

JOHNSON SELECTBOARD MEETING MINUTES
JOHNSON MUNICIPAL BUILDING
MONDAY, JUNE 16, 2014

Present:

Selectboard Members: Kathy Black, Nat Kinney, Doug Molde, Eric Osgood, Howard Romero
Others: Duncan Hastings (Manager), Rosemary Audibert (Clerk), Steve Smith, Lois Frey, Bob Selby, Dean West, Scott Griswold, Mike Paradis

Note: All votes taken are unanimous unless otherwise noted.

1. Call to Order

Eric called the meeting to order at 7:01.

2. Review of Agenda and Any Adjustments and Additions

Duncan requested 3 additions: Review and Approve Long Trail Liquor License, Review Audit RFP and Award Contract, and Accept Resignation of Debby Gillen as Library Trustee. Doug asked to add an item concerning the Lamoille River Paddlers Trail. **Doug moved to accept the agenda with the requested changes, Nat seconded, and the motion was passed.**

3. Review and Approve Minutes of Meetings Past

Nat moved to approve the minutes of May 19, Kathy seconded, and the motion was passed.
(Howard arrived at 7:03.)

4. Treasurer's Report and Review and Approve Bills and Warrants

Rosemary said with today's orders we have spent about 95% of budget. Duncan said before the July meeting he and Rosemary will compare his budget estimate to where we are likely to actually be for year end spending so the board can be aware of any adjustments that need to be made. Rosemary said Jo Ann Benford thinks the library will be overspent by about \$5K, mostly due to health insurance. Jo Ann thinks she has enough to cover it but wants the board to be aware because she might ask the board to cover it in the selectboard budget. The tax sale date hasn't been set yet.

The board received a liquor license request from the proprietors of what is to be called the Landmark Tavern, in the building that used to be the Long Trail Tavern. They also requested a permit allowing outdoor consumption from 11:00 am to 2:00 am. Howard moved to approve the liquor license and outdoor consumption permit for the Landmark Tavern as requested with the standard letter to be sent. Nat said he would be uncomfortable allowing outdoor consumption until 2:00 am. There are houses around there. The motion was not seconded. Nat said he would like the hours on the permit to be the same as those for Downtown Pizzeria. **Doug moved to approve the liquor license and outdoor consumption permit for Landmark Tavern with outdoor consumption hours restricted to the same hours allowed for Downtown Pizzeria and with the usual letter to be sent, Kathy seconded, and the motion was passed.**

Rosemary said we got 3 audit proposals, from Gene Besaw (\$11,500), Graham & Graham (\$15,455), and Sullivan Powers (\$15,800.) Besaw did the last audit. They have been doing our audits for more than 10 years. Kathy said she thinks it is probably prudent to change auditors after having it done for so long by the same firm. Duncan said he thinks they are all good audit firms. Rosemary said Besaw does send different people in different years. We have \$10K set

aside for auditing. Duncan said there is money set aside in the CBDG to cover the cost of the single audit. (*Bob Selby arrived at 7:18.*) He said VLCT Risk Management suggests changing auditors from time to time. There was some discussion about choosing between Graham & Graham and Sullivan Powers. (*Dean West arrived at 7:28.*) **Nat moved to accept the audit proposal from Graham & Graham, Kathy seconded, and the motion was passed.**

Rosemary said next year we may have to replace up to 4 computers because they have the Windows XP operating system. Doug asked if another operating system can be put on them. Rosemary said she doesn't think so; they are too old.

It was agreed to meet to set the tax rate on July 1 at 5:00.

5. Road Commissioner Report/Road Foreman Report

Steve said since the last board meeting there has been 3.6 inches of rain. Ray has been painting. The highway department has been working on the rail trail. He gave the breakdown of labor, equipment, and materials we have provided for the rail trail, which totals \$20,857.92. His crew has been grading, screening gravel, and spreading chloride. Chris started mowing today. The new mower won't be delivered for a month.

