

JOHNSON SELECTBOARD MEETING MINUTES  
JOHNSON MUNICIPAL BUILDING  
MONDAY, JUNE 3, 2020

**Present:**

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

Others: Brian Story, Rosemary Audibert, Jeanne Engel, Lisa Crews, Beth Foy, Michael Stevens, Lois Frey, Charles Gallanter, Daryl West, Diana Osborn, Eben Patch, Edward Raymond, Greg Tatro, Rob Rodriguez, Jim Rose, Lea Kilvadyova, Will Angier, Shayne Spence

**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***

Brian added review of the lease for the apartment above Holcomb house and information on a revolving loan fund application from Jenna's Promise. Doug added possible approval for the fishing access ladder he previously discussed.

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

**Mike moved to approve the minutes of May 4 and May 18, 2020, Nat seconded and the motion was passed with Kyle abstaining as she was not at the May 18 meeting.**

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

Rosemary said we have spent 80% of budget to date. Revenue is about 98% of budget. She sent out warrants in the amount of \$20,359.72.

**Nat moved to authorize Eric to sign warrants in the amount of \$20,359.72 on behalf of the board, Mike seconded and the motion was passed.**

Rosemary said 15 people so far are asking for abatement of tax penalties and interest. Does the board want to address those requests at its next meeting? The legislature has given selectboards authority to do that. The board agreed to make decisions on the abatement requests at the next meeting.

Mike said he would like to hear more about the grader. Eric asked Brian to bring the board up to speed on that. Brian said the transmission on the grader has broken down and we are getting it repaired. It is estimated that it will take about two weeks to complete the repairs. A John Deere mechanic is coming into our shop to do the work. The cost will be \$30-40,000. One of our employees will be working with the mechanic while the repairs are being done. Brian thinks we will be able to afford the repairs but it may impact some other things we had planned. Eric asked if it will affect this fiscal year or the next. Brian said this fiscal year.

Brian said we have talked to Hyde Park and if we need a grader we can use theirs. They have agreed to grade one road for us. We will try to work on a couple of other spots using equipment on the tractor.

Eric asked if the transmission problems are just wear and tear. Brian said more or less. We installed a rebuilt transmission a while ago. Ray has complained that the transmission was not in good shape.

Nat asked if the repair cost will come out of reserve funds. Brian said no, out of operating funds.

Doug asked if the mechanic could report to us about the cause of the problem, how long the repaired transmission is likely to last, etc. Eric asked Brian S. to have Brian Krause talk to the mechanic and have a report for the next meeting. Brian agreed.

**5. *Facility Use Updates – New Form and Fees***

Brian said we have discussed in the past that maybe we should look at fees for use of our fields. A lot of towns charge fees. Lisa Crews has a draft proposal with a fee schedule.

Eric asked how we justify to ourselves who we will charge and who we will not charge. We don't charge people for use of the upstairs of the municipal building whether they are from Johnson or not. We don't charge the bike tour company, a private business, for use of our property. He is not saying he is for or against charging fees; he is just thinking about how we decide when to charge.

Brian said he thinks under the new proposal the bike tour company would be charged. The board could approve the company's facility use request tonight under the old standard or decide to use the new standard where they would be charged.

Nat said when he was on the rec committee they talked a lot about groups like Cambridge Youth Soccer using our fields regularly, which led to real expenses that we incurred. Field lining is pretty costly. Cambridge Youth Soccer is an out of town group that is collecting fees. In that situation it makes a lot of sense to him to charge them a fee. For one-time events or pick-up soccer games it doesn't make as much sense to him.

Lisa said if someone wanted to rent our fields we would have some cost to repair nets and goals. People who want to have pick-up soccer games or the women's group that meets to play soccer can come to her and do their events under the umbrella of Johnson Recreation as a non-fee-based use.

Nat said he feels at this point we would not want to charge the bike rental business. He thinks they are doing us a favor by being a presence there. It is a nice business for the town. If we had multiple businesses creating a lot of wear on our property he might have a different feeling.

Lisa said we could have one fee for field use and a different fee for other uses. Last year we had a facility use request for a birthday party for a local family. She doesn't think it makes sense to charge for that kind of use. We could add a line to the policy saying that if you are a taxpayer in Johnson and want to use the park for an event you can just schedule it with the town. The soccer club is making money from their use and they asked us what our field rental fee is.

