

JOHNSON SELECTBOARD MEETING MINUTES
JOHNSON MUNICIPAL BUILDING
MONDAY, JULY 21, 2014

Present:

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

Others: Duncan Hastings (Manager), Rosemary Audibert (Clerk), Steve Smith, Lois Frey, Bob Selby, Gordon Smith, Cal Stanton, Albert and Janice Kilburn

Note: All votes taken are unanimous unless otherwise noted.

1. *Call to Order*

Eric called the meeting to order at 7:02.

2. *Review of Agenda and Any Adjustments and Additions*

Duncan asked for two additions: Gordon Smith to discuss his driveway culvert at 8:15 and Albert and Janice Kilburn to discuss a fireworks permit at 8:30. The board agreed to add these items.

3. *Review and Approve Minutes of Meetings Past*

Howard moved to approve the minutes of July 1 and June 16, 2014, Nat seconded, and the motion was passed.

Nat moved to approve the minutes of the joint selectboard-trustee meeting on June 9, 2014, Howard seconded, and the motion was passed.

4. *Treasurer's Report; Review and Approve Bills, Warrants and Licenses; and Action Items*

Rosemary distributed a sheet showing cash reserve amounts on hand. She said the amount going to the recreation reserve fund will be about \$1300 less than shown because Heather submitted some bills today. Duncan said he and Rosemary will have some recommendations at the next meeting for how to use the year end balance.

Nat moved to approve moving \$9,858.01 into the buildings and grounds reserve fund and approximately \$7,700 into the recreation reserve fund, Howard seconded, and the motion was passed.

Rosemary said she hasn't heard yet from Sharon Green's office when the tax sale will happen. Tax collections seem to be slower than usual.

We have received the engagement letter for the audit from Graham and Graham. Duncan said he hasn't reviewed it yet. The board agreed to discuss it next month.

Nat moved to sign the annual maintenance agreement for tax mapping and GIS software and to pay 50% of the \$1800 annual cost, with the village to pay the other 50%, Howard seconded, and the motion was passed.

Nat moved to approve paying 50% of the estimated \$1000 cost for carpet cleaning, with the village to pay the other 50%, Doug seconded, and the motion was passed.

We received the first payment to the community development fund. About \$1800 is in the fund now.

5. Road Commissioner/Road Foreman Report and Action Items

Since the last meeting, there has been 3.1 inches of rain. All equipment painting is done. The grand total cost for work on the rail trail is \$22K. Three culverts were taken to Codding Hollow Rd. at landowner request. Mowing is finished.

All the bridges on gravel roads need extensive guardrail repair or replacement. Steve reviewed the 2013 Bridge Inspection Summary Report, going over the findings for each bridge. Eric asked if any of the problems identified can be resolved this year and if any are important. Steve said he thinks the guardrails are important. There is some money budgeted for guardrails. Some need to be straightened and some need to be replaced. Steve is not sure how much it will cost to do that work.

Eric mentioned he had heard that village employees attended a Game of Logging workshop. Steve said all but him; he was out of town. Employees found the training very helpful.

Duncan reviewed the situation Gordon Smith is concerned about. In the interest of full disclosure, he noted that his property adjoins Gordy's and that Steve Smith is Gordy's brother. (*Bob Selby arrived at 7:25.*) Gordy's driveway culvert was removed and a new cross culvert was installed just above his driveway. It was hoped this would replace a culvert about 50 ft. south of Gordy's driveway, on Duncan's property, that was humped and in need of replacement. Because the road is out of shape, water from above Gordy's property is mostly prevented from getting into the ditch and reaching the cross culvert, so it washes out his driveway and deposits gravel on Duncan's property. Duncan thinks when the road is re-shaped and re-paved water will go into the ditch. Gordy's question is about what will happen if that doesn't work. Steve said Gordy wants to know if we will fix his driveway if it is washed out. Eric asked if we repair other people's driveways that wash out. Steve said if it is caused by water coming off our road, yes.

