

JOHNSON SELECTBOARD MEETING MINUTES
ALL PARTICIPATION BY ZOOM TELECONFERENCING
MONDAY, MAY 4, 2020

Present:

Selectboard Members: Mike Dunham, Nat Kinney, Doug Molde, Kyle Nuse, Eric Osgood
Others: Brian Story, Rosemary Audibert, Kim Dunkley, Scott Meyer, Beth Foy, Charles Gallanter, Lea Kilvadyova, Lois Frey, Harriet Armstrong, Jim Armstrong, Michael Reis (GMATV), Greg Tatro, Walter Pomroy

Note: All votes taken are unanimous unless otherwise noted.

1. Call to Order

Eric called the meeting to order at 7:01.

2. Additions, Changes to Agenda

Nat asked for discussion and possible action on a letter of support for NVU. Eric said he thinks that could go under the NVU update. Doug asked for discussion on moving forward with broadband and discussion on continuing to have meeting participation by video or phone available after the pandemic is over.

3. Review and Approve Minutes of Meetings Past

Kyle moved to approve the minutes of April 20, 2020, Doug seconded and the motion was passed.

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

Rosemary said there is a set of orders totaling around \$8,000. **Doug moved to authorize Eric to sign the orders, seconded by Mike.**

Eric asked about the benches that cost almost \$1,200. Rosemary said the Recreation Committee got a grant to put benches along the rail trail. Eric asked, that is money in, money out? Rosemary said yes

The motion was passed.

Rosemary said Downtown Pizzeria and Moog's got extensions on their liquor licenses from liquor control. She thinks the extensions are for 90 days.

Rosemary said as of last week land records for the last 20 years are available online to the public. Maybe two or three attorneys have come to the office in the last couple of weeks. Others have been accessing the records online. There is a link on the town website.

5. Landfill Closure Recertification Update

Brian said recertification of the closed landfill on Wilson Road is not due until September but normally we would have begun the recertification process already. The start has been delayed due to the pandemic. He doesn't anticipate any changes. He would like board authorization to sign as the town's representative on documents related to recertification of the landfill. **Nat moved to authorize Brian to sign documents related to landfill certification on behalf of the town and the motion was seconded.**

Doug asked what Brian is signing. Brian said right now he is just signing that we are seeking recertification.

Doug asked if there is a point in time when we will not be involved with this. Brian said he hopes so. He hopes through the recertification process he will get a better understanding of that. Eric asked how long the dump has been closed. Brian said 20 or 30 years. Soil testing is still turning up some contaminants and values are still changing but they are generally decreasing over time. He expects we will be required to continue testing.

The motion was passed

6. *Lamoille Regional Solid Waste Management District Compost Fees*

Brian said LRSWMD had a suggestion regarding a startup in Johnson that is picking up and reselling compost. They wonder if we would consider reducing our fee for compost tonnage. Eric asked if they are just suggesting that for the one startup company. Brian said he would not recommend reducing it for one company. If we are going to consider it he would recommend doing it for everyone.

Eric asked when the contract we negotiated is up. Brian said the contract for compost is up in a couple more years.

Doug asked if LRSWMD is thinking about reducing their fees or just our portion. Brian said they didn't say. Doug said he thinks we would want to know what their pricing framework would be.

Nat said he asked a few months back how much we collected in compost fees and he was surprised by how little money it was. Brian said for the most recent quarter the amount is quite low but that was affected by winter and the coronavirus outbreak. The first quarter the amount was 43 tons. Nat said he thinks that is not a good representation. Brian said he thinks the second and third quarters will probably be less. Eric said July 1 is when mandatory composting starts, right? Brian said a lot of haulers and districts are requesting an extension. Eric said we can anticipate that the total tonnage will be greater once mandatory composting is implemented. Brian agreed. He said the majority of the contribution comes from the college and the elementary school. With those shut down LRSWMD is not receiving much material.

Nat said he was told by Brian that we collect about \$400 a year. He would like to double-check that that is true. If it is, he doesn't even know why we are asking them for that. He wouldn't mind discussion about getting rid of the payment altogether. Brian said it is supposed to reflect wear and tear on the roads, especially Wilson Road. If they are not receiving a lot of compostable material there is not a lot of wear and tear on the road so we are not getting much compensation. Eric said our original thought was that this compost facility is serving the whole district and Johnson taxpayers shouldn't subsidize something that benefits the whole district. Mike said he thinks we should leave it the way it is.

