesday. (*Lea left at 7:51.*)

7. Recreation Committee Report

Nat said the rec committee is planning its fifth annual Memorial Day Fun Run. They are planning to start the run at Old Mill Park. The route will go down the rail trail, crossing Railroad St. and River Road East. There will be people there to conduct traffic. **Nat moved to approve the recreation committee's Memorial Day Fun Run, Doug seconded and the motion was passed.**

Nat said some money was sent to the rec committee in memory of a community member. They are thinking of putting a picnic table in the vicinity of the rail trail trailhead with a memorial plaque. They will get three quotes for the table. The money is in the reserve fund. He thinks there is about \$400. **Nat moved to approve expenditure by the recreation committee of no more than was donated for a picnic table and plaque, Kyle seconded and the motion was passed.**

8. Administrator Report, Action Items and Signature Required Items

Duncan got a call today from a concerned citizen who reported an unusual number of downed stones and a possible exposed grave at Whiting Hill Cemetery. Duncan visited and saw no sign of an exposed grave but there has been a fair amount of vandalism. There are quite a few stones down. He called Clegg and asked for a revised quote for putting stones back up and repairing them. He had asked them previously for a quote to replat Evergreen Ledge but they never provided one. Brian and his crew recently did some trimming and cleanup at Evergreen Ledge. Duncan will come back to the board with quotes once he has them.

A Sinclair Road resident called with a complaint about dust on the road. He said the town used to sweep that road years ago. To Duncan's knowledge it hasn't been swept since he has worked here. The board agreed Brian should look into sweeping Sinclair Road and talk to Troy about the cost of the village doing it.

9. Jennison Shooting Range

Robert Schulz said there is a 20 acre property on Plot Road that is being used as a shooting range. It is undeveloped except for the berm that backs up the targets. The property is owned

by Will Jennison, who lives in the village but comes up 3-5 times a week to shoot. In an hour he may shoot 30-50 rounds using a very high-powered rifle. The sound radiates at least a mile. He lives on Cemetery Road, about half a mile from Jennison's property. The shooting sounds very loud to him. Many neighbors have complained. He would consider it a public nuisance. Beyond that, he believes this rifle range is highly unsafe. He has read information online about how shooting ranges should be designed so bullets cannot escape and he doesn't believe this one comes close to that. He thinks a bullet could ricochet and come to his house. He and his family and friends would like to see a town ordinance that regulates firing ranges.

Will Jennison said he knows there are a number of people in Johnson who shoot in their back yards. His range is 2715 ft. from Robert Schulz's house, at a 45 degree angle from the targets. He shoots with his sons for practice and proficiency. They shoot skeet. They often shoot 22 rifles. They shoot their hunting rifles to be proficient. They shoot 12 and 20 gauge shotguns. He spoke with an NRA representative whose opinion was that the only legal way his use of his range could be restricted would be through a noise ordinance.

Doug asked Duncan about the parameters of the board's authority. Duncan said he thinks the board does not have authority to regulate shooting ranges short of adopting or amending a noise ordinance. And even a noise ordinance would not prohibit the activity of shooting. A commercial range would be subject to state permits. If it is not commercial, statute says that if no state or municipal permit is required by law then the owner or user shall not be subject to civil liability for damages or noise pollution, with some listed exceptions. He did not have time to research it a lot, but he thinks the board is fairly limited in what it could do. Addressing the issue through a noise ordinance is one possibility that exists.

Will Jennison said the board can't make the ordinance specific to his range.

Bob Hoag said he shoots a lot every weekend. He sometimes shoots at night. People who want to shoot raccoons need to shoot at night when raccoons are out.

Another citizen said the Vermont Sportsmen's Bill of Rights limits what municipalities can do regarding gun ranges.

David Butler said Will Jennison's family members have been in his hunter education classes several times. He is their neighbor and he often hears them shooting. He has been to their range and looked to see if it was built the way he taught them a range should be built. He doesn't see any way a bullet could ricochet or escape. When shooting rifles, they shoot downhill with a background of trees which will absorb bullets. There is nothing hard there to create a ricochet. Noise is an issue. He fired off about 500 rounds in his gravel pit last Sunday. He and Bob Hoag will be affected by a noise ordinance too. He hasn't heard anyone complain. It is a right of landowners in Vermont to shoot on their property.