September 9 will be Bruce White's last day. **Howard moved and Nat seconded to advertise the highway maintenance position currently held by Bruce White, and the motion was passed.**

Duncan said we don't have written verification that we have been approved for a Class II paving grant, but he has been told verbally that we have. He would like to put out a request for bids so we will be ready when we get verification. He would also like to have people from SD Ireland and Covey come out to look at the crosswalks and roll that into the RFP, even though it is village work, because we might be able to get better pricing with the work combined.

Doug said he thinks Kathy would ask when coordination will happen with the village on drainage. Duncan said the village has a sewer camera now. They tried to run it down the storm drain near the intersection of School St. and Clay Hill, but the drain was too full of sand. It needs to be cleaned out. But the village doesn't want to pay Hartigan to do it because they and several other towns have entered into a purchase agreement for a shared vector

trailer, which will be able to clean out the drain. Duncan is not convinced we will find that the stormwater system is completely functional. If it isn't, depending on what needs to be done, the village may not have the money to do it. But he still thinks Clay Hill needs to be paved and we should do it regardless of whether we can secure drainage. The worst case scenario won't be worse than it is now and he thinks it will be better. Nat said he is thinking that if we later have to dig up something we just paved, that would be unfortunate. Duncan said if the drainage system needs to be rebuilt that is a huge expense. The village can't do it with its own forces and doesn't have the money to pay for the work.

Nat brought up the buried manholes on Clay Hill. Duncan said the village will use rings to bring those up to the finished elevation after the paving is done.

Doug said he thinks we should go ahead with paving Clay Hill. But he would like the selectboard to keep coordination about drainage on the agenda. Storm drains and communication with the trustees are important. **Doug moved to authorize Duncan to prepare an RFP for paving Clay Hill Rd. and to incorporate crosswalk work the village is interested in including for pricing purposes, seconded by Howard.** Nat said he thinks we should continue discussion of drainage issues with the village. **The motion was passed.**

We have been holding a deposit from Fairpoint to cover any damages to village sidewalks when they dug up some of the crosswalk on Pearl St. and put in an underground conduit. Steve looked at the sidewalk and said it is fine. Howard moved to release the Fairpoint deposit for the permit issued a year ago and the motion was seconded and passed. (*Gordon Smith arrived at 7:48.*)

Duncan has an application for a Right of Way Permit for the Green Mountain ATV Trail Riders to do some work on the Gomo Lot Class IV road. They have already done the work. They repaired some damage and put in water bars. Eric Nuse reviewed the work and was satisfied. Duncan told them they should have gotten the permit before doing the work. **Doug moved to approve a Right of Way Permit for the Green Mountain ATV Trail Riders for the Gomo Lot Class IV road, Nat seconded, and the motion was passed.**

Duncan said the trustees have adopted the proposed Town and Village Drug and Alcohol Policy. **Nat moved to adopt the proposed Town and Village Drug and Alcohol Policy, Howard seconded, and the motion was passed.** (*Cal Stanton arrived at 7:50.*)

Duncan met Thursday with FEMA reps. With regard to Coddling Hollow there is the question of whether our "contract" with GW Tatro to perform repair work last year puts Tatro's insurance company on the hook for damages. FEMA is a payer of last resort, so if insurance was there, they would be tapped first. In Duncan's opinion the proposal from Tatro is not the equivalent of a contract where the contractor would have assumed site control, would have posted a bond, and their insurance could potentially be on the hook for damages. We are waiting for FEMA to rule on that. (*Albert and Janice Kilburn arrived at 7:53.*) There is also the issue of reimbursement for the culvert that was there versus what will need to be built under Stream Alteration Rules. They are willing to consider mitigation funding. Duncan asked the FEMA director who came about Class IV road damage and he said that if the town

has been maintaining structures such as bridges and culverts they are potentially eligible for FEMA reimbursement. They looked at about half the culverts and the FEMA rep said it was clear that no one had been maintaining them and he didn't think the damage would add up to the minimum threshold in any case.

