

JOHNSON SELECTBOARD MEETING MINUTES  
JOHNSON MUNICIPAL BUILDING  
MONDAY, AUGUST 21, 2017

**Present:**

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

Others: Brian Story, Rosemary Audibert, Brian Krause, David Butler, Casey Romero, Sabrina Rossi, representatives of VAST, owner of Bustin' Belly, Martin Prevost, Duncan Hastings

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

**1. Call to Order**

Eric called the meeting to order at 7:03.

**2. Additions, Changes to Agenda**

Brian added an appearance by VAST to talk about parking at Old Mill Park, a skate park update from Casey Romero, and a request from the village to waive a permit application fee. Doug said he wants to talk about the access installed on the Manchester property. Nat said he wants to talk about graffiti on the Powerhouse Bridge.

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

**Nat moved to approve the minutes of July 17 and July 31, 2017, Kyle seconded and the motion was passed.**

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

Rosemary said financials for the last fiscal year are about 98% complete. We are still missing the state reimbursement for the Coddling Hollow project. Eric asked if we have had any word from them. Brian said no. He is going to reach out to them because they are way behind with this payment.

Rosemary said taxes for last year are 98.1% collected. We did not have to borrow any money. Tax bills were mailed out around August 7 and will be due September 11. We got an estimated figure for PILOT payments of \$336,307. We budgeted \$300K. For current use our estimated payment figure is \$85,405. We budgeted \$80K.

We have received a liquor license request from Bustin' Belly.

**5. Planning Commission Report**

David Butler said the Planning Commission held a public hearing on form based code. One item brought up was planting of trees in front of buildings. The Tree Board was there. People at the meeting felt it was fairly important to include standards requiring people to plant trees in front of buildings and take responsibility for them. The Planning Commission agreed to make some modifications to encourage planting of trees, shrubs and herbaceous plants. The description of what needs to be landscaped was modified. The code now says any space in front of a building that is not occupied by a sidewalk, entryway or driveway needs to be landscaped. You can't have just pavement, gravel or stone in front of your building. The definition of landscaping was modified to include trees, shrubs, and grass.

There was discussion about where exactly control of form based code begins and ends on a property. The "build to" line was defined as the municipal right of way.

There are diverse opinions about parking in the village. Some think there isn't enough parking. Some think there is plenty. The Planning Commission decided that across all 3 zones there must be 1 parking spot for every 700 square feet of finished space, but because of discussion that that would hamper small businesses, in the village storefront district first floor space is exempted.

There was a little confusion about what the Planning Commission could do prior to and after the public hearing. David thought the Planning Commission wasn't allowed to change the code after the public hearing but he and Brian found out that the document just couldn't be changed between the time the hearing was warned and the time it was held. After the hearing, the Planning Commission could make changes before passing the document to the selectboard. Because there was a statement in the minutes that the Planning Commission could not make changes after the hearing, it was decided to hold a second public hearing. Someone might not have come to the first one because they believed the Planning Commission couldn't make changes. The public hearing on the modified document is warned for September 6. After that, it will be passed to the selectboard.

Brian S. said the selectboard has to have a public hearing before voting on form based code. He thinks the meeting has to be warned 15 days ahead. Eric asked, the selectboard could have a combined special town meeting for the Jewett property and public hearing on form based code in September? Brian said yes.

Eric asked how many people attended the public hearing. David said he thinks about 6 townspeople were there.

David said some errors of omission were identified. There were some things that had been approved by the Planning Commission but not put into the code. Some map adjustments were made. After the public hearing it was decided to have the village storefront district turn the corner and go about 3 lots up Railroad Street. There were 2 or 3 lots that had inadvertently been left off the map that were added. David reported to the village trustees last Monday on the public hearing and the changes made afterwards.

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

Brian K. said he made arrangements with Bert Nadeau to do test holes on the property adjacent to the existing gravel pit.