Howard asked if a FEMA declaration has been made for Lamoille County. Duncan said yes. Howard asked if that impacts our ability to put in a low water crossing at the Scribner Bridge. Duncan said there will be mitigation money available, but we don't know the amount yet. There is a required cost-benefit ratio that has been hard to meet in the past. There is an applicants' briefing on Wednesday at 10:30 at JSC. Duncan plans to go with Susan Tinker and Steve can go. This is for the April 15/16 event. Eric asked if the EPA's interest in cleaning up Lake Champlain and concern about gravel in streams would help us. Duncan said FEMA doesn't care about that. Eric asked if ANR would help us get that mitigation money. Duncan said maybe.

Doug mentioned to Steve where he had noticed some erosion in the traveled portion of a road. Steve said we have one grader and 49 miles of road and each road needs 5 passes with the grader. Doug said he suspects the erosion he saw won't be fixed by grading. Steve said if it is bad the crew will have to take the backhoe to fix it.

Steve recently took a load of gravel to the skate park.

A loss control specialist for VLCT PACIF did a safety and hazard inspection at the highway department. They found a couple of issues that need to be addressed. One is that we don't have a written policy for making sure dump bodies cannot fall on an employee. We will work on implementing that. Eric said it sounds like the board will have to have a work session meeting to develop this policy and deal with all the ordinance work Lea sent out a note on. Maybe it can be after the summer.

6. Planning Commission Report

Bob Selby said the Planning Commission voted at its last meeting to recommend that Paul Dreher be selected as the consultant for the exploration of form-based zoning. After that vote was taken, Planning Commission members learned about a 2009 news report involving Dreher. Bob spoke with Eric and most of the members of the Planning Commission about ways to proceed and as a result of those conversations has been trying to contact people in Barre, South

Burlington, and Huntington to discuss their experiences working with Dreher. So far he has spoken with the planning and zoning director in South Burlington.

Doug asked about the timeline. Bob said the next Planning Commission meeting is scheduled for July 9. The goal was to get approval from the selectboard to hire Dreher so the Planning Commission could get his advice about preparations for the July 9 meeting. At that meeting the commission will discuss composition of a steering committee. Dreher would be at the July 9 meeting. There is particular interest by the Planning Commission in composing a committee that will be fair, representative, and broad-based in order to reach out to every group in this community that has an interest.

Bob discussed what he heard from the South Burlington planning and zoning director. Howard discussed what he knows of Dreher from personal experience and reputation.

Nat asked if Dreher was the only one who bid. Bob said there were other responses but they were completely out of line with the available budget. Duncan said Dreher's was the only formal proposal. (*Scott Griswold and Mike Paradis arrived at 7:58.*)

Doug moved to approve the proposal submitted by Paul Dreher for consulting about form-based zoning, seconded by Howard. Doug said some board members had been to Huntington to talk about zoning and heard positive things about Dreher there. **The motion was passed.**

Bob said he had heard from Lea that the Conservation Commission is interested in a Municipal Planning Grant to fund a project they want to pursue. At the same time, the Planning Commission may need some funding for developing a common plan to be adopted separately by the town and village. So there is a bit of competition. Bob asked Lea if there might be a creative solution or some other possibility to avoid competition between the two groups for grant funding, but he hasn't yet heard back from her. Lois said the Conservation Commission's project supports one of the elements of the town plan.

Bob said the Planning Commission unanimously recommends appointing Paul Warden to the Planning Commission. Howard moved to appoint Paul Warden to the Planning Commission, Kathy seconded, and the motion was passed. (*Bob left at 8:07.*)

7. ***NEMS Contract Signing***

Mike Paradis said in the past NEMS has presented amendments to the contract each year, but they have done away with that. Each year they will come forth with a regular contract for the board to sign. After discussions with the board last year, the contract language has been changed to say that if either party wishes to get out of the contract and wants the equipment they have to pay for the equipment or take over the lien. NEMS wants to have a meeting in the fall to discuss their operations. Statewide 911 call volume is down. Health care is a big concern for NEMS – both the cost of insurance for their employees and the increase in people who either have no health insurance or are at the Medicaid level, which only provides reimbursement of 30 cents on the dollar. NEMS is not going away, but we may need to have a conversation about what the town wants to pay for. Eric said all 5 towns will need to get together if NEMS wants to talk about changes in services. Mike said yes; he wants to get all the towns together. Eric reminded the board that the latest contract had been sent out and all had seen it. **Howard moved to accept**

the contract with NEMS and authorize the chair to sign it, Doug seconded and the motion was passed. *(Mike and Scott left at 8:41.)*

8. Recreation Committee

Nat said Heather is once again looking for a playground for Old Mill Park. He got a phone call from someone who lives near Legion Field who was very upset about activity on that field. In response, the Recreation Committee talked about having teams play at Old Mill Park as much as possible. T-ball and sometimes women's softball are played at Legion Field. Parking and noise were the main complaints.