Regarding Rocky Rd., FEMA was very interested in the fact that we had an "alternatives" study done. They thought there was a good possibility we could get mitigation money to do a low water crossing. We would have to hire an engineer who would do construction cost estimates. If they agreed with the engineer's cost estimates they could issue us a check for the full amount and if it cost us less than estimated we could keep the difference. If it cost more than the estimate, we would eat the excess cost.

Nat asked if there is more work to do on the rail trail. Steve said there is one more culvert to put in.

Nat asked if there will be time for mud mitigation work. Steve said it will be late in the season if we do have time for it. The work he has in mind would be on Clay Hill.

6. *Planning Commission Report*

Bob said the commission's primary focus has been development of a steering committee for exploration of form based zoning. Paul Dreher came to their last meeting. The commission voted to create a committee of 12. They are adamant that the committee be as balanced as possible. They have advertised in the newspaper, on the radio, etc. in an attempt to find anyone who is interested in serving on the committee, including people who are not necessarily residents of Johnson. They could be people who work here. They also compiled a list of people they know have been interested and active on this issue and have been contacting them personally. They are gathering a list of people interested in serving. The committee will be completely independent. The commission would like to model it after what was done in Burlington. Burlington's committee had one or two members from the Planning Commission and one City Council member and the rest were citizens. The committee will work directly with Dreher to come up with a fully developed plan that could be implemented.

The Planning Commission also discussed whether to endorse any particular focus or proposal for municipal planning grants. The Planning Commission could use grant funds to create a common plan for the town and village. But the Conservation Commission had two representatives at the meeting who talked about their interest in applying for those same funds and made an excellent case for their need. It is unfortunate that the two groups are competing for grant funding. The Commission understands there is a third possibility and they would like to invite Duncan to give them information on that. Then they want to vote in August.

Doug moved to approve the letter of agreement with Paul Dreher and to authorize Duncan to sign it, seconded by Howard. Doug asked about the language in the agreement calling for Dreher to provide form based code. How does that fit with a balanced committee? Bob said at the end of the process the Commission agreed they want to see code that could be implemented so voters can have a clear sense of what it would mean for the community. The

steering committee will work through issues under Dreher's guidance. Doug said people who were adamantly opposed to form based zoning could be on the committee. Bob said some on the Planning Commission feel committee composition should be based on chance and who volunteers. Some others feel if they are not careful there could be a committee that is weighted to one side or the other. There is a lot of strong sentiment about having all points of view represented, including those who are not inclined to zoning. On the other hand, if the committee finds itself bogged down in debate on the merits of zoning, they won't make progress toward developing solid code that can be judged at the end of the process. The thought is that rather than leave committee composition to chance the slots should be filled by appointment, but the commission hasn't voted on it yet. **The motion was passed.**

Duncan asked about Bob's noise complaint. Bob said he has an appointment to talk to a sergeant from LCSD whom Bob feels confident will get serious about dealing with the complaint. A different sergeant had contacted him initially and told him LCSD had gone as far as they could and part of the problem was the Johnson ordinance. Duncan said he had sent an email to LCSD explaining that deputies were interpreting the ordinance wrong. They were under the impression that the noise had to be after 10:00 p.m. for a ticket to be issued, but the ordinance doesn't say that. Duncan said it is clear to him that a ticket could be issued. *(Bob left at 8:16.)*

7. *Cal Stanton to Discuss Tuesday Night Live*

Eric explained that the town is being pushed by its insurance company to get a policy in place on collection and handling of town money donations. His opinion is that when donations are collected in a bucket, when the money hits the bucket it becomes the public's money. If there is any embezzlement, it becomes Rosemary's responsibility. The board needs to implement a policy on handling that town money.

Cal said his intention is not to use a bucket for donations this year, though he would like to reserve the ability to do so in the future if it is necessary. Howard said he needs to raise money for the bandstand. The bucket that went around Tuesday Night Live recently was for the bandstand. This project is very expensive and he needs to get money any way he can. He got \$200 the other night. He was surprised when Cal objected to him passing the bucket around.