The municipal grant amount we will receive has been increased again to a total project cost of \$15K. Brian was going to use all the grant funds on Upper French Hill but now he plans to use part of the money for a culvert on Hoag Road, which frequently washes out.

Brian S. asked when the highway crew can work on the Historical Society sidewalk. Brian K. said they can get to it next week.

Nat asked about how long the paint to be used for the sharrows on Railroad Street usually lasts. Since it is getting late in the summer, would it be better to wait until next spring to paint them? Brian K. said it is on his schedule for the coming week if the board wants him to proceed. Nat said winter tends to be harsh on the paint on the crosswalks. Kyle said she

assumed the sharrows would have to get redone at least once every year. Brian K said if we do it now and then again in spring it will not take much time or paint. The board agreed it would be worth painting them now.

Kyle said she saw town employees in the gravel pit today. What is going on there right now? Brian K. said they stockpile ditch cleanings and they were bringing in some of that soil/gravel mixture to put on the back part of the pit that is being reclaimed, so they can hydroseed it.

There was discussion about graffiti on bridges in town. Brian S. said he has been talking to the state about best practices for removing paint from bridges. It would be difficult for our employees to work over the river. He is leaning toward contracting out the work. Some spots that can easily be reached can be repainted by town employees but he wouldn't want to put a worker into the situation of repainting the outside of a bridge without following the proper protocol.

Doug said he observed damaged roads in some of the different towns in the area after recent heavy rains and noticed that Johnson's roads were in the best condition. *(Brian K. left.)*

**7. VAST – Request to Use Old Mill Park Parking Lot**

A representative from VAST said VAST is seeking approval from the town to use the Old Mill Park parking area for snowmobilers – vehicles with trailers. He met with Brian on August 2 and he seemed to be in favor of approval providing the area would be roped off if the ground got soft.

Eric asked which parking area would be used. VAST representatives said probably both parking areas. They probably would groom twice a week.

VAST representatives said they are trying to get more people into Johnson to spend more money. Snowmobilers usually want to buy fuel and food when they get to a town. The snowmobiling community has money to spend.

Nat said it was terrific that the past winter VAST groomed the trail around the park for skiers. VAST representatives said they would continue to do that. They will try to put up ribbons to keep people from riding in the fields. If they do any damage they will go back in spring and rake and seed.

**Kyle moved to authorize winter use of the parking areas at Old Mill Park by VAST, Nat seconded and the motion was passed.**

**8. Administrator Report and Action Items**

Brian said we got bids for cemetery maintenance from Duncan Hastings and from Clegg's Memorials. The other group hasn't gotten back to us. Duncan is proposing to repair more stones for less money.

**Doug moved to accept Duncan Hastings' proposal for cemetery maintenance, seconded by Kyle.** Duncan discussed the different types of stone repairs needed and how he approaches them. He said he can change the list of stones to be repaired and can prioritize

them any way the board wants. Cleaning stones is also very important. Most have pretty bad lichen or algae coverage and that eats the stone. One thing he didn't include in his proposal that he can do is document the names on the stones so we can have a list of who is buried where. **The motion was passed.**

Bustin' Belly has requested a Class 2 liquor license in addition to their existing licenses. A Class 2 license would allow sale of packaged beer and wine for off premises consumption.

The owner of Bustin' Belly said she already has Class 1 and Class 3 licenses. She talked to a state investigator about possible areas of concern with a Class 3 license. She would need to keep her inventory and bookkeeping for off-premise consumption separate. She has a system that can do that.

Martin Prevost from the state Department of Liquor Control said in the last few years there have been quite a few applications by restaurants for Second Class licenses. The state has been figuring out ways to make this work. They looked at the Bustin' Belly and feel there would be no problem with meeting their guidelines for separation of the different types of sales. They have no objection to Bustin' Belly having a Second Class license. They believe it is a trend that will continue in the state.

Duncan said it seems to him that small businesses in our downtown need every advantage they can get. If having a Second Class license helps the business survive that is probably a good thing.