Doug said he would like to know what they intend to do for their fee structure for the startup business. Will they extend this to other startups? He thinks we pulled the number we charge out of the sky. He doesn't think we have any basis for determining wear and tear.

Nat said he doesn't want to make this into a big project. Brian said he could send Susan Alexander an email and ask what they are thinking of doing with their part of the fee. Eric suggested that he do that and bring the information back to the board.

Brian said he thinks we did a little estimating on the damage cost. The estimates were based off a prior project on the same road. Eric said \$400 doesn't even pay for grading of the road. Brian said but that means they are getting about 25 tons. If only 25 additional tons are coming in that is not contributing a lot to wear and tear on the roads.

7. *Marvin Award Nominations and Discussion*

Brian said LCPC would like to know if we are going to make any nomination for Marvin Awards. Nat suggested nominating Lois Frey for her community service. Eric and Kyle agreed that would be a good nomination.

Brian said he had received a suggestion for the project award: Legion Field, because of the developments there – the bandstand, the bread oven and the ice rink. We are getting a lot of renewed use of the park. Nat said that wasn't the result of planning. Brian agreed. Eric said there was no plan.

Doug said the college recently did the conversion to NVU, which was a massive project. Brian said he could see writing a nomination for that in a couple of ways. We could nominate Elaine Collins or it could go as a facilities award nomination. We did nominate NVU unification for a facilities award for last year. It didn't win. Mike suggested trying again. Eric said he thinks this year it would be appropriate to nominate the person driving it, Elaine Collins. Unification is sort of stale now. Doug agreed.

A meeting attendee suggested Jenna's Promise. Doug and Mike agreed that would be a good nomination. Brian said we can nominate the church project for a facilities award.

Kyle asked if we can dominate a business. She is thinking about Moog's Joint. The owner really brought that place back to life. Brian said a question had come in through chat about whether we can nominate more than one. He doesn't know that they wouldn't accept more than one nomination but it would weaken both nominations. If we can't pick one from our own community he doesn't know that they will pick one for us.

The board agreed to nominate Jenna's Promise and Lois Frey.

8. *Draft of a Building Permit Ordinance*

Brian said the Town of Rutland has a building permit ordinance similar to what we discussed. It is not prescriptive at all. No zoning is tied to it. He took that and used it to develop a draft of a building permit ordinance for Johnson. He showed the board his draft.

Brian said he is not sure if we want to provide any exemptions. Eric said he is not sure what the intent was behind Rutland's. Our intent would be to find out about whatever would

change the assessed value of the property. We should have the draft run by the assessors. If someone builds a sandbox for kids, that won't change the assessment, but if they double the size of their homestead it would. The draft currently says "no building or structure of any kind" can be built without a permit. His thought is that the intent is to capture what changes the assessed value. We are not looking to find out if someone builds a treehouse. Brian said he doesn't think the current language would allow someone to build a treehouse without getting a perm. He might revisit the language. What he liked about the current language is that the homeowner wouldn't have to make a judgment call on whether their project required a permit.

Doug said Rutland ties their permit to flood hazard areas, etc. that they regulate. If our purpose is to provide information to the listers he wonders if we would use the same authority and how we would stay our purpose and our authority. Brian said he has read the statute and he thinks we will cite the same one but our justification would be different. Our purpose for this is to assist our assessors to maintain an accurate grand list for the benefit of all residents. Doug said he thinks we should state that is part of our purpose and indicate where we have authority, for instance regarding highway cuts. Eric said there are some things Rutland has that we would want to capture as well, like curb cuts. The property owner would need a curb cut permit. Doug said it is good to tie the tax-related information to other places where we have authority that we want them to know about.

Doug asked if Brian thinks we should have a definitions section. Brian said yes. Eric said he thinks we need to define that this is an informational permit. By giving this permit we are not saying that the property owner is okay for all other things that might require permits like Act 250 or village zoning.

Donna Griffiths asked if, given the purpose, we really need to require people to provide a sketch, utility information, etc. Do the assessors need that information? Brian said that is a fair question. He is thinking power information about the building could be useful to the assessors.