Doug said the property Jim Rose occupies is jointly owned by the town and the village. We are hoping the rail trail will help with economic development. He thinks because that use is on town and village property it doesn't exactly fall under this policy. Nat said he thinks the use agreement is a town and village agreement. Brian said in the past the town and the village have used the same form. But we can make updates to it and we could create a specialized form for ball fields.

Kyle asked if the proposed fee schedule is in line with other fee schedules in the county. Lisa said the fee she proposed is half of what Stowe charges for soccer. Kyle said she thinks it makes sense to charge a fee to out of town groups that are collecting revenue.

Eben Patch said he thinks residents should be able to use town fields for free. How much revenue are we hoping to generate? Does it make sense for someone to manage collecting fees for the amount of money we will get? Lisa said she has been here almost a year and in that time we have had one request and she believes Cambridge Youth Soccer would have requested use again if not for COVID-19, so not a tremendous amount of money will be collected. It is also not a tremendous amount of work on her part. Nat said \$120 is not a lot of money but it helps pay for what the rec department has to do to maintain the fields. He thinks it makes sense for people from out of town to pay fees.

Beth Foy said she is all for charging clubs because they do make money and also she knows that the soccer goals are really expensive. Our soccer goals have been in really bad shape since she was on the rec committee. She thinks on top of charging a fee there should be a deposit for damages because the goals are so expensive. She doesn't think we should charge for lining of the fields. She doesn't think we should be doing lining for other groups. They should be doing it themselves. Old Mill Park is labeled a park. We want to encourage usage of it. Legion Field and Old Mill Park are specifically mentioned in the document but there is also Checkerberry Field, which she thinks is a nice location for events even though access is a little difficult. We should compare use of our facilities which are public parks to the fields in Stowe, which are not called parks.

Brian said Greg Tatro commented in chat that use of town facilities can be good for the local economy, stores and restaurants. Brian agrees. But he doesn't think the fee we are talking about will affect a group's decision to come to our property.

Nat said he is curious why it is necessary for us to require insurance. Lisa said she believes that was already a requirement on the old form. Brian agreed that it was. Nat said he wonders if it is necessary. He thinks we are pretty well insured for activities at our parks. He is also wondering why there is an occupancy limit. Brian said it is more that we want to know how much of the park they will use. Nat suggested that instead of making it a limit we should just ask how many people they expect to show up. He would suggest that Brian and Lisa look into changing those things and then bring the form back to the board.

Mike said he doesn't see anything wrong with an out of town group using their own insurance. He thinks the Johnson insurance umbrella is for Johnson residents and those from out of town should not use our insurance.

Brian noted that there is a section where we say that if you don't have insurance you can say you are going to hold the town harmless. Nat said he can live with that. Doug said what that means is that if they don't have any assets we won't get any contribution out of them.

Brian said he and Lisa can work on addressing the board's comments in the next version of the policy.

Kyle said she likes Beth's comment about distinguishing between fields and parks.

**6. Facility Use Request – Lamoille Valley Bike Tours**

Brian said Lamoille Valley Bike Tours has submitted a facility use request similar to their past request but with a couple of changes. They want an additional day of operation and they are asking to leave their bike trailer onsite overnight.

Jim Rose said he thinks his company had the same days of operation last year. Leaving the bike trailer there is more convenient. It would certainly be a help to them. Kyle asked if he would leave it where he sets up on the lawn by the building. Jim said yes.

Nat said he thinks the presence there is really beneficial. It is good to have someone keeping an eye on things. **Nat moved to approve the facility use request from Lamoille Valley Bike Tours as submitted, including the request to leave the trailer overnight, seconded by Mike.**

Doug asked how Jim plans to secure the trailer. Jim said they have some thoughts about that. They may build a platform surrounding the tongue and ball of the trailer. The ball is locked.

Doug asked if there will be village sign-off on this. Jim said he reached out to Meredith with the same request and has not heard back yet. Eric said it is shared property so the village has to approve the request as well but he is sure there won't be any problems.

**The motion was passed.**

**7. Study and Preapproval of Autonomous Vehicle Testing**

Brian said there is a lengthy document about the autonomous vehicle testing available on the website that was not included in the packet. All we are agreeing to right now is that we would be willing to talk about it. He would pretty enthusiastically agree to the testing. He thinks it could be good for us and some of our institutions. The college might be able to find partnership opportunities.