Martin Prevost said if a restaurant has been observing a patron and how many drinks they have had they may be more likely to refuse to sell them a six-pack than a grocery store with no knowledge of how much drinking they have already done.

A community member asked if Bustin' Belly plans to sell kegs. The owner said no. Mark Prevost said legally they could. The owner said that is not her intention.

**Doug moved to approve a Second Class liquor license for Bustin' Belly, sending the usual letter, Kyle seconded and the motion was passed.**

Duncan asked if the board is still interested in a proposal to survey Evergreen Ledge Cemetery to identify where all the stones are and which plots are still left unused. He has talked to Brian about putting in a proposal with his brother, who is familiar with surveying. The board and Brian said they are interested.

Duncan asked if the board is still interested in putting sharrow signs on Railroad Street. Board members told him yes; that was discussed before he arrived.

#### **9. *Lamoille County Energy Planning***

Duncan Hastings said LCPC is looking for comments on the draft energy plan. He has some concerns with the wind section of the energy plan as written. The Public Service Board issued an order a year or two ago authorizing municipalities and regional planning

commissions to develop their own optional energy plans. He thinks Johnson's Planning Commission may be going through that process.

Brian S. said Johnson was not in the first round of support for developing plans. It is on our radar. We are hoping to see results from the first round of plans before we go ahead.

Duncan said the regional Planning Commission decided to prepare a regional energy plan. The draft plan is out. His concern is the section relating to wind. It says we don't want wind turbines on two scenic ridgelines that have been identified or within 1 km of any residential structure. Practically speaking, that means no wind in Lamoille County. Duncan's concern is that the process the Planning Committee subcommittee went through to determine what sites are appropriate for wind doesn't meet the criteria the PSB put forth for evaluating sites. He feels we should look at economic and physical constraints. As a practical matter, wind in Lamoille County will be problematic because of the physical constraints of the transmission system. He told the energy committee we would have a much stronger argument if we looked at physical constraints, which are real. He feels the PSB is likely to say LCPC didn't go through the correct process and just made a political decision and won't give deference to the plan. Today he talked to the executive director of Vermont Public Power Supply Authority, who agreed with him. The PSB will give deference to what regional or municipal plans say about where we want or don't want solar or wind, but he thinks it is very likely that they won't give deference to this plan as written because LCPC didn't go through the right process to determine where wind should go. GMP, VELCO, and VEC have recently stated publicly that they will oppose any generation project in Lamoille County because of the negative impact on the transmission system and the negative financial impact. All we have to do is call them and ask whether wind is a viable option in Lamoille County from a technical and economic standpoint. They will say no, and our plan can say that.

Eric asked, if this board agrees with Duncan what clout do we have with the regional plan? Duncan said the board has him as a representative. People on the regional Planning Commission don't understand this issue. He is going against the tide. It is a very complex issue so it is hard to get his message across, but he can make the argument that if they want the plan to be given deference they have to take a different approach. The end result will be the same but the argument will be stronger if the plan takes an approach based on economic and physical constraints rather than setting up a buffer system that prevents wind installations.

Doug said if not for the constraints it looks like Butternut Ridge would be a suitable site for wind generation in Johnson. Duncan said that ridge is identified in the plan as not suitable. Johnson's municipal plan could also say it is a scenic ridgeline and not suitable. Doug asked, isn't it hard to see that ridgeline from anywhere?

Duncan said he believes we should take the next step and look at whether it is physically possible to build a wind installation in that location. A long transmission line would need to be built to tie wind towers on Butternut Ridge into the grid. Someone has to pay for that. He doesn't think anyone would be able to make money from putting wind towers there.

Doug asked if Johnson's natural resources inventory results related to Butternut Ridge would matter. Duncan said that could provide a legitimate reason to say no to wind towers on Butternut Ridge. It would strongly buttress the argument to be able to say the ridge is not just scenic but has natural assets.