Doug said it is like a project review sheet. He thinks we would need enough information to advise them as to what permits they are going to need to get. Brian said it makes the permit process more useful if can give them advice about who they need to talk to. Doug said the sketch and information on the location would help us know if they need something like a floodplain permit. He is not sure if the applicant provides information on permits they have or need or if we do the search when we get the application. Shouldn't one of our goals be not to put in too much administrative time? Brian said he thinks so. But when they are finding out what permits they need, where else would they get that information other than from us? Eric said we may know about local flood zone permit requirements or a curb cut permit requirement based on zoning but if there is some Act 250 requirement we may or may not know about it. We don't want to give the impression that we are a clearinghouse for everything.

Brian said he thinks we will have to work with the assessors on tightening up the section on what buildings and structures trigger the need for a permit.

Donna asked if a permit is required for replacement of existing buildings with an identical building. Brian said he believes the way it is written a permit would be required.

Brian said one thought he had is that we might give them a copy of the permit application serving as a notice to proceed and then give them the actual permit later, similar to the way we handle highway access permits.

Donna asked, why not have an exemption for structures less than 100 square feet, like Rutland? Mike said he thinks that is a good idea. Eric said he thinks that is a good question to give to the assessors. Brian said we can ask them what size structure falls below notice.

9. Update on Vicious Dog Order

Brian said the owners of the vicious dog have filed a request with us for reconsideration. It is not a formal appeal to our dog order. New information in their letter is their claim that Asia is a service dog for Harriet Armstrong. They are offering to try to make accommodations.

Nat said he is curious whether the dog fits any formal definition of a service animal. Is there any information on the training the dog has to qualify? Brian said we have not been provided with any certification.

Nat asked if there were fines issued for this dog. Brian said he believes there was a fine for running at large. Nat asked if it has been paid. Brian said it would be paid to Superior Court. It hasn't made its way through to us yet.

Mike said as a rule service dogs are trained to be even-keeled and to deal with stressful situations. They are trained not to retaliate. He thinks we should stick with what we previously determined. Nat agreed. He said his understanding is that a service dog is typically trained so that it wouldn't attack someone walking by on a road.

Eric asked when the 30-day appeal is up. Brian said on May 10. Eric asked if there has been any attempt to appeal to the Superior Court. Brian said this letter came to us by way of the Superior Court. The Superior Court won't hear this request because it is not a formal appeal, so they kicked it back to us. The owners are interested in filing an appeal and he has advised them to get in touch with legal aid for assistance in writing it properly. Eric asked, they do realize if they do not file the appeal by next week the dog will be euthanized? Brian said he believes they are well aware of that.

Harriet and Jim Armstrong joined the meeting. Harriet said she fell down the stairs Saturday and her husband didn't even know she was there for half an hour. If her dog had been there the dog would have let him know. The dog has not been trained as a service dog. Someone has offered to give them a chain link fence to secure the dog. That dog has never hurt anyone if they don't hurt her. The woman who was bitten kicked her. Jim said they are only asking to be given a chance to contain the dog. She doesn't deserve to be killed. The incident was an accident and she deserves another chance.

Eric said the other chance is the Superior Court. Jim said he understands that, but he doesn't have any money. All he is asking is for the board to give him one chance to show that he can contain the dog.

Eric said his opportunity to plead the case was when the hearing was held. At the hearing each party can provide evidence, testimony and witnesses. That would have been the proper course. Jim said he has never been in this position before. He didn't know how to go about it. He was told he needed a lawyer. He called some. Legal aid won't touch this case and all the others want several hundred dollars and he doesn't have the money.

Eric said Jim got notice when the selectboard was going to have the hearing. He wouldn't have needed legal counsel or money for the hearing. He could have just provided testimony and witnesses. Jim said he has witnesses and testimony but he was always told by everyone, even the police, that he would need to hire a lawyer. Eric said he will now. The proper route is to continue with the Superior Court. Jim said he is asking the selectboard to have another meeting where he can show up and present his evidence. Doug noted that it is to Jim's advantage to have a lawyer but he could represent himself. He is not required to hire an attorney to file an appeal but he would probably be better off with one.