Another complaint he heard was about Tuesday Night Live noise and parking. If others have heard similar complaints maybe there is something we should do about it. Kathy suggested putting something on Front Porch Forum mentioning parking lots people can use rather than parking on the street. There was a discussion about parking at Checkerberry Field. There has traditionally been a 2-car limit, but Duncan said he couldn't find anything in the right of way documents supporting that. He doesn't think there is a limit. Nat said he thinks putting out suggestions on Front Porch Forum is a good idea. Doug said he thinks we should talk to the Tuesday Night Live organizers and they can put out suggestions.

9. Manager's Report

The Historical Society Building Committee got one bid for the work on the Holcomb House and the Municipal Building roof, from Extreme Contracting. One other contractor had planned to bid but was unable to get all his subcontractor bids lined up before the deadline. The total bid is \$236,250. If we subtract out the amount for the Municipal Building roof, the total left is \$202,350 – over \$100K more than we have available for the project. Duncan suggested that the bid be rejected and that the selectboard instruct the Historical Society Building Committee to go back to the drawing board. The contractor who didn't submit a bid, the owner of Carpentry Unlimited, is very interested. He thought he could probably do a better job for the town working on a time and materials basis as opposed to submitting a bid. The committee could put the whole thing back out to bid or could work with Carpentry Unlimited to come up with a proposal. It is clear to Duncan that we won't have money to do everything that was in the original scope of work. Eric said we could prioritize the work and if we were paying the contractor for materials and time as he went we could do what we could afford.

Doug moved to reject the bid from Extreme Contracting as far exceeding the available funds, Nat seconded, and the motion was passed.

Kathy moved to ask the Historical Society Building Committee to prioritize the Holcomb House project list and work with Carpentry Unlimited to come up with recommendations to present to the selectboard, Howard seconded, and the motion was passed.

Duncan said we received no bids on the trailhead project. *(Dean and Lois left at 8:34.)* If he can find someone who wants to put together a proposal he can bring it to the next meeting. Howard mentioned someone he knows who doesn't submit bids but is a good, inexpensive carpenter. Nat asked if under the grant the trailhead building has to be built this year. Duncan thinks so. Eric asked if Carpentry Unlimited might be willing to include that with the Holcomb House project. Duncan said maybe; he seemed interested in that project at one time.

The monthly LCSD report was received. It showed 4 arrests, 8 traffic tickets, and 32 traffic warnings.

There were two tenants who wanted to move into the Holcomb House before this meeting. Duncan talked to Eric, who agreed Duncan could sign the lease contingent on the board's approval tonight. Doug noted that the term of the lease is described as commencing on June 1 and terminating the following June 1. Shouldn't it terminate on May 31? The lease also says that the rent is \$950 for the term of the lease, which is a year. It should say "\$950 *per month* for the term of the lease." He also suggested that in the section talking about making the rental space available for construction personnel it should say that there is no abatement of rent for construction personnel access. It should also say that the tenants are jointly and severally responsible individually for the entire rent. The board agreed those changes should be made. Nat suggested that in the future we require a co-signer for younger tenants who don't have a credit history. Duncan said these tenants are no longer students. They are both employed and over 21. **Nat moved and Kathy seconded to approve the Holcomb House lease agreement with the suggested changes.** Duncan read a section of the lease that already states that the tenants are jointly and severally responsible for the entire rent. **The motion was passed.**

Duncan reviewed recent open meeting statute amendments. One relates to email correspondence. After July 1, if an email is sent out to all board members, a board member may respond directly to the sender, but not reply to all. Duncan is not sure how that relates to his typical practice of reviewing minutes and sending out his suggested edits to the whole board. Does it mean he can no longer do that? Kathy said she thinks Duncan could still send edits to the whole board.