Daryl West said he lives in that area too. He hears the shooting. But it doesn't sound like it is at the end of his driveway, as Robert Schulz had described it. When he was young he spent a lot of time with his father and grandfather developing shooting skills. He would hate to see

that opportunity go away. He has a spot where he likes to shoot. He would be disappointed if something came along to shut that down. He feels that is part of Vermont.

David Butler said for trap shooting the Jennisons created a shooter's box for safe zones of fire. There is a limited swing range so shot can't go near the neighbors.

Renate Callahan said from where she lives on Plot Road it sounds like the Golan Heights sometimes. It is not nice. She doesn't like being surrounded by gunfire.

Bob Hoag said shooting guns, sometimes at night, is a thing people in Vermont like to do.

Eric said this is not the first time Robert Schulz has come to the board about this issue. He and Duncan visited the site after the first time he complained. They don't have the power or qualifications to determine if it is safe or not. But he would not have felt uncomfortable shooting there. He thinks the issue of a possible ricochet can be pulled off the table. As he understands it, the range was designed by a safety officer from the Lamoille County Sheriff's Department.

Will Jennison said someone who at the time worked for LCSD and current and past members of the military picked the location and where the targets were going to be set, keeping in mind that you own your bullet after it leaves your gun. His family has owned that property for 200 years. He has been shooting there for over 40 years. His boys enjoy shooting as a sport.

Eric said he doesn't feel like an expert who could say if it was unsafe, but he would not feel unsafe shooting there. He doesn't think there are safety issues. As far as noise, that concerns him. The board has felt for quite some time that they need to look at their noise ordinance again. He has a fear of addressing one specific situation without knowing what all the ramifications could be. Other people also want to shoot on their properties. He doesn't want to touch this issue with a ten foot pole. He thinks it would divide this town. He would ask those who shoot to take into consideration, for the neighbors' sake, the number of hours and the time of day they shoot.

Will Jennison pointed out to Robert Schulz that some other neighbors had also just talked about shooting. Is it possible that all the shooting he hears is not coming from his range? He does not shoot 3-5 days a week. Robert Schulz said he has no idea. That is the only range he knows of. Will said there are shots coming from other neighbors as well. He should not be singled out as the only person shooting. David Butler said he and Daryl West are also shooting in the area.

Nat said he thinks Eric said it well. He hears two main concerns – safety and noise. If people feel the public is endangered, he feels that is a law enforcement issue. It is not this board's place to handle those concerns. As far as the sound, he has a piece of property he occasionally shoots on. People are going to do that. There is no way to stop it. The board has no mechanism to do that even if they wanted to. They could try to address it somehow with a

noise ordinance, but he is not sure how that would be done. He thinks it would stir up a lot of animosity in the community and no one would win or be satisfied.

Will said he doesn't think an ordinance can legally restrict the number of rounds shot. As far as decibel level, the decibel level is high where the shooting is taking place, but it is not very high at Robert Schulz's house.

Renate Callahan asked, is there a way to exclude, for instance, Sunday afternoons?

Doug said he is hesitant for the board to get into prescribing or approving range designs. That will create liability. He feels it is unfair to single Will out. He doesn't know yet what the board's authority is. We have an imperfect noise ordinance. It is difficult to craft one. He doesn't see how the board can avoid looking at it and seeing what they can do. Historically the board has asked people to negotiate and establish predictability.

Kyle said she has land on Plot Road too. If she had a house there she thinks she would be upset by the noise as well. She can sympathize. She is new to all this, but she would strongly encourage neighborly spirit. Will said that was tried, but it was an all or nothing situation.

Mike asked Robert Schulz if he ever served in the armed forces. He said yes. Mike said when an F16 flies over our heads there are people that complain. He considers that the sound of freedom. The sound of firearms going off in someone's back yard is the sound of freedom because we have the ability to do that in our country. We are free people.

Daryl West said obviously there are two very different opinions. He agrees that if the selectboard goes after this it will divide people more. He would be willing to offer what Renate suggested – laying low on Sunday afternoons. He can't speak for anyone else. He thinks maybe both sides can come up with a reasonable compromise and find some middle ground. If the board went down the road of trying to significantly regulate shooting he would fight it tooth and nail.

Another citizen said a change to the noise ordinance that specifically targeted use of firearms would probably violate state statute and the Vermont Sportsmen's Bill of Rights.