Cal said he wants to make sure the funding stream for the series is strong and he wants to make sure that businesses that donate to the bandstand understand that they are not donating for the series. He wants the bandstand built, but he envisioned a different process for that. In the past, people have asked if they could pass a bucket at Tuesday Night Live to collect money for various things, and he has said no. He feels that should be a privilege reserved for the series. Others who want to raise money can set up a table and ask Greg Stefanski as MC to tell people where they can donate. There could be confusion if a bucket is passed for something other than the series.

Doug said Howard picked up the job of building a bandstand and has single-handedly carried it forward while there has been separate parallel development of Tuesday Night Live. We have never talked about the relationship between the two. The town accepted responsibility

for the bandstand project and it is up to the town to help Howard solve the funding problem. We should do it without implicating Tuesday Night Live.

Nat said he thinks it should be up to the Tuesday Night Live group to decide whether they want to raise money from the podium for a particular cause. And the selectboard should have policies in place for collecting and allocating money.

Howard said Cal has separated the architectural effort from the efforts of the organization, but he sees no reason for that. He thinks both should support each other and not get in each other's way. Cal said he doesn't know how Howard got the job of building the bandstand. He had a more idealistic, grass roots view of how the bandstand might be built and he feels it was somewhat of an insertion on Howard's part. He would prefer that people fundraise from a booth and have the MC talk about their efforts rather than having people go up to the mike themselves or go through the crowd. Doug said it looked to him as if Howard, not being aware of a groundswell of support for the bandstand project, and having the appropriate expertise, moved forward with the project. He was grateful to have a volunteer with those skills step up. Cal said he just wants people to understand as Howard raises funds that the bandstand and the series are separate.

Cal asked, if people want to donate to Tuesday Night Live, can he take the money and give it to Rosemary? Eric said that is what should be done.

Eric asked if the board wanted to take any action on Cal's request that any fundraising be done at booths. Nat asked if the selectboard would want to be that hands-on about how the Rec Committee raises money at a soccer tournament. The board trusts the Rec Committee to handle fund-raising and he thinks we should do that with Tuesday Night Live. Doug pointed out that there is no board-sponsored Tuesday Night Live committee. Eric said Cal doesn't have the authority to tell people they can't pass a bucket for fund-raising. Does the board want to give him that authority? **Doug moved to recommend, until reversed or changed on later consideration, that a bucket for fund-raising not be passed to the crowd at Tuesday Night Live, Howard seconded, and the motion was passed.** (Cal left at 8:40.)

8. Gordon Smith: Driveway Culvert

Gordy said because his culvert was removed, if his driveway washes out, he doesn't think he should be responsible for replacing it. He thinks the town should replace it and he would like it on record that the selectboard agrees.

Eric said Steve had reassured the board that precedent is to fix a driveway that washes out due to our doings. Doug said he thinks what was discussed was that if a washout was due to water coming off our road then we would do the repairs but if the washout was from water coming down Gordy's driveway and was not due to the absence of the culvert then we wouldn't be responsible. Eric agreed and said that would be noted in the minutes. (Gordy and Steve Smith left at 8:44.)

9. Albert and Janice Kilburn: Fireworks Permit

Albert and Janice requested that the board deny any fireworks permit applications from Casey McGlynchey. When the McGlynchey set of fireworks the rockets land on the

Kilburns' property. They are concerned about the fire hazard. Sparks could set their woods on fire and their house is within 30 feet of the woods.

Janice asked how it is determined that someone can get a fireworks permit. Does anyone go over and check the area? She said she had left messages with Arjay West and he never returned her calls. Eric said it is new that the board can issue permits. Until a few years ago no one was authorized to set off fireworks. There are different classes of fireworks. Class B fireworks require a licensed operator. Class C fireworks are allowed for common use. The selectboard doesn't have any policy yet for determining whether to issue permits. The board signs the permit, then it goes to the fire chief. Arjay goes out and looks at the property, but he has no guidelines either. Then the permit goes to the sheriff and he signs it. The board is thinking that fireworks permit requests may become more common as people learn they can get these permits. The board will probably need to look deeper at the permit process. Duncan said it sounds like this is an issue all over the state. The legislature changed the statute but the statute is not very clear and doesn't give good guidance. It refers to a "competent operator" but provides no definition of what that is.