Eric asked what they would do. Brian said they will be working on setting up controlled environments where they will run autonomous vehicles. They will have drivers in the car but the car system will be operating the vehicle. Eric asked, these are driverless cars? Brian said yes.

Brian suggested inviting a VTrans representative to come and give a presentation to the board about this. He can submit our preapproval immediately if the board agrees. The board agreed that Brian should go forward with this and say that we are interested.

**8. *Building Permit Ordinance Draft Review***

Eric asked if Brian had showed the draft building permit ordinance to the assessors. Brian said yes, parts of it. Eric asked, they had no major changes that they wanted? Brian said no.

Brian said he added a section describing the purpose of requiring this permit and he added an exception for buildings less than 100 square feet based on conversations with the board and with the assessors. They agreed that 100 square feet is a good threshold. A building smaller than that won't affect the property value. He made no changes to the enforcement or administration sections.

Nat said he has gotten some feedback from people in town who are concerned about the policy. He thinks Brian describes the purpose well in this draft. He is concerned about the language about recognizing and managing right of ways, stormwater and other public utilities. He thinks that was not the original intention for this ordinance and he would rather that not be in there. He feels the main purpose is fairness and safety for the assessors. He hopes we can make the permit process simpler and make it explicit that the ordinance won't be used to deny building anything on someone's private land. This is for property owners to inform us of a potential assessment change but it cannot be denied by us.

Kyle asked why the first sentence is there. Brian said we had previously discussed possibly adding a section asking if the property owner had gotten Act 250 approval. We discussed collecting information for the purpose of managing public right of ways and public utilities. There has never been an intention to approve or deny the permit but we thought it might be helpful if we could do more by providing information. But environmental review doesn't affect the assessed value. Kyle said she agrees that should be struck.

Doug said he doesn't know why we would strike that when we have a program where people have to get permits for town highway access and having people building things without getting a permit is a problem. We would want to give people information. Maybe we should not call it managing public right of ways but we should recognize our responsibility with regard to access to town highways. He thinks in the Permit Administration and Application section we should take out the paragraph about existing permits. He thinks just a name, address and a general description covers what we are interested in. He doesn't think we want to know if they have permits, the location of utilities, wells, etc. That is beyond the scale of information we need. Eric said he agrees that that gets beyond what we are looking to accomplish. We just want to be aware of structures being built for assessment purposes.

Mike said this started out simple but it has morphed into something more complicated. He thinks we ought to run it by the Planning Commission and let them discuss it. Nat said he doesn't think that will simplify it. He agrees that we want it to be simpler than it is now. Eric said we should be able to make it as simple as a curb cut permit. Brian said he will make some changes and have it ready for the next meeting.

Nat said he would like to remove the language about creating a sketch. He doesn't think that is necessary. Eric agreed. A general description should be enough. Nat said maybe we can include some information along with the permit about things people need to consider, such as that they might need other permit approvals. He said he would not like to establish fees. He

would like to explicitly say that there will be no fees. This is not as much an application as a notification. Doug said he would be fine with taking out the language about fees.

Mike said he still thinks this is a little bit of a back door to zoning.

Diana Osborn asked about the 100 sq. ft. exemption. She said her recommendation would be to align with the type of structure assessors use for assessment. Is there something that is used to determine which structures are assessed and which are not? Brian said the assessors say the 100 square foot exemption is aligned with that. Diana asked, if her chicken coop was bigger than 100 square feet, would she be assessed on that? Brian said the assessors would at least want to know about it. He does not know how it affects taxes.

Eben Patch said because of the COVID-19 situation most people can't come to selectboard meetings. Why not shelve this until after COVID-19 so people can tell the board if this is something they want? He thinks this is a back door to zoning. He doesn't see why people should tell the town what is happening on their properties. Assessment is already not fair.

Eric said one big difference with the assessors compared to the listers is that the listers went to every property every year and would see if things had been done to the property. The expectation with the assessors is different. They are doing a rolling reappraisal of a quarter of the town every year and at the end of four years there is a townwide reappraisal. They are not catching every property every year. Without any zoning, they are having trouble trying to keep up with property improvements. Someone could build a house and they would not even be aware. If someone builds a barn or adds on to their house, if the property is back off the road there is a good chance the assessors will not be aware. This is more of an equity issue. The assessors will see what is being done on properties close to the road.