Eric asked if other shooters would be willing to curtail shooting on Sunday afternoons and whether others think that would be a good gesture. Will asked, why Sunday afternoon? Why not Tuesday afternoon? Renate said she is at work on Tuesday afternoon. Will said she is suggesting that he curtail what he wants to do on his day off so she can do what she wants to do. Mary Jennison said being able to shoot on Sundays is important because her older son is away at college except on weekends. Sometimes the family has other obligations on Saturday. It would be a shame not to be able to shoot on Sunday because it is a family activity they enjoy on days off.

Will said he is not trying to be unreasonable. He understands we live in a community with neighbors and friends. He is not saying he won't talk to his neighbors or listen to suggestions. He won't be told he can't shoot on Sunday afternoons. He is more than happy to listen to

those who are affected. He suggests that they get a committee together and bring him a proposal. Perhaps they could agree to using no caliber over a certain amount on Sunday afternoons. Maybe he and other shooters in the neighborhood could get together and agree collectively on some restriction.

Eric said it would be best if all those involved could hammer out an agreement without the involvement of the town and the selectboard.

Bob Sweetser said people in Vermont have always shot on their property. Those who shoot were here first. The shooting was going on when those who have issues moved in.

Doug said he would like the people who are shooting to have some coordination among themselves.

Eric said he appreciates everyone coming here to listen and talk. He feels it is best if the selectboard doesn't get involved. Many members of the public left at 8:36.

10. Animal Nuisance/Small Farming in Village

Bob Sweetser gave the selectboard a letter about the animal nuisance issue that Kim Marble had given him at the village's annual meeting. Duncan said Kim Marble had talked to him. She asked the trustees in the past if they would consider adopting an ordinance related to farm animals, which they could do. To Duncan, it is more of a village issue. There are not complaints from parts of the town outside the village. The trustees had no interest in adopting an ordinance.

There are some protections under Vermont state law, but there are exemptions for accepted agricultural practices. Duncan suggested that Kim Marble talk to the Agency of Agriculture and see if what her neighbor is doing would be considered acceptable agricultural practice and thereby exempt from ordinance or regulation.

Bob Sweetser said a few people have commented to him about seeing chickens, hogs or goats right by the road when so much has been spent to beautify Johnson. The reason the trustees didn't do anything was that they were told the town already had an ordinance.

Eric said the town has a noise ordinance but it doesn't address farm animals. If the town writes an ordinance it is town wide and would affect people in the hills as well as in the village.

Duncan said he agrees with Kim Marble's concern and Bob's comments, but we don't have problems in the hills with farm animal complaints. It feels it is more appropriate for the village to address. Kim said a Morristown police officer told her Morristown uses their noise ordinance to enforce restrictions on farm animals. Roger Marcoux said he doesn't believe our noise ordinance covers farm animals.

Eric said even if the noise ordinance did cover farm animals, it wouldn't prevent someone from having animals.

Nat said if there is a public health issue, that is another way to address it. Duncan said he suggested that Kim talk to the Agency of Agriculture about things like where her neighbors are storing manure.

Doug said he thinks the town could regulate this just for village residents. But he would suggest that the village determine what rules they have authority to enact.

Nat asked what we did when there was an animal welfare issue on Wilson Road. Duncan said we had the Agency of Agriculture do an inspection. There was a complaint about animals being kept in inhumane conditions. We involved the health officer and animal control officer and they had the Agency of Agriculture do an inspection. Nat asked if we can do that now. Duncan questioned whether it would be appropriate for the town to do it if the issue is in the village. He thinks it is more appropriate for the trustees to deal with.

Eric said if it is a health issue the town can look at it. Duncan said he doesn't think it is a health issue. There have been no complaints that the animals are being inhumanely treated. The complaints have had to do with noise, odor, and free ranging chickens. He told Kim Marble she could take any action to prevent chickens from being on her property.

Duncan said he recommended that Kim Marble start with the Agency of Agriculture because the whole thing will hinge on whether what is taking place is exempt agricultural practice. If so, then the town or village has no ability to adopt an ordinance to curtail or prevent the activities. If not, then the town or village could adopt an ordinance regulating it. He is not sure we could have an outright prohibition against keeping livestock but there could be regulations about where animals or manure were located in relation to the property line or a prohibition against attracting flies or causing smells. An ordinance could make it very difficult for someone to have farm animals in the village but there probably could not be an outright prohibition simply because they were in the village.

Mike said as a village resident he would have been very resentful that the selectboard would tell him what to do. It would set better with him if the trustees had an ordinance. He agrees that the village should be the ones to look into this.