Howard said he feels there are common sense grounds to deny the McGlyncheys' permit application. There is insufficient acreage. We could also ask them to prove they have insurance. Duncan said we can't be more restrictive than the state statute, which does not say anything about property size. It says: *Any display for which a permit is issued shall be handled by a competent operator to be approved by the chiefs of police and fire departments of the municipality in which the display is to be held and shall be of a character, and so located, discharged or fired as, in the opinion of the chief of the fire department, or in a municipality with no fire department, the selectboard, after proper inspection, shall not be hazardous to property or endanger any person or persons.*

Nat said he does not feel we are in a great position to evaluate who is a competent operator and he doesn't think we should issue permits unless there is a licensed operator. Duncan said state statute gives people a right which we cannot abridge. His recommendation is to try to draft an ordinance. In theory, people who don't have a license should not be able to purchase anything other than Class C fireworks. In reality, there are states where you can buy more powerful fireworks. However, it is illegal to possess fireworks until a permit has been issued. Howard said he thinks we should put a moratorium on fireworks permits. Duncan said he asked and we can't do that.

Duncan said if we don't develop an ordinance we at least need to develop a better permit process. We need to be able to ask people what they are planning to detonate and have them provide a plot plan showing where they will set off the fireworks with distances to the nearest property. Howard said we should also ask for proof of insurance.

The board reviewed tax maps showing the Kilburns' and McGlyncheys' properties. The Kilburns showed where on the map the McGlyncheys set off fireworks. **Howard moved to deny Casey McGlynchey's fireworks permit application due to insufficient clearance which might cause hazard to others' property and endanger a person or persons, Nat seconded, and the motion was passed.** *(The Kilburns left at 9:12.)*

10. Recreation Committee Report

Nat said officers were recently elected. Heather was re-elected as president. He named the other officers. He said the committee could use a couple of additional people.

11. Manager's Report

Duncan asked if the board is inclined to think about an ordinance on fireworks displays. Eric said he think an ordinance would have more teeth. Duncan said the statute says violators are subject to a civil fine of not more than \$100. That is a major restriction. We could have a fairly hefty permit application that might discourage some small displays. Another possibility is requiring personnel from the fire department present and requiring the permit holder to pay a minimum 2 hour charge for that. Nat said he thinks it should be a high bar. Eric suggested trying to see if there are any boiler plate ordinances.

Vermont River Conservancy would like to place a 5" x 7" cast bronze plaque on a "sitting rock" at Journey's End to commemorate a long-time supporter of VRC. VRC will pay for the plaque and its installation and upkeep. The town will have no responsibility for any maintenance. **Doug moved to allow Vermont River Conservancy to install a plaque on a sitting rock at Journey's End, Nat seconded, and the motion was passed.**

Duncan said he had signed the Closeout Agreement for the Johnson Market LLC CDBG grant. The way they worded it, if we didn't loan any money out within a 3-year period they could potentially pull some of the money back in. Duncan's concern was that for the first 6 years we will get interest only. There will probably not be enough money in the fund to bother loaning out. They didn't want to change the boiler plate agreement but agreed that they would not hold us to the requirement to loan out money until there was a reasonable amount of money in the fund. We also need to develop a Revolving Loan Fund Policy/Guidance document and submit it for review by DHCA. Duncan suggests tasking Lea with working on this.

There was a recent break-in and theft at the skate park. Personal tools were stolen and it appears they will not be covered by our insurance. The board might want to think about whether we ought to have any kind of policy about use and storage of personal tools and equipment. Eric asked, if someone were working on the skate park or the bandstand or some other project for the town and had faulty equipment, would we be liable? Doug said he doesn't think we should have a policy on personal equipment. We have other policies we should work on.