Eben asked, with it being this big of an item, why not shelve it until COVID-19 is done and taxpayers can come in and speak their mind? Eric said the ordinance won't get approved tonight. There is more work to be done on the draft. If the board decides to adopt it, it has to be posted and there is an opportunity for voters to draw up a petition to require a townwide vote

Nat said to him zoning is a process by which a municipality can deny a permit. He thinks we need to be very explicit that under this ordinance we are not approving or denying anything, we are just getting information.

Eben asked, what is the penalty for not getting a permit? Mike and Eric said there is a fine. Eric said but there is no fee for the permit and no approval or denial.

Eben asked, if he gets his floor sanded without a permit can he be fined?

Doug said regarding participation during COVID-19, there are 25 participants in the meeting tonight, which is more than typically participated in in-person meetings. Meeting remotely is actually increasing participation. Eben said a lot of his family members are not tech savvy and would not participate this way. Eric said they weren't coming to board meetings in person either. He agreed that with Zoom meetings there is more participation than usual.

Beth Foy said she doesn't like the idea of this ordinance leading to something more. But she is very much for equity. She sees some inequities in the assessors' report and she is supportive for that reason. When she looks at the definition, she doesn't know where the line is. If her mother paints every room in someone's house in theory the house will be more sellable but she doesn't think that falls under the intent of this ordinance. How do we know where boundaries are? The draft talks about if a project increases square footage or the number of bedrooms or if the owner is converting the use. Are those the three requirements to get a permit or is it more than that?

Eric said this ordinance would not be for general maintenance items. If you paint every room in the house that doesn't increase the assessed value. If you put on a new roof, that is maintenance. If you add a room, that would increase your assessment.

Beth said renovating the kitchen can increase the value of a house by \$10-15,000. Eric said the assessors look at the number of bathrooms, etc. and then they grade the property on a range from poor to exceptional. If you were remodeling your kitchen he doesn't know how that would affect the assessment. It is not the intent of this ordinance to require a permit for that.

Beth said that needs to be clear in the ordinance so people can know if they need to get a permit. Eric said people can fill out the form and then the assessor can look at it and determine how the project affects the value. Beth said if she is making a judgment herself and there is a fine attached to not getting a permit when it is required, that is tricky. Eric recommended erring on the safe side in that case.

Brian said in the Permit Required section he will strike item 3 (related to commercial use) and leave items 1 and 2. Item 1 says if you are doing anything that increases the footprint you need a permit. Item 2 says you need a permit for any alteration that increases the number of bedrooms. According to research he did and conversations with the assessors, if the owner changes the square footage or the number of bedrooms, those are the big things where we are drawing a line. Other than that the requirement for a permit does not apply. He will work on clarity. Painting or sanding a floor is outside the scope of this ordinance.

Will Angier asked for clarification. Will renovations not be included? Brian said renovations do not require a permit unless they affect the number of bedrooms or the square footage.

Will asked, if the assessors are not going to do door-to-door inspections don't they still have to go to the property when the owner submits a permit application? Brian said they do but they will have information before they go and they will not be going unannounced onto people's property anymore.

Mike asked, if someone decided to upgrade their countertops to a more expensive material, they wouldn't have to get a permit? Eric said that is the way he understands it.

Mike said he doesn't think the listers went to everyone's house every year. He thinks they only went when they heard someone was doing work. Eric said they were residents in the town and they heard about basically anyone who was doing anything.

Lea Kilvadyova submitted a comment in the chat: "If the permit is tied to the increase of footprint then perhaps the question about the renovation in the application could be removed or otherwise should specify that the renovation is only for the increased number of bedrooms but not for painting, floor sanding or kitchen renovation."

Eben asked how long it will be until renovations are inside the scope of this ordinance. Brian said it is a slippery slope. The town will decide when. A future board can make a decision. Mike agreed that it is a slippery slope toward zoning.

Donna Griffiths said she doesn't think it is clear whether a permit is required for replacing an existing structure – for instance, if a tree falls on your shed and you want to replace it with an identical shed. Brian said he thinks a permit would not be required. Mike commented that the new structure could look better than the previous one. Donna asked, what if it doesn't look better? Is it up to the owner to decide whether it does and whether a permit is needed? She suggested it should be clarified in the ordinance whether permits are required for existing structures. Nat agreed that it should be addressed.