Eric said not knowing if what is taking place is accepted farming practice we don't know what we can and can't do. If Kim Marble investigates that then we can see if anything can be done.

11. Bob Sweetser – Request to Eliminate Easement Across His Property

When Hubert and Florence Beard conveyed a lot to Lois Beard which is now owned by Bob Sweetser they reserved a right of way on the property. The town acquired the Beard parcel from the Beard family and now owns the right of way. Bob said he has had no problems but his insurance company thinks he should put up a fence to prevent people from going across his lawn to get to the Beard swimming hole. He plans to put up a fence and signs. If it is possible to get the easement across his property removed, he would pay the lawyer fees to have that done. If it can't be removed, he will have a fence up and he will allow someone across if they show him warrant that they need to cross.

Eric said historically the town has not been inclined to give up any rights of way it has. He would not foresee a need to use the right of way across Bob's property. The only time he thinks the town would need it would be if we had to get access for large equipment for some project we were going to do.

Duncan showed Bob and the board a copy of the survey showing where the right of way is. The deed is not very specific about the location of the right of way. Its width is not described. It only says it is "on the westerly and southerly sides of the property." Eric asked how people know it is a right of way. Bob said they don't; they just have been using it.

Duncan said the town is going to put in steps, allow for parking and provide better definition of a trail to the swimming hole. He thinks if we do that people probably won't go across Bob's property anymore.

Eric pointed out that the path across Bob's property that has occasionally been used for a tractor isn't even the right of way. Duncan said where people often cross the property is not part of the right of way. People have no right to cross there. He said if we move the guard rails back we can make a good place to park cars. By doing that we would encourage people to use the path further up, away from Bob's property.

Nat asked, if there is a right of way, does that automatically mean anyone can use it? Duncan said no. It belongs to the town. It is an open question what "the town" means in that case.

Doug said Bob can put up a fence on the part of the property away from the right of way. Later, if people going to the swimming hole haven't changed their habits we can address the issue. He would think we could put up a fence.

Duncan said he thinks if we were to change the deed we would have to go through the River Conservancy. Bob can put up fencing and No Trespassing signs.

Lois Frey said there was a similar problem at Journey's End. Historically people who went there were crossing private land. Since a new trail was put in there have been no problems. Problems can be addressed with behavior modification.

12. Administrator Report, Action Items and Signature Required Items

Kyle had asked to discuss the negative tenor of the recent joint trustee-selectboard meeting. Kyle said being fairly new to the board it was her first experience with a more combative type joint meeting. To her the energy was very uncomfortable. It felt a bit threatening. She wasn't comfortable expressing herself, not knowing how people would react. There was a lot of shouting and body language that seemed aggressive to her. To her, that is not productive. She feels it would be more productive to bring in a professional mediator to set clear boundaries so everyone feels they can say what they want to say in a safe environment.

Eric said it was not his first time in a meeting like that. It didn't affect him the same way. He felt it got things aired out and then the boards got things moving. But he can understand what Kyle is saying. He asked if Rosemary, as the only other female present at that meeting,

would echo what Kyle said. Rosemary said yes. She thinks if it had been her first time she would have been scared.

Eric said he is not sure if we would want to go with a mediator exactly, but a Dave Williams-type moderator might be appropriate. Dave Williams would not allow a meeting to get out of control like that.

Doug said when two boards are discussing concerns where each sees things differently he thinks mediation would be appropriate. There are difficulties with a joint meeting where there is not a single person in control of the discussion.

Nat said he feels very strongly that the public should always feel comfortable and welcome in our meetings. The library trustees were there and he thinks they wanted to contribute input. Clearly, the atmosphere was hostile and unwelcoming enough that they did not contribute. He feels shouting detracts from getting things done productively. He likes the idea of someone like Dave Williams in a mediator-type role – someone who controls the discussion. He thinks both boards failed with the library trustees that night and that was unfortunate.

Kyle said she ran into some library trustees the next day and talked to them. They were shocked at the level of hostility. They had no idea that was what they were walking into. They felt very discouraged and even a bit embarrassed.

Mike said he agrees about having a moderator, which he agrees is a better term than mediator. He was a trustee for 8 years. At that time when there were joint board meetings it was always the chairman of the selectboard who was somewhat in charge. It gave something of an adversarial feeling to a trustee, having the selectboard as boss. He thinks an outside individual to moderate the meeting would be a far better approach – someone with no iron in the fire or agenda. He thinks from now on out we should have a moderator.