The board declined to take any action.

10. COVID-19 Response Update

Brian said pretty much everyone is back to work. Employees are working on two separate shifts and two separate projects. They are able to follow social distancing pretty well when working outside. We have gotten pushback about the requirement to wear masks when employees might encounter other people. The town will work with the village on coming up with a health and safety return to work plan. Such a plan is required for organizations with more than 10 employees and organizations that were shut down for 7 or more days. We don't have that many employees and we weren't shut down so the requirement does not apply but it is still good practice so we will come up with a plan. It will help us make sure employees are safe and provide clarity for employees.

We are subject to a requirement for daily check-ins. Every employee has to check in every day about whether they have any of the major coronavirus symptoms. We are going to be required to take people's temperature as part of the daily check-in. We are still working on the procedure for that. Temperatures are close enough to health records that he is thinking about having employees take their own temperature and tell us if they have a fever. They have to take their temperature at work. They cannot do it at home. He looked at options for low contact and no contact thermometers. He is concerned about paying too much or getting thermometers that don't work. He wants to stick with a name brand. Thermometers are hard to come by but if we can prove we are trying to get them we will get consideration.

Brian said office employees are working from home as much as possible. There may be a request in the future related to switching NEMRC's cloud services. We are now working on the cloud and it will be a challenge to switch back. The office is open for researchers by appointment. There hasn't been a lot of use. He thinks probably three researchers took advantage of the opportunity last week. He has been mostly working from home. Rosemary

said right now we have one researcher scheduled for Wednesday and maybe another one. All employees have done their training and gotten their certificates.

Eric asked if all selectboard members have done the training. Mike said he hasn't. Doug said he did it but couldn't figure out how to get the certificate.

Brian said some thermometers he likes the look of cost around \$50 to \$55. We should have one for each location office – library, garage, office – either a no contact thermometer or a low contact one. Eric said he prefers no contact if we are able to get them. Brian agreed that would be preferable. He wants to order thermometers in the next couple of days.

Brian said local businesses are encouraged to seek out Paycheck Protection Program loans through banks. If businesses have questions, John Mandeville can provide the best assistance. Brian can also try to help out.

Brian said he has done a little more research on funding options available to the town. The state is considering opening up loan program that has a path to forgiveness. It is a loan for lost revenue. For instance, we could apply for a decrease in revenue from the PILOT program. For the loan to be forgiven we need to show 3 years of losses over a 5-year period. That would be hard to show for that program. We will want to get more information, but it is good to know about this program if we have to seek a loan regardless. This might be a good program to go to for a short-term loan because if we need to extend it out it does have a path to forgiveness and a tax anticipation loan wouldn't.

11. NVU Update

Brian said there is still a lot more work to do regarding NVU. Randolph sent out a detailed letter signed by a number of outside groups about the impact to their community of closing the technical college. Nat had suggested that we look at doing something similar for Johnson and the surrounding area describing the contribution the college has in our area. Brian thinks that is a great idea. We could write the letter and seek endorsements if we want it to be just about Johnson. Or we could ask LCPC to work on it. If Brian writes the letter he will seek research assistance from LCPC and LEDC.

Nat said Leah Hollenberger has a lot of information already compiled. He also talked to Beth Foy about the possibility of helping with this. Paul Warden has offered his help and potentially the help of the Planning Commission. Brian said he would appreciate Beth's assistance. Beth said she would not mind putting together a draft.

Kyle asked Brian to call on board members to reach out to their circles for endorsements.

Brian said NVU is seeking nominations for someone to serve on their advisory committee. It would be a university-led group about dealing with how to make NVU sustainable. Nat recommended Beth Foy for that group. Another person suggested Peggy Williams. Board members agreed that Peggy and Beth would both be good choices.

Kim Dunkley said she feels like multiple letters would be better than one letter that a lot of people sign. It seems like the more people they hear from the more impact it would have.

Brian said he thinks that is true. This is not meant to take the place of individual letter writing. The letter from Randolph was more detailed than what a lot of individuals would put together on their own. We still encourage people to write to their state and federal representatives and encourage those in other communities to write to their local representatives.