Eben agreed that this is a slippery slope. He brought up Charlie Gallanter's comment that had been made in chat. Brian read Charlie's comment: "This is zoning by virtue of the citation of 24VSA 4410 as justification. See 24 VSA 4413 which exempts structures less than 300 SF." Brian said he would have to read those statutes.

Eben brought up an example. What if he built a pole barn and then the next year he insulated it and changed it to a residence? There would be no point where the requirement for a permit would be tripped. If the assessors want to know what is going on on your property they can enter it every four years. Doug said he would think if an owner put in a pole barn and then turned it into a residence the structure would have a bedroom and that would trigger the need for a permit. Eben said he could make it a one-room studio. He doesn't think this ordinance is right for the town and the COVID-19 situation makes it complicated.

Will Angier said he thinks he and Eben have similar concerns. He is concerned that if renovations are made more expensive the cost will be passed down to renters. He is against requiring building permits for other reasons, though he understands the town's reasons for it. He worries about affordability for low and middle-income Vermonters, especially at this time.

Mike said he thinks this needs to be passed on to the Planning Commission. Eric asked if any other board members thought so. None of them did. Eric said he thinks the board needs to see a cleaned up version at the next meeting with everything that was discussed.

## **9. *Regional Broadband Update***

Charles Gallanter said the broadband committee voted unanimously to join a Communications Union District for a variety of reasons. None of the existing Communications Union Districts will allow us to join. There are 3 and none are interested in



having Johnson join. So we have to form a new one. It takes two towns to do so. Cambridge wants to join also. With those two towns we would meet the requirements to form a CUD. The broadband committee suggested some names and over the weekend Charles came up with the idea of North Central Vermont FiberNet. He discussed his reasons for thinking that is a good name on Front Porch Forum.

Charles said the board should not make a motion to join a CUD yet because under the new legislation due to COVID-19, once one town decides to do it, it starts the clock and we have 60 days to appoint a representative and an alternate to the CUD and 90 days for the representatives to have an organizational meeting. The first step is to get a sense of whether the selectboard is willing to have Johnson join a CUD. A CUD gets no tax revenue. We would have to raise our own money through user fees or donations. Doug has offered to pay for the name registration.

Board members indicated that they are willing to have Johnson join a CUD. Several board members said they do not care what the name is.

Nat asked, this doesn't require a townwide vote? Charles said no, during COVID-19 the decision can be made by the selectboard. Doug said that is assuming proposed legislation passes and all signs are that it will. Then we will be in a position to work with a consortium on getting federal funding. This is an ideal time to get into this. Charles said the legislation is out of the House now and in the Senate. The broadband committee is thinking that by the end of June it will be passed.

Brian said a question came in on the chat about why we couldn't join an existing CUD. Existing CUDs have their hands full with the towns that are already members.

Ed Raymond asked when the board needs to approve this and start the 60 days. Brian said we're still waiting for the legislation that allows the selectboard to vote. As soon as the board is allowed to vote it should vote.

There was a question about whether the selectboard will have meetings in person again now that gatherings of 25 people are allowed. Eric said in-person meetings are still on hold.

#### ***10. Budget and Revenue Forecast Discussion***

Brian said for next year he is estimating about a 10% reduction in the amount of taxes to be collected (under the assumption that there will be an increase in the amount of delinquency), a 10% reduction in state aid to highways and a 75% reduction to PILOT.

Nat asked what that is based on. Brian said it is based on an extremely dim view of where we might end up. The state hasn't issued their estimate. Eric asked when we expect the state forecast. Brian said any time now. Nat asked if the 75% is based on any actual data. Brian said not any good data. He talked to towns that have a local option tax about what they are seeing and that is what they are seeing currently. That is absolutely the worst case scenario. He thinks we are going to have to think about borrowing money.

Eric asked how much the estimated reductions are in terms of dollars. Brian said \$475,000. We could make up just a fraction of it with spending reductions. But that is a worst-case

scenario. Eric said if we trimmed \$50-75,000 from the current budget we would have to make it up the following year which would mean either huge cuts or a huge increase in taxes.

Brian said we can borrow money through a disaster assistance loan so we can spread out payments over multiple years and not have to make up the whole difference in one year. There will be some money available for loans but we will be in competition for it. He wants to target the state disaster assistant loan program for us. Under that program we would get a loan based on the loss in revenue and the payment structure would be based on that revenue being recovered. If the revenue is not recovered, for instance if property values fell, we would be able to apply for loan forgiveness if the lost revenue continued for more than a certain amount of time.