Minutes need to be posted on the website within 5 days of the meeting. Duncan said the board needs to have a conversation about how much detail should be in the minutes. They may need to be shorter in order to be ready within the 5 days. Eric said only a very small amount of information is legally required to be in the minutes – attendees, actions, and topics discussed. Donna asked if the 5 days should be interpreted as 5 business days. Duncan said the statute says "5 days," not "5 business days." There was discussion about the fact that 5 days from a Monday meeting is a Saturday, when the town offices are not open. Donna asked what making the minutes available to the public means. Does it mean having them at the town offices at a time when someone is working there or would it suffice for board members to have them and for board contact info to be available? Duncan said he thinks they need to be available from the town offices, so to meet the 5 day requirement they might need to be sent out during the business day on Friday. Duncan said agendas and minutes need to be posted to a web page if the entity has a web page. Some communities may take their web pages down to avoid this requirement.

Another change to the statute is that the first act of business now has to be additions or adjustments to the agenda. If an action item not on the original agenda is not added as the first act of business it cannot be acted upon if it is brought up later in the meeting.

All the small boards in the town, such as the tree board, library board, and rec committee, will need to make agendas and minutes available in accordance with the statute. Eric said his suggestion is to make the minutes briefer in order to meet the deadline more easily.

Donna asked for clarification about when the minutes will need to be emailed out and posted to the website. Duncan said he thinks the deadline is 5 24-hour periods after the end of the meeting and if that falls on a weekend that means people will have to wait until Monday to request minutes from the town offices. Donna may be given the ability to post minutes to the website, but Duncan said he has concerns about multiple people having access to the web page. Nat and Eric suggested minute takers for the small boards could quickly record the bare legal minimum during their meetings and put those minutes into a mailbox at the town offices to be posted to the web the next day.

Duncan contacted Roth Environmental concerning the Johnson Landfill and they assured him all the monitoring reports had been sent to ANR. Bob Ross was going to review our test data and speak with ANR.

Duncan had sent out the proposed Sheriff's Department contract for review. **Nat moved to accept the contracts with the Lamoille County Sheriff's Department for dispatch and enforcement, Kathy seconded, and the motion was passed.**

SMS sent a letter to Imerys putting them on notice that they have to do something about talc leachate at the former talc mill site.

Eric, Arjay, and LCSD signed a permit for a fireworks display that was to take place before the board's next meeting. Now the board needs to retroactively approve it. **Kathy moved to approve the fireworks display permit for Casey McGlynchey on June 13, 2014 at 9:00 pm, Nat seconded, and the motion was passed.**

Board signatures are needed for the software the listers use. **Nat moved to sign the license agreement for CAMA Cost Table Services, Kathy seconded, and the motion was passed.**

Duncan got a proposal and cost estimate from Bob Ross to perform a site assessment of the rec fields at Old Mill Park. He also communicated with Richard Spiese of ANR, who had sent the recent letter about water quality monitoring concerns. Spiese stated he was not concerned over possible exposure to humans from soils-based activities at the site; his greater concern is releases to the waters and groundwater. The cost estimate for the site assessment is \$2525.

Eric asked if Bob Ross would just look at the fields or at how someone fishing or swimming might be affected. Duncan said he thinks the primary focus was going to be the ball fields. He probably could take a couple of samples from down the bank. Doug suggested asking Bob Ross to redraft or reorient his proposal to address what ANR is concerned about. Nat asked, wouldn't we be interested in water samples? Kathy asked, isn't that what has been taken already? Duncan said water samples taken and not acted on are what led to the letter from Spiese saying additional measures may be required. Bob Ross's opinion is that ANR had some obligation under Act 250 to respond to any concerns about exceedance levels of those water samples and

they did not. They allowed Act 250 to close the monitoring plan. Duncan suggested getting formal confirmation in writing about what ANR's concerns are. Duncan said he can seek clarification from Spiese about the part of his letter in which he referred to use of the field for recreation purposes. There was a period of time during which monitoring needed to be done. At the end of that time ANR released the site owner from the monitoring requirement. Richard Spiese, who is in a different division from the water quality group responsible for that decision, is now saying it wasn't okay. There was a very detailed closure plan the previous owner had to follow to meet the requirements for capping the site. To the best of Duncan's knowledge, that was complied with. That dealt with possible skin exposure from the soils. Then monitoring of the wells for leachate was required for a certain period. At the end of that period, the owner got a letter releasing them from the requirement to monitor. Spiese says ANR shouldn't have done that because test results showed contaminant levels were over the minimum amount. Doug said he thinks we should get clarification, but ultimately we might send this to an environmental lawyer rather than our regular town attorney. Board members all agreed the first step should be for Duncan to try to get something in writing from Richard Spiese clarifying his concerns. Duncan said he can clarify with Bob Ross where he plans to collect samples.