Eric suggested maybe we could write up the letter and give it to the village, the Planning Commission, LCPC, etc. and suggest that they tweak it to fit their own organization and send it. Net said a lot of groups have already sent letters. LEDC and LCPC have. The Randolph letter is a message of consolidated action and a demonstration of the larger community impact of closing the college.

Scott Meyer said he wonders if this should be a joint effort between the village and town. Meredith is already documenting revenue losses for electric, water and sewer. He wonders if the letter would have more clout if it shows actual revenue loss. It was agreed that Brian and Beth should reach out to Meredith.

Brian suggested that the village could choose whether or not to endorse the letter at its meeting next Monday and then it could be sent out early next week. Eric said he feels we need to send this letter quickly. Brian said he thinks a week is a realistic timeline for having it written and getting endorsements. Eric said he doesn't think we should take any longer than a week. Brian said he will work on it with Beth over the next couple of days and then circulate it for endorsements. Doug asked if we are circulating it to get signatures or additional ideas. Brian said we might add a couple of things based on input but he doesn't want to go too far with making changes based on input. Beth suggested that we could use something like Google Docs to allow the document to be shared and edited by multiple people during the writing process. Brian said it could be possible to violate open meeting law if all board members contributed, even if they did not do it all at once. Eric said board members should not be working on this. Brian can represent them. Doug said he thinks Beth's suggestion is good. Brian agreed it is a great idea.

Nat said he was envisioning that the trustees and other groups would not sign off on the letter but would contribute information on the impact of NVU. Brian said he saw it a little differently. He was looking at having endorsements. He was thinking the letter would be sent by the town but with support from other organizations. Beth said she feels the point of the letter is to tell what the impact on the community will be if NVU is closed. Those reading the letter will care about the impact on Smuggler's Notch, not whether Smuggler's Notch supports the town's message. Brian agreed. Mike asked, who cares if other groups agree with the letter? Eric said no one will disagree with it.

Doug said we may be the town sending this letter but we need to talk about region-wide impact. Mike agreed

Lea Kilvadyova said LCPC already formed a resolution and sent a letter. She would suggest if there is a short timeline that the town send a letter and then share it with all partners and encourage them to send their own responses in support of the letter if they are so inclined.

12. Light Industrial Park Update

Brian said he and Seth are finishing up the research they want to do and continuing their progress on the grant application. The COVID-19 pandemic has slowed research somewhat. Eric asked when the grant application review will be completed. Brian said within a few months of our submission date. There is a rolling submission date. We can't get clearance before we submit but the idea is that we are working closely with them so there are no outstanding questions when we make our application.

13. NVU Update (continued)

Scott asked if the town will send a letter with Meredith's data but not with the village's participation and then the village will send its own letter. Brian said we will seek Meredith's data but will not wait for the trustees to approve the letter. We will not be sending it on behalf of anyone other than the town.

14. Broadband Progress

Doug said Lea has invited people to a remote meeting next Wednesday to discuss interest in a Communications Union District. Lea said she has been seeing a lot of activity over the past month at the House and Senate level. They have been holding hearings and taking testimony on broadband issues. There has been discussion around what resources are coming into the state related to COVID-19 and what resources may be available for infrastructure build-out. There has been discussion about creating a state emergency broadband plan. It should be finalized by May 7. There was legislation last year that enabled creation of municipal Communications Union Districts. She feels this is something that the state really wants to help succeed. As broadband planning proceeds, Communications Union Districts will be a key player. The state will be turning to them for their opinions about building out structure. Those districts that have been created are at the table now. They are privy to the most information. LCPC has been working with seven towns in Lamoille County, including Johnson, for the past 9 months on community engagement and awareness. She feels we are at a point where we need to seriously look at whether to create a CUD in Lamoille County. By statute a few towns have to vote at town meeting or special town meeting to establish a CUD and then others that want to join can join by vote of the selectboard. There is a question about whether it is possible to hold a special town meeting these days. It has been recommended that LCPC talk to the attorney general's office about its interpretation of changes to open meeting law.