Brian said there is potential for a massive deficit for next year. He thinks we will have to have a combination of heavy spending cuts and a loan. Eric said the only item we could cut that would come close to matching the deficit would be police coverage.

Eric noted that Beth commented in the chat that other towns must be in this situation. They must be to some degree, but Johnson is more vulnerable than many because we are so dependent on PILOT.

Another community member said there was over a \$100,000 surplus last year. Where did it go? Brian and board members said it went to reduce taxes.

#### ***11. Update on Public-Private Partnership on Stormwater***

Brian said he is looking at a public-private partnership with Vermont Electric Coop. He has been working with Jim Rose on this. Vermont Electric Coop is going to be affected by the 3-acre rule that will require them to apply for a new stormwater permit. Their site is downhill from where we are hoping to develop the light industrial park, which will require stormwater treatment. There is a possibility to coordinate our efforts and save money. He has been working with Meghan Rodier from LCPC to pursue a grant for this.

#### ***12. Class IV Road Policy Review***

Brian said the Planning Commission has reviewed the Class IV road policy and returned an updated draft which had been sent to the board. Eric said we have to act on this within a certain amount of time, right? Brian said the board can choose not to act. We don't have to act on anything the Planning Commission refers to us. He doesn't believe the board has to act within a certain amount of time. Brian reviewed some sections of the Class IV road policy.

Nat said the policy says, "The Road Foreman shall inspect Class IV roads annually for the purpose of determining the work to be performed thereon and its prioritization." His first reaction is that that doesn't sound realistic. It sounds like it would take a lot of time and in some cases the foreman wouldn't even be able to locate the roads. He thinks the policy is a little open-ended about what is required as far as inspecting the roads and what the work is to be performed.

Brian said we are currently inspecting bridges and culverts annually and that includes Class IV roads. We are not inspecting every inch of every Class IV road.

Nat reminded Brian that we should be using gender-neutral language and not using the word foreman. Brian said foreman is still a term used in state statute so he needs to check to see whether we can move to different language.

Eric said the policy says that in disputed right of way situations the burden of proof is on the town to determine where the right of way is. Is that in statute or is that something we voluntarily committed to? Brian said he doesn't believe it is state statute, but he could be wrong. Charlie Gallanter said it was the Planning Commission's feeling that the town knows where its right of ways are and needs to tell the property owner where they are.

Nat said that is not an unreasonable suggestion but in some cases on Class IV roads we have no idea. Charlie asked, then how can you assert a right if you don't know where it is? Nat agreed but said that puts us in an expensive legal situation. Charlie said that is true but the expense is either the town's or the property owner's and it is the town's road.

Eric said an obviously established highway can be different from what was actually laid out by the board back in the 1800's because it has migrated over the years. In that case what is recognized is the established road. Where he would be concerned would be in a situation where the road has migrated and a new landowner wants the town to prove that the highway is where it is supposed to be. If it went to court the burden of proof probably would be on us but he doesn't know that we should voluntarily put that burden on ourselves in the policy.

Charlie said it was the Planning Commission's feeling that it is the town's responsibility, not the property owners. It could be expensive. Why should that expense be on the property owner?

Doug asked what context such a dispute could be in. Charlie said the town might say the right of way is in one location and a landowner might not agree. How can the town tell the landowner to move something out of the right away if the town can't establish where the right of way is? Doug said in that example we thought we knew where the right of way was and told them they were within it. He would be very hesitant to have a town ordinance saying that the burden is on us. He thinks in a court process we would let the court determine where the burden is. Mike and Kyle agreed.

Diana Osborn said she has numerous comments on the policy. Would it be better to send a copy with her comments or go through them now? Eric said it might be better if she sent it in. It is hard to follow on our display. He doesn't think the board will make any decision tonight. Diana said she will print off a copy with her comments. She said the main point she wants to make is that in researching this online she found that senior staff attorney Jim Barlow from VLCT says that the fact that there is no obligation for Class IV road maintenance except for culverts and bridges is a common myth. There is nowhere in law to support it. There is more responsibility than that. The condition of the road is ultimately a town responsibility. This policy should set forth what the standard for road maintenance is. When you compare this policy to VLCT's model policy for Class IV roads, what is missing is the standard of maintenance to be provided by the town. And with regard to right of ways there needs to be a definition of the width of the road because that establishes the right of way.