Doug said he remembers previous discussions with this board about how we ought to generate power where it is used. Duncan said that is a good point. The policy the state is now promoting with renewables is in direct contradiction to the idea of building where the load is, which to him still makes a lot of sense.

Duncan said he has to look at regional impact, not just the impact on Johnson. He is looking for the selectboard's guidance but if the selectboard likes the plan as written he will have a struggle because he has to balance this board's input with consideration of regional impact. He will convey the board's thoughts to the regional Planning Commission, but looking from a regional perspective he may go against what the local board wants. This board has the right to remove him as representative.

Duncan said GMP, VELCO and VEC will oppose large scale solar or biomass generation as well as wind generation. The same constraints apply to all. He talked about the economics of wind power.

Eric said he feels this issue is over his head. The selectboard appointed Duncan to represent the town and he is willing to let Duncan go with what he feels is best. He doesn't feel qualified to give good direction. He doesn't feel he has the background. Nat said he feels the same way.

Doug asked if the scenic areas are adequately defined in the plan. Duncan said he thinks they are probably well enough defined to meet the PSB's criteria.

Doug said he is more in favor of solar than placing wind towers on our ridges. He is for any means the state provides to state reasons for not putting wind towers on ridges.

Duncan said he thinks the discussion is somewhat moot because constraints in Lamoille County mean there isn't going to be wind here for the foreseeable future.

Doug said Duncan should suggest to LCPC that they incorporate information about Butternut Ridge from our natural resources inventory. He asked Brian to send Duncan a copy of the inventory.

#### **10. Bob Sweetser – Town Owned Right of Way on His Land**

Bob Sweetser said his lawyer has provided a document related to the right of way on his property. Brian reviewed the situation for the board. The town owns a right of way on the edge of Bob's property for the purpose of access to the river. Eric said we inherited that right of way when we got the swimming hole property. Brian said with the access provided by the swimming hole property there is no obvious purpose for a right of way across Bob's land. Bob had asked the board to consider giving up the right of way and the board had invited him to draw up documents. Bob said there is a first refusal clause in the deed. Lois found that if

she gave the property away it cancelled that clause but it is still in the deed. His lawyer took out the first refusal and the right of way from the deed.

Doug asked if giving up the right of way is subject to a requirement to put a public notice in the paper as we must do when we convey real estate. Brian and Eric are not sure. Eric suggested running the document by Dave Barra and Brian agreed.

**11. Administrator Report and Action Items (continued)**

Sabrina Rossi, the person the Library Board of Trustees would like the selectboard to appoint, introduced herself to the board. She has a background in library science.

**Nat moved to appoint Sabrina Rossi to the Library Board of Trustees, Kyle seconded and the motion was passed.**

**12. Skate Park Committee Update**

Casey Romero said the Skate Park Committee has gotten some grants and now has enough money to pay for the archeology survey and meet expenses. They want to go ahead with the archeology survey but they want to make sure the board is comfortable with that. Seth Jensen of LCPC thinks \$8500 of the projected cost for the Act 250 work will not actually be needed. The committee will hear about a \$5K grant soon and about a \$15K grant in the fall. That will determine their next steps. The board agreed the Skate Park Committee can proceed with the archeology survey.

**13. Administrator Report and Action Items (continued)**

Brian said Lamb Road is a Class 4 road off Prospect Rock Road. It hasn't been in use in quite a while. The bridge at the beginning of the road washed out a number of years ago. Without the bridge, the rest of the road is disconnected. There are no houses on it. A new property owner, Chris Brown, purchased the bulk of land near the road. His driveway is now the only access to Lamb Road. He is concerned about ATV's, hunters, etc. using his private drive to access the public road. He would like the town to give up Lamb Road entirely or turn it into a trail.

Doug asked what use the road gets from vehicles. Brian said virtually none. Eric asked if the property owner has had problems with ATV's or hunters. Brian said to the best of his knowledge, no. He is just anticipating possible problems. Eric said the board would have to go view the road before making a decision. Doug said we would have to find a public good.