Nat said there have been conversations about joining a neighboring Communications Union District. Lea said that is also an option. She is not sure which is better. We are adjacent to the new Northeast Kingdom CUD, which is a large one including about 27 towns. We are also adjacent to the Central Vermont one. There are pros and cons to joining an existing one vs. forming a new one. LCPC is going to hear decision on Thursday about whether they get a grant they applied for. If they are funded they will partner with a consulting firm to explore the question of which approach is best. If we act on creating a CUD now we will get a seat at the table. If ours is too small to be viable it is always possible to restructure. Her vision is to keep making headway with engineering plans for infrastructure so we will be ready when money becomes available.

Charlie Gallanter said he believes CUD's have to be formed by May 25. He doesn't know how two towns can have special town meetings on forming a CUD by then. He would not

suggest joining the Northeast Kingdom CUD because each town gets two representatives on the board. That makes a 54 person board, which is probably unmanageable. We need a critical mass of about 1000 customers for getting an ISP. We have potential for about 300. We could not go it alone. He has asked everyone to write letters to the Senate Finance Committee. We don't just want broadband; we want fiber to the home. Consolidated offers that in some locations but not in this area. The Senate Finance Committee is considering funding projects with CARES money but they have to be completed by the end of the year. Congress is considering infrastructure bills but not making progress.

Lea said she would say that without having a governing entity in place we are losing out. We need to think about putting one in place soon. LCPC would be able to support the organization and help with fundraising.

Doug said if we are not ready we won't be able to take advantage of opportunities. He would like to encourage citizens and selectboard members to sit in on the upcoming meeting. Lea said she would like to keep the meeting manageable. Her initial invitation was to just a couple of people from each town. She would like to open it up to selectboard members. If the community desires a bigger meeting on the topic she could have community by community meetings. Brian said we will start with having the selectboard and broadband committee involved in the upcoming meeting and if it goes well we can expand out to the wider community.

There was a question about whether it wouldn't be easier to join a neighboring CUD that is already set up. Charlie said the Northeast Kingdom one has so many members it is unmanageable. CUD's don't have to be contiguous. We could join a different CUD such as the Central Vermont one. We have to decide if we want to be part of a CUD. There are pros and cons.

Brian said from what he has heard it sounds like existing CUD's are having a fair amount of trouble rolling broadband out to those who are already part of the CUD. Joining an existing CUD wouldn't put us in a much better position in terms of when we would have broadband rolled out to Johnson. Charlie said there will be problems with rolling out fiber whether we join a CUD or not. There is a lack of technicians and supply challenges.

Lea said at the end of the year the FCC will offer money to providers to improve broadband. She imagines Consolidated will apply. She has had general conversation with them and told them they should be looking at a full town solution. Whatever they apply for and get money for, it will influence our own efforts. This will be fluid. We just have to do something to begin with.

Charlie said he had heard that the wifi from the municipal building is not very powerful and it is not a good place to go to pick up internet. The town might want to upgrade its server. Brian agreed that it is not great. Lea said the Public Service Department is gathering information on where they might be able to establish hotspots. They just installed one in Belvidere. Charles suggested sending a message to Rob Fish of the Public Service

Department asking if anything can be done about the municipal building hotspot not being very good. Brian said he will do that.

Eric said Congressman Welch will be the speaker at Friday's townwide Zoom meeting. This might be a good topic to bring up with him to see if there is any federal help.

15. Remote Participation at Future Meetings

Doug said he would like the board to consider making Zoom participation possible for future meetings. Nat said he thinks that is an excellent idea. Eric said before the pandemic started he would never have agreed, but he likes being able to sit in on a trustee meeting from home without having to travel. From the spectator side, he likes Zoom participation. From the board perspective, he likes having everyone in the same room. It is easier to see if someone wants to speak.

Lois said she feels it is wonderful to be able to participate this way. Beth said she really likes being able to join from her house and she will join meetings much more if remote access is available. Doug said he thinks we should go back to meeting in person and have the public able to join us in this way.

Brian said we bought some video conferencing equipment and he thinks we will be able to share some of GMATV's resources. We will be in a good position to broadcast meetings online.

Doug asked if he thinks video meetings become competition with GMATV. Brian said he thinks they are enjoying being able to record the Zoom meetings.

Michael Reis from GMATV said moving forward it would be helpful if people could continue to use Zoom. He can meet with Brian about changes in the future.

16. Adjourn

The meeting was adjourned at 9:43.

Minutes submitted by Donna Griffiths