We have paid Andrew Purdy \$1738.52 for bandstand work. His original estimate was \$2075. He brought in another bill for \$3037 which was in tonight's orders. Howard said the platform has moved a lot and he and Andrew had to work on leveling it out. Some of the extra amount had to do with that. Also, the board had authorized Howard to spend another \$2K. Duncan said by signing tonight's orders the board approved paying the \$3037 bill. There is a balance of \$3089.

Howard said he has halted work on the bandstand until he has a chance to approach two more potential donors. He would like selectboard approval to name the bandstand after a substantial donor. There was consensus that that would be fine.

Howard said while carpentry work is stopped, it is a good opportunity to run the wires. He would like to get that done so the bandstand can have lights for the rest of the season. Dana Jourdan is doing the work for free. Howard thinks materials will cost about \$600. **Doug moved to authorize spending \$600 to wire the bandstand, Nat seconded, and the motion was passed.**

Doug moved to authorize Eric or Duncan to sign the Bridge Inspection Summary Report indicating that it was received, Howard seconded, and the motion was passed.

Duncan said 3 bids were received for the trailhead building. The lowest bidder doesn't list an alternative for a hidden fastening roof and Duncan doesn't know if he has insurance. One of the bids is above the amount we have available. **Howard moved to award the contract for the trailhead building to the lowest bidder after comparables have been established, provided the lowest bidder has insurance and the motion was seconded and passed.** Howard and Duncan will determine which bidder should be selected.

The Historical Society Building Committee recommends not going out for competitive bid again but preparing a simplified RFP which would give priority to the most critical building needs and be based on a time and material contract and circulate it to interested contractors. **Doug moved to prepare a Request for Proposal for work on Holcomb House with project items prioritized and, if it is approved by the Historical Society Building Committee, to submit it to the public to solicit bids, Nat seconded, and the motion was passed.**

Duncan said Ross Environmental has assured him that the monitoring reports for the Johnson Landfill had been submitted to ANR. Bob Ross has asked for more information but Duncan hasn't had a chance to look for it yet.

Duncan shared Richard Spiese's email response about the rec fields. He now seems to be saying he is not too concerned about the dirt at the site. The proposal received from Bob Ross for a site assessment doesn't really address what Spiese's concern seems to be. Doug suggested asking Richard Spiese to attend a board meeting to explain exactly what he thinks about any possible long term risk. Duncan agreed to invite him. Doug said he thinks Bob Ross should also be at the meeting. Duncan agreed to invite him as well.

Duncan and Eric met with Jim Jewett. It was agreed that we would look into creative financing possibilities and the Jewetts would consult their tax advisor and see if he had any recommendations for same that would bring the asking price down to the appraised value.

Lea would like feedback about the draft Flood Hazard Ordinances.

Duncan signed off on the Work Plan & Cost Estimate for Former Talc Mill. There is no further cost obligation on the part of the town.

We will need to figure out how to procure engineering services for Coddington Hollow Road. FEMA says we can hire an engineer we have used for projects. The only one we have used recently is Dubois and King. Duncan has a contact with a Maine firm that Morrissett used and was very happy with.

Duncan learned that auditors and listers need to post agendas and minutes when they meet for a specific purpose, but not for regular duties. The fire department is not subject to the requirement to post agendas and minutes because the officers are the equivalent of department heads and their meetings are the equivalent of staff meetings.

Duncan sent a letter to the Vermont Alert Program advising them that we want to participate.

The state is issuing a Notice of Violation for 620 Lower Main West. Doug asked how we can get them to take more action. Duncan said he has no idea. Doug asked about getting a legislator involved. Duncan said he thinks Mark Woodward already called DEC.

Howard moved to go into executive session to review the Municipal Manager's performance evaluation and talk about his employment agreement, Doug seconded, the motion was passed and the board entered executive session at 10:07. The board came out of executive session at 10:22. **Nat moved and Howard seconded to authorize Eric to sign the employment contract for Duncan Hastings and the motion was passed.**

12. Adjourn

The meeting was adjourned at 10:23.

Minutes submitted by Donna Griffiths