Kyle asked, if we give it up, would we give it to him? Eric said it would be given to all property owners that own adjoining land. Brian said he looked to see whether giving it up would mean locking someone out and that is not the case. Doug asked, if we give up the road don't people still retain a right of way, so we don't end up with landlocked people even if we give up the road? Brian said there is some protection against landlocked people.

Brian said the road is also hydrologically connected and we haven't done any maintenance.

Eric said the owner can block his driveway and he hasn't had an issue so far. Nat said he can also post his land. Eric asked why anyone would purposely go down the road when it dead ends. Nat said it could provide access for hunters to get into the woods. Brian said the land

there is mostly undeveloped. Doug asked if the owner has a home there. Brian said he doesn't believe he has constructed a home yet.

The board has received a noise ordinance waiver request for a wedding on Collins Hill Road on September 2 until 1:00 am. Nat asked what the latest end time is that we have allowed for a wedding noise waiver. Eric said it depends on the location. It might be different for the village. Brian said the area is not too densely populated but there are houses around.

**Nat moved to approve the noise ordinance waiver request for a wedding on Collins Hill Road on September 2 until 1:00 am, Doug seconded and the motion was passed.**

Brian said the health officer's term is up. This is a good opportunity to renew him and Tracy as deputies. Kyle asked how it is going with Tracy. Brian said very well. She has been useful in getting people to renew delinquent dog registrations.

**Nat moved to reappoint Sharon Duffy as Health Officer and Brian Story and Tracy Myers as Deputy Health Officers, Kyle seconded and the motion was passed.**

Brian said he got a quote of \$23,055 from Woody's Sales and Service for one of the maintenance projects on Holcomb House. That does not include labor. It is more than he anticipated. Does the board want competing bids? Board members said yes.

Revision Military Limited has submitted a facility use request for Old Mill Park for a company kickball game. They want to serve beer. Our facility use agreement says we have the right to restrict or place conditions on alcohol use. He has a copy of their insurance.

Nat said his concern is possible conflict with other activities. Brian said he talked to the Rec Committee to make sure there is no conflict. He doesn't believe they will use the entire park.

Doug asked what our insurance company says. Brian said they say it is the town's discretion to allow alcohol. We would not be uninsured.

Eric asked if we get a fee. Brian said we haven't in the past. Nat said it is something the Rec Committee has talked about. The fields are getting a lot of use. Eric said he could see charging a fee for out of town users.

Doug suggested asking the sheriff's department to do a drive by while the company is there and asking them to designate a person for the sheriff's department to contact.

Nat said he is not comfortable with allowing alcohol consumption. Kyle said she is not comfortable with glass bottles. Brian said we could make "no glass containers" a condition.

**Doug moved to approve the facility use permit for Revision Military Limited with conditions of no glass and providing a contact name for the sheriff's department, Kyle seconded and the motion was passed.**

**Doug moved to reappoint Brian Story as representative to the Transportation Advisory Committee and to reappoint Brian Krause as alternate, Nat seconded and the motion was passed.**

Brian said the village agreed to a moderator for the joint meeting and Dave Williams is available so the meeting will be on August 28.

The village trustees requested 3 topics for the agenda: joint employees, what we are going to do this year with the old mill house, and a conflict of interest policy. They would like to adopt one. Eric said he thinks we are required by the state to adopt one.

Eric said Mike would like to see a policy requiring employees not to use the front parking spots closest to the building. He feels they should be left open to customers. That would have to be a joint board discussion. This board should decide if we want to have that item for discussion at the upcoming meeting.

Rosemary said parking elsewhere would be a problem in winter because of the pile of snow.

Kyle asked if there have been complaints. Eric said not that he is aware of.

Nat said he also feels those spots should be for customers. He thinks quietly asking employees if they would consider moving voluntarily is a better way to go.

Eric said he is not hearing the board express interest in having this item on the agenda.