Doug asked Duncan if we can do that. Duncan said he doesn't know why not. He would echo what has been said. He thinks it is the role of the board chair to keep members in line. He doesn't think that happened on the trustee side. He thinks a moderator could play a good role. It has been difficult for him and the interim village manager to work together on some issues. As long as the two of them are here it will probably be difficult for the two boards to have meaningful discussions.

Doug said he is not sure he and the trustees would agree on what went wrong at that meeting. We have substantive issues that need to be worked out. We need to identify them. Maybe there should be some communication back and forth outlining the issues.

Eric said he and Gordy spoke a couple of times today. They both recognize it was not a positive meeting. Eric told Gordy that the board would be discussing Kyle's letter about the joint meeting. Gordy and Eric thought that the next time there was a joint meeting it might be more productive if Sandy and Duncan were not there, just board members. He mentioned the idea of a moderator to Gordy. The trustees would have to discuss that as a board.

Eric said the chair and the board as a whole have no power over an individual. He tries to run an orderly meeting but each member can decide to do whatever they want. Duncan said the chair can have an important role in trying to calm a person down and ask them to be polite and considerate. The chair can set a tenor. Eric said probably to some degree he and Gordy both failed in that.

Mike said, in Gordy's defense, he was not conducting the meeting. There may have been some question as to what his role was. Eric was conducting the meeting. Usually it is up the chair to correct situations. Eric said he would not characterize it as the selectboard having power over the trustees. To him it is a shared chair relationship. He is running the selectboard part and Gordy is running the trustee part.

Eric asked if there is any direction the board would like to take for future joint meetings. Doug said he thinks we should ask the trustees if they would consider having meetings moderated.

Lois Frey said she knows from working with groups in the past that sometimes it is helpful if a group has ground rules, like no cross-chatter. Maybe it would be helpful to have ground rules articulated and shared with the trustees so everyone is on the same page. Then when someone goes against the ground rules whoever is running the meeting has something to go on. Duncan said if everyone agrees on them, then if someone breaks them they can be reminded that they agreed to abide by them.

Eric asked Kyle if anything like this was addressed in the VLCT training for new selectboard members. She said she doesn't think it came up.

Jason Whitehill sent a letter to the board expressing disappointment over his wage adjustment at 6 months. Duncan asked him whether he was requesting a grievance hearing or just asking the board to reconsider. He told Duncan he just wants the board to review the letter and take appropriate action; he is not asking for a formal grievance hearing. Eric asked if Jason understands the proper way to appeal. Duncan said he thinks he would need help formulating an appeal as per the personnel policy but he understands the difference between this and a formal grievance process. The board agreed to come back to this in executive session.

Lea has submitted her resignation. Doug had asked to discuss a party or some form of acknowledgement for her years of excellent service. Nat and Doug both agreed it is important to thank her for what she did. Mike said he heard that she brought approximately \$14 million to this community. That is amazing. It was agreed that Eric would talk to Rosemary and Gordy and come back to the board with some proposal for recognizing Lea.

Doug moved to accept Lea Kilvadyova's resignation, Mike seconded and the motion was passed.

Duncan said he feels it is a great loss that Lea is leaving. He has asked her to prepare a list of her projects and their current status. He is not sure how he will fit doing her job and his into his work week. Eric said we may need to explore contracting with LCPC. They used to administer our grants. Duncan said that is worth looking into. His suggestion is that the board needs to accelerate the process of finding a replacement for him.

Duncan said the Morristown selectboard had a hearing in which they determined that a dog was vicious and they ordered it to be removed from the trailer park where the owner resides, be kept in a kennel, and be on a leash and muzzled when being exercised. The owner removed the dog to 823 Waterman Road in Johnson. We have no recourse to enforce Morristown's order about the kennel and muzzle. Dave Barra initially thought the selectboard could issue its own order based on Morristown's, but after rereading the animal control statute he feels Johnson cannot do that. He feels there would have to be an actual incident in Johnson for the board to deem it a vicious dog. The dog is a 150 lb. mastiff.

Bob said when he first came to town and everyone was getting Rottweilers and pit bulls he heard they had been banned from a lot of towns. Eric said he doesn't think you can ban a breed of dogs. Duncan agreed.