Eric said that is a valid point but some highways are not the standard three rods. One that comes to mind is Patch Road. As he recalls, its width is defined as something like the width of a roller. Diana said regardless of how the width is defined it seems that it would help to have a definition in the policy. Eric said the definition is how the road was laid out. Some roads in the village are 5 rod roads. As far as the comments from Jim Barlow, he is not sure what that is from. It has always been the town's general belief, based on information that came from VLCT, that we have to have a standard and apply it to all Class IV roads and not treat one differently from another. The minimum requirement that was always shared was that bridges and culverts had to be maintained. He thinks the statute requires that.

Diana said the VLCT model Class IV road policy and guidance from November 2018 addresses the idea that all Class IV roads have to be maintained exactly the same. Also addressed is the idea that if a road is improved too much it will turn into a Class III road. It says that a class IV highway need not be reclassified to Class III merely because there exists within the town one or more class III highways with characteristics similar to the Class IV highway. A town can have Class IV roads that are similar to Class III roads and the town does not need to upgrade the classification, but if the town does upgrade them they get state money for them so the town might want to.

Eric said most of the Class IV roads we have that are at or near Class III standard, like Sinclair Road, have been maintained privately by residents.

Doug said the state has created a presumption of a 3 rod road width in the absence of proof otherwise. He had the same concern as Diana about Class IV road maintenance. Statute says roads are to be maintained to the extent required by necessity and the public good and convenience of the inhabitants of the town and when staff and financial resources allow. Maintenance could be all over the place based on differences in highway usage. The town of Calais had a standard that was supported in a recent court case. He thinks the court case ought to be sent out to board members to look at. We need to not be discriminatory or arbitrary. We can do minimal maintenance but we need to define a standard.

Diana said she thinks in addition to a standard there should be some criteria for prioritization of work. It could be based on vehicle counts, number of residents, length of the road, or amount of storm damage. Something quantitative might be a fair way of deciding which roads get worked on.

Doug said the Calais selectboard says that maintenance of Class IV highways will be done by adjacent landowners who will bear all cost except that the town road commissioner will do minimal summer maintenance as time permits. Others said that the town had to do more but the Supreme Court supported Calais' policy. In the decision on this case the court addresses arguments that towns need to bring roads up to certain standards. That is not a requirement.

Daryl West said he attended many Planning Commission meetings on this issue. The Planning Commission discussed a lot of different options. He thinks they have done a good job on this draft. Everyone acknowledges that we don't want to overcommit what we say the town will do but we also want to acknowledge that Class IV roads and trails have definite benefit to the community. Anyone can use them and they do. It seems like the town has some

responsibility to do some maintenance. The town hasn't done maintenance on Class IV roads for some time, unlike what we used to see. He thinks after we acknowledge that there is benefit to the community from these roads then a fair assumption is that there is some burden of maintenance that falls onto the town's shoulders. This document is trying to present the option that the town will assume responsibility for the structure of the road. If work is needed to repair the structure of the road the burden is on the town. That doesn't mean the town will plow the road in the winter or make it passable during mud season or make it very smooth. If landowners want to smooth the road out or do work on the road this document allows for that. This document says the town will have a line item in the budget for Class IV maintenance. That doesn't mean an infinite amount of money will be devoted to it. But it shouldn't all be on landowners' shoulders to maintain these roads. He does agree that the town should have some burden to maintain the structure of roads for the general public.

Eric said he agrees that Class IV roads provide benefit by providing access to areas of the community and for people who live on the roads.

Nat said on page 4 DigSafe is recommended. Why is it recommended and not required? Charlie said the Planning Commission wasn't originally going to put in anything about DigSafe at all. Many times DigSafe wouldn't be applicable to work that is being done but it is always a good idea. He doesn't really have a firm answer. He thinks the Planning Commission tried to stay away from requirements. Nat said it is a free service so why not require it? Charlie said if you are working in an area where you know there is nothing there DigSafe is not needed. But if you are in doubt you should call DigSafe.

Doug asked what the definition of road structure is. Charlie said it is defined in the document as the part of the road below 6 inches – clay as opposed to gravel. Gravel can get driven off the road but down below the gravel is the part of the road that is permanent except for flood washouts.