Howard moved to approve a fireworks display permit for Mitchell Tillotson between July 3-5 and to authorize Eric to sign it, Nat seconded and the motion was passed.

We have received the CDBG closeout agreement for the Johnson Market. Duncan is going to seek clarification on a couple of things. It was his understanding that we had to have completed the single audit prior to closing out the grant, but they are asking us to sign the closeout agreement now. He will ask about that. We will receive 50% of the income so we will end up with a \$250K revolving loan fund. If we have not loaned out at least 25% of the fund within 3 years they reserve the right to call the money back in. We have to loan it for things that will promote economic development and creation and retention of jobs and there has to be a low-moderate income benefit. It could be for home improvements. For the first 6 years the loan payments will be interest only and we have to give 50% back to the state, so there won't be enough for us to loan out for about 10 years. Duncan wants to get clarification about when we are supposed to start loaning money out.

Ken Harvey has applied for sewer and water permits for 8 lots on West Highland Drive, which is in the Town Sewer Service Area. Out of 25,000 gallons of capacity dedicated to these areas there is 11,081 remaining. The 8 lots will require about 1700 gallons. **Nat moved to approve Ken Harvey's sewer and water permit applications for 8 lots and to authorize Duncan to sign the permits, Howard seconded and the motion was passed.**

Nat moved to approve the Request for Waiver of Noise Ordinance for the Johnson Skate Park Skate Competition and DJ Spin Fundraiser on June 28th from 11:00 am to 5:30 pm, Kathy seconded and the motion was passed.

The \$2500 option payment for the Jewett property was due in April. We missed the payment but it is included in tonight's orders. Duncan emailed the Jewetts to let them know he and Eric could meet with them on June 19, but that date isn't confirmed yet.

The highway department did a great job preparing the trailhead building site and doing the donation work for the rail trail.

Duncan found out on Friday that there has been an official FEMA declaration for the April 15/16 flooding. He and Susan plan to go to a mandatory meeting about it on Wednesday.

ECS has proposed a Corrective Action and Feasibility Investigation and cost estimate for soils contamination at the former talc mill site. Duncan signed it and sent it back, authorizing them to continue. It doesn't cost us anything as we have already met our minimum cost threshold.

Duncan hasn't had time to work on the Local Emergency Operations Plan.

Lea has been reviewing flood hazard ordinances and will have a recommendation at some point.

Duncan hasn't yet reviewed the 2013 Bridge Inspection Summary Report, which will need to be signed.

Duncan has made two email contacts with the Vermont Alert Program but hasn't gotten a response. He will try to call.

Duncan hasn't heard yet if we will get the Class II paving grant. He was told there were a couple of questions about our applications and they haven't been approved. He called and left a message and also sent an email saying he needs to hear ASAP if there are any concerns or questions about our application, but he hasn't heard back.

Kathy moved to accept Debby Gillen's resignation from the Library Trustee Board and the motion was seconded and passed.

Doug said the River Conservancy is offering us Noah Pollack to work on possible camping locations for the Lamoille River Paddlers Trail and to help organize supporting groups to maintain it. Doug, Eric Nuse and Lois Frey are thinking maybe they could use this project to organize an outdoor recreation committee in Johnson. Nat said he hears often from community members that they would like river access. Duncan asked how difficult it would be to provide access from the field where the skate park is. Howard said the bank is steep and high there. The rebuilt bridge on Route 15 would probably be a better location. Doug said the problem with providing access on municipal property is that the only access we can provide is not far enough upstream from the end of the floatable section.

10. Adjourn

The meeting was adjourned at 9:49.