Doug suggested the person now keeping the dog be invited to come and talk to the board. He thinks we should have something from our lawyer indicating her personal liability for this dog's actions. Eric asked if the board wants to follow up with that idea. Nat said he thinks not.

Mike asked if Sharon is going to visit the dog's new home regularly. Duncan said we can ask her to. The board agreed Sharon should be directed to periodically check on the dog.

Duncan said there is a question about the second constable that rises to the level of a personnel matter he would like to discuss later in executive session.

Doug moved to accept the NEMS ambulance services contract and to authorize Eric to sign it, Mike seconded and the motion was passed.

Duncan sent an email to VTrans indicating we had adopted new highway codes and standards and they are reviewing. There is a possibility that the next time we apply for a structures or Class II paving grant our cost share will be reduced.

VTrans is looking to acquire a small section of Sinclair Rd. for its bridge project. The value of the easement has been determined at \$100. Duncan showed the board an easement the state already owns in that area. The easement they are asking the town to grant now is within the area of the easement they already own. He was told this request is "belt and suspenders."

Doug suggested that we grant the easement by quit claim. That takes care of their need and our belief that we don't actually own it. He suggested changing "warranty deed" to "quit claim" on the document sent by VTrans. A warranty guarantees we own it. A quit claim says we give them any right we have in it. **Doug moved to authorize Eric to sign a quit claim**

deed for the easement on Sinclair Rd. requested by VTrans, Mike seconded and the motion was passed.

Duncan reviewed for Eric the information he had previously given to the board about the plan to exchange work done to put in new culverts on Basin Rd. for easements needed for the Coddington Hollow bridge project.

Ruggiano has a recommendation regarding the Coddington Hollow bid contract. They recommend awarding the contract to SD Ireland, the low bidder. We had an alternate that would allow the town to purchase a box culvert separately. Duncan thinks SD Ireland's bid was lowest under either scenario. Awarding the contract is supposed to be based on the base bid. Ireland indicated that if we don't go with their precast product they want to either get out of the bid or renegotiate the price.

The FEMA grant is for \$308K. Duncan needs to review the FEMA paperwork. We got about \$55K from FEMA for emergency measures (the temporary bridge.) He believes there are two grants – one for emergency measures and one for construction of the new culvert, estimated to cost \$308K. Duncan needs to double-check whether the grant for \$308K is supposed to include the emergency measures. He will have to ask for an amendment if it includes the \$55K we have already spent.

Marc Cote, president of Blow & Cote, said he had come because of the bid. Ruggiano told the bidders they would get a bid tabulation showing the breakdown of everyone's bid. Maybe with that they can figure out how they chose the low bidder. Each bidder had to do their own quantities. He showed the board a typical bid sheet. He said in order to compare bids you have to have quantities. How do you do a comparison if contractors do their own bid quantities? This is Ruggiano's style. The board ought to be aware of it. They are charging the board for a service they are not providing.

Duncan said he respectfully disagrees. We went through this bid process understanding it is different from the typical process. There is validity to what Mr. Cote said but there is validity to what Ruggiano did. He doesn't think there is any doubt that SD Ireland was the low bidder. He will ask Ruggiano to provide the bid tabulation to everyone who submitted bids.

Marc Cote said there is another process that could have been used. Bidders submit a lump sum bid and the only person to do a breakdown is the low bidder, who then submits quantities. Duncan said that is still basing the bid on the low bidder. Mr. Cote said when you do quantities, the quantities dictate the low bid but usually everyone bids the same quantities.

Mike said he sees Mr. Cote's point. From here on out we might look into doing things differently. He thinks we should fine tune the process for the next big project.

Duncan said we have always done bids the way Mr. Cote has described and he has no issue with that. He felt this approach was at least worth a try. Ruggiano has had some success getting lower bid prices with this approach and his job is getting the lowest bid for the town.

Eric asked if this approach is more difficult for contractors. Duncan said it probably is because they have to look more carefully and come up with their own list of quantities. Eric noted that there is a big range between the high and low bids when all were provided the same information. Duncan said that isn't that unusual even if quantities are specified.

Nat moved to accept the recommendation of Ruggiano Engineering to accept the SD Ireland bid of \$294,660 for the Coddling Hollow project without the bid alternate, Doug seconded and the motion was passed with Mike opposed.

Nat moved to authorize Duncan to sign the bid contract documents, Kyle seconded and the motion was passed.