Kyle said the third meeting of the Brownfields Steering Committee working on the area wide plan was today. The consulting firm has come back with very interesting ideas for development in the 3 places the committee chose to focus on. Lea will come to the joint meeting to present the information to both boards. Eric said we need to add that to the joint meeting agenda.

Doug said he thinks we should discuss branding again. Eric said we didn't get the grant. Brian said he suggested that discussion to Meredith. The trustees didn't feel ready to have discussion about that at this meeting. We could make a more formal request and ask again. Eric said if it is a priority of this board it will be a suggested topic. Doug said any discussion should include the school.

Doug asked if the trustees has any input on the energy plan Duncan discussed. Eric said they have input through Meredith, who is their LCPC representative. He would guess Meredith has reported back to them, though maybe not in as much depth as Duncan. He can suggest that as a topic to see if we are on the same page.

Brian said he and Meredith will draft an agenda and meet with Dave Williams.

Brian said he has looked more closely at the Burlington derelict building ordinance. They have more code enforcement than we do and more capacity for verifying what the use of a

building is. They rely on reporting for unoccupied buildings like garages and barns. We would have less capacity to check that. But we could do something similar where we would exempt buildings never intended to have occupancy from the requirement to have a permit to be unoccupied. They exempt buildings like garages and warehouses. We didn't want to tie a derelict building ordinance into zoning, but if we pass form based code it is an option to tie derelict building rules into any district.

Doug suggested having Dave Barra draw up a draft ordinance for the board to see. Brian said he can do that. Hopefully he can have something by the next meeting.

Brian said he started conversation with an agency the state has designated as a nonprofit group that could administer the revolving loan fund for us. He is trying to schedule a meeting with them. He would be interested in pursuing conversations with a group to administer the loans for us. We might be able to do a mixed program with LEDC, but the state approved program would require us to give up more control than we would like.

Eric asked, if an outside agency determined qualifications for a loan, would we be able to retain the ability to okay whether the loan was a direction we want the community to go in? Brian said we would have input but would not make the final determination. We can define some criteria. He is trying to find out to what extent. He will likely invite the nonprofit group for a presentation at the next meeting.

Brian said a wastewater permit application he just received alerted him to the planned development of a Dollar General at the site that had previously been proposed. The developer appealed the jurisdictional opinion that Act 250 applied and when it went to State Superior Court our standing did not transfer. We were dropped from the proceedings. The Superior court ruled that Act 250 did not apply so they are allowing them to go ahead with development without going through the Act 250 process.

Kyle asked if they would be willing to work with us at all on the look of the building. Brian said he can reach out to them to see.

Doug said he would be interested in how the planned development fits into ANR rules about stream setbacks, etc. Brian said he can call ANR and see if they can weigh in on that. Doug suggested calling Seth Jensen, who is familiar with ANR requirements. Brian said he will get in touch with him.

Brian said we could verify the size of their lot. They are at about .99 acres. If it is actually a little larger, Act 250 will apply. Doug said we probably need to verify that the improvements are actually in the area surveyed.

Brian said the village is installing 2 utility poles on Foote Brook Road. They have asked if we could waive the application fee.

**Nat moved to approve the requested right of way permit application fee waiver for the Village of Johnson, Kyle seconded and the motion was passed.**

**14. Access on Manchester Property**

Doug said a crew, with the help of our public works department, installed a canoe and kayak access on the Manchester property. A storm took out some of the stone. There is a drain there that is a problem. It would be good to find out if it is ours and what its purpose is.

Doug suggested that the selectboard, Brian, and the head of fishing access for the state take a canoe trip from just below Crossing Falls through Ithiel Falls. If everyone became aware of how gorgeous that stretch of the river is it might be more in the forefront of our minds. Board members said they would be interested.

**15. Adjourn**

The meeting was adjourned at 9:22.

*Minutes submitted by Donna Griffiths*

UNAPPROVED