Doug said he regularly takes a york rake and helps out his neighbors on a Class IV road. His reading on this policy is it annually he would have to tell the town he was going to do that. Charlie said yes, once a year he would have to tell the town that he is going to plow or use a york rake. He doesn't have to get a permit.

The board agreed they would like to see Diana's written comments before making any decision.

Kyle asked, were we all in agreement that we were not comfortable with the part about the town having the burden of proof? Eric said it gives him pause.

Eric asked, if the board makes any major changes to the policy does it have to be sent back to the Planning Commission? Charlie said no, sending it to the Planning Commission was optional on the board's part. Brian agreed.

Charlie said in the Planning Commission's first draft they had the burden of proof falling to the property owner and they didn't feel that was right. It sounded like common sense to them to put the burden on the town. Nat said before we assume such an enormous financial burden

we need to put some serious thought to it. Brian asked about the difference between when the town makes a request and a statement about where the road goes versus when a resident says our road is in the way on their property. In the second case, would the burden fall on the property owner? Eric said Doug's point was that the court would determine that. The court would probably say in the first case that the burden fell on the town and if a property owner was saying that the road was on their property the court would probably say the burden of proof was on the landowner. It may be best to let the court decide who has the burden of proof. Doug said he thinks it is wise to leave that statement out.

Eric said the board will look for Diana's input and look at the policy again at the next meeting. Doug said he will have Brian send out the Calais case to the board.

Charlie said the only thing on the Planning Commission's plate right now is village sewer. If the selectboard wants to kick this back to them they do not have much else going on.

Doug said he thinks by and large they did a great job. Eric agreed.

**13. *Review of Lease for Apartment over Holcomb House***

Brian said the lease for the apartment over Holcomb House is up. He has a copy of a new lease. The Historical Society is going to work on a plan for possibly using the space next year.

Mike asked what the renters are paying for the apartment. Brian said \$960. Mike asked if that is competitive. Brian said he would say it barely is. Mike said we ought to increase it then. Eric asked who rents the apartment now. Brian said there is a slight change in the tenants. One is being replaced by a different person. Mike asked if one of them is the one that had the big leak. Brian said one of them was leasing it at the time of the leak. Mike said he thinks we need to find out what a competitive cost is and rent it for that amount. Kyle asked how many bedrooms there are. Brian said 2. Nat said it's kind of 3. Kyle said she would say that rent is very reasonable. Eric suggested increasing the rent to \$1,000. Mike said an increase of \$40 is nothing.

Eric asked what we think we will have for student population in town in the fall. Nat said we will probably have fewer students. Eric said if there are fewer students there will be an incentive for landlords to cut their rent. There may be an excess of apartments in town for the number of renters. Nat said the current tenants pay the rent on time and are a known entity. That is worth something.

Doug asked how we know what a reasonable going rate is. Kyle said she and her husband are renting an apartment above their store that is very similar to this one for \$1,200 a month with most utilities paid except electric and they were inundated with people who wanted to rent it and who said it was a really good deal. Mike asked if utilities are included in the rent for our apartment. Brian said yes.

**Nat moved to increase the rent for the apartment above Holcomb House by 10%, seconded by Mike. Nat and Mike agreed to a friendly amendment to make the increase \$100. The motion was passed**

***14. Revolving Loan Fund Application***

Brian said Jenna's Promise has applied for a revolving loan for the building behind the Barrows building. Brian is expecting John Mandeville to recommend that we approve the application.

Nat asked if we can borrow from the revolving loan fund to help with our deficit. Brian said he believes we can.

***15. Possible Approval of Fishing Access Ladder***

Doug said he appeared before the trustees to discuss the ladder Noah Pollock is willing to have a Northern Forest Canoe Trail crew construct to allow fishermen to get down the steep river bank on Lendway Lane. The trustees were amenable to the idea but concerned about whether Act 250 might apply. Noah Pollock approached Susan Baird who felt that it would not be substantial enough to be affected by Act 250 but recommended that Noah speak with Floodplain Manager Rachel Pfeiffer. Noah hasn't yet been able to speak to her. If he gets the information to the trustees about whether Act 250 allows it and they say they are okay with the project he would like this board to agree to allow the ladder.

**Doug moved that if the village trustees approve the proposed seasonal ladder for fishing access on Lendway Lane that the town also allow the construction project, Mike seconded and the motion was passed.**

***16. Adjourn***

The meeting was adjourned at 10:09.

*Minutes submitted by Donna Griffiths*