Duncan said he has submitted 3 applications for Better Backroads grants that were prepared by Brian. He also submitted applications for structures and Class II paving grants. He is not optimistic we will get those as we have used them recently and are not likely to get funded again for several years. But he likes to put in an application every year because it shows the legislature there is more need than funding.

David Bergh would like to continue at LCPC until June 30. (*Marc Cote left at 10:15.*) He is interested in seeing if the trustees would fill the village position on the LCPC board. The new college president is interested. Duncan thinks she would be better for the village slot than the town slot because she lives in the village.

Mike said he wants the record to state that he is not implying SD Ireland won't do a good job. He just protests the way the bid process worked. That is why he voted against awarding the contract to SD Ireland.

Ruggiano has provided cost estimates for developing the industrial park with water, sewer, electric, etc. Duncan hasn't had time to look them over yet.

Doug suggested it might be most appropriate to discuss the change orders for the College Hill project in executive session. Eric asked why. Doug said he thinks there are questions with regard to obligations between trustees and selectboard. That is perhaps a legal matter. Eric asked, is that information not already public? Doug said he thinks we can discuss how we want to deal with it in executive session. Eric said if public discussion would put the town at a disadvantage in financial negotiations then that is a reason for executive session. Discussion of a legal contract is another reason. Doug asked, isn't there a question of whose responsibility the cost of the change orders is? Eric said yes. He asked if Duncan thinks it qualifies for executive session. Duncan said he doesn't have an opinion one way or the other. Sandy had some sensitivity about cost allocation related to negotiating with Otter Creek Engineering, but Duncan doesn't agree that concern is valid. Doug said he doesn't want to sabotage the village by public discussion. Eric said he could agree with that. It was agreed to return to this later in executive session.

Duncan would like to attend the VTCMA Spring Conference in Okemo on May 12-13. There is a cost of about \$150-200. **Nat moved to authorize Duncan to attend the VTCMA Spring Conference, Kyle seconded and the motion was passed.**

The Vermont Council on Rural Development is asking for a membership pledge. Rosemary said she thinks we paid \$50 in the past. Duncan said they do community visits (two a year in towns selected from all over the state) and forums on things like energy, forestry, agriculture, and economic development. **Kyle moved to pay for a \$50 Vermont Council on Rural Development membership, Nat seconded and the motion was passed.**

Duncan asked for clarification on the motion from the recent joint meeting about sharing labor 50/50 on the storm drain work at the School St./Clay Hill intersection. Does that include sharing trucks and equipment? The board agreed that the intention was to share town trucks and equipment.

Duncan advised NEMRC that the town is going to contract with them.

Duncan has gotten some feedback from Lea with regard to town administrator replacement that he can discuss at the April 20 work session meeting.

Eric reminded board members of the joint meeting with multiple boards on April 26.

13. Lamoille River Paddlers' Trail Meeting

Doug said the steering committee for the Lamoille River Paddlers' Trail will be meeting May 4 about 6:00 pm at the Landmark Tavern. There will be appetizers and drinks and a presentation on the Paddlers' Trail and where it stands. Earlier in the afternoon there will be construction of a takeout by the Landmark Tavern and a kayak trip down the river to the Landmark starting at 5:00.

14. Executive Session

Doug moved to enter executive session to discuss a personnel matter related to the second constable, Section 7 of Act 305 of 1917 in the village charter, Jason Whitehill's wage issue, and legal contract issues related to the structures grant for the College Hill project and change order cost estimates for that project, Mike seconded, the motion was passed and the board entered executive session at 10:32. The board came out of executive session at 11:40.

Mike moved to increase Jason Whitehill's pay by \$0.50 per hour effective immediately, seconded by Nat. The motion failed with Nat and Mike voting in favor and Doug, Kyle and Eric opposed.

Mike moved to finalize the amendment request with VTrans District 8 for the 2014 Structures Grant to a maximum request of \$140,266.00, which is based on the current estimates for change orders 3 and 4 of \$16,786.00, seconded by Doug, and the motion was passed.

Mike moved to notify the village trustees in writing of the decision to finalize the amendment request at a maximum of \$140,266.00 and to limit the town's match to no

more than \$24,375.00, which is the original match amount before amendment, seconded by Doug. The motion was passed with Mike, Doug and Kyle voting in favor and Eric and Nat opposed.

15. Adjourn

The meeting was adjourned at 11:47.

Minutes submitted by Donna Griffiths