

JOHNSON VILLAGE TRUSTEE BOARD MEETING MINUTES  
JOHNSON MUNICIPAL BUILDING  
MONDAY, JUNE 9, 2014

**Present:**

Trustees: Gordon Smith, Ellis O’Hear, Walter Pomroy, David Goddette

Others: Duncan Hastings (Manager), Rosemary Audibert (Clerk), Steve Towne, Tom Elwood, Mike Dunham, Rich Whittemore, Nicole Whittemore

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

**1. Call to Order**

Gordy called the meeting to order at 7:03.

**2. Other Business**

There was a question about why the power went out recently. Steve said Morrisville Water & Light was up a pole doing some work and phases got too close together, resulting in power being shut off briefly for protection. The power was out for less than 5 minutes so it doesn’t have to be reported as an outage.

**3. Review and Approve Minutes**

**Walter moved to approve the minutes of May 12, Ellis seconded, and the motion was passed.**

**4. Treasurer’s Report & Review and Approve Bills and Warrants**

Electric is over budget right now for large tree removal, but Steve has submitted two bills to Fairpoint for 50% of removal of damaged trees and will submit a third. The first one has been paid.

The fire department got a bill from North Hyde Park related to an incident for which 100% of our costs were paid by insurance. It was agreed to send the North Hyde Park bill to the insurance company and hold off on paying North Hyde Park until we get reimbursed.

Duncan said Lovin Cup was trying to sell their business. They borrowed from the CDBG fund and wanted to know if they could transfer their note to the new owners. Duncan told them that could happen only with approval by the trustees. He suggested it would be simpler to repay the note with the purchase cost. Rosemary said she thinks the business has been sold. Duncan said if they sold the business without approval they are in default of the note and we should call it in. Duncan told the owner the business could not be sold without discharging the note or asking the trustees to reassign the note. Rosemary will check to see if the note has been paid off and if the business has definitely been sold. **Walter moved that if a reasonable determination is made that Lovin Cup has been sold the business owners be notified that the note for the CDBG fund loan is due immediately according to the terms of the agreement. David seconded and the motion was passed.**

**5. Wastewater Treatment Facility & Water System Operator’s Report**

Tom said hydrant maintenance has been finished. During hydrant flushing, the director of the physical plant at JSC asked if the village had done any flushing at the college because the cap was found off of one of the college hydrants. The village was not responsible but assisted in repair. Steve said 2 caps were opened. The college is addressing it.

About half the main line valves have been exercised. A valve from the 2006 project is frozen open. The crew is working on that; it will take some time. There were no callouts from alarms. There was a sewer backup on Main St. at Steve Engel's. Steve reported it and Tom told him to hire someone to jet the line. When it was jetted, it turned out that the pipes were separated. This was in an area where we had done work in the past. We dug it up and fixed it and Tom signed for Steve Engel's Hartigan bill. Duncan said Tom should not have agreed to pay the Hartigan bill. Tom said he assumed it was our problem so he agreed to pay it. In hindsight, he recognizes that was a mistake. Walter said we need to go back to Steve Engel and get him to pay the Hartigan bill. That is consistent with past policy and what we decided last month for another customer. Tom said he will explain to Steve that he shouldn't have signed for it and that it is Steve's bill.

6. ***Personnel Issue***

**The board consented into executive session at 7:40 to discuss a personnel issue, with Steve and Duncan remaining. At 8:13, Walter moved and David seconded to come out of executive session and the motion was passed.**

**Gordy moved to send a letter of reprimand and require a day off without pay for Cliff Hill and Nate Brigham, Walter seconded, and the motion was passed.**

7. ***Rich Whittemore Request for Reimbursement of Hartigan Bills***

Rich Whittemore showed the board a video indicating where the problem was with the line that was repaired by his building. He said the problem was 100% due to where Percy hooked in. Walter asked what the two Hartigan bills he wants reimbursed were for. Nicole said the first was for jetting the line after it became plugged. Then 2 weeks later it happened again. Hartigan's used a camera and told them there was a section that was bad that needed to be dug up. It was from what Percy did. Rich said pipe should be put in virgin soil. That was not done in this case. There is a section of pipe with nothing under it. Steve said Percy was supposed to have oversight from Otter Creek Engineering. They were supposed to dig back into virgin soil and then apply the Ferncos so the Ferncos weren't in the ditch. He hasn't seen evidence so far that that was done. Duncan said he doesn't think the board disputes that the failure was Percy's fault.

Gordy said the Whittemores should have gotten permission from the village to have the camera work done if they expected reimbursement for it. Nicole said at first they thought the problem was their fault. Gordy asked if the camera work facilitated us doing the repairs. Steve said he doesn't know because he wasn't here. Rich said he thinks it did help them dig in the right spot.

Duncan said Rich called about the problem and Tom and Cliff pulled the manhole covers and told Rich the problem was his responsibility and he should hire someone to jet the line. Then Rich came to him after the line had been cameraed and jetted and Duncan told him that the responsibility for paying for the repairs would depend on which side of the old repair the problem was on.

The two bills the Whittemores received from Hartigan totaled \$825. Walter said we have to be consistent with how we have handled situations like this in the past and how we handled a similar situation earlier today. We have to be consistent with all our customers. In the past, we have not paid these bills. We have paid for the actual fix with our man hours, but we are not required to do that. He thinks we need to follow the same informal policy we have followed in the past until we adopt a formal policy, at which time we can notify all our customers of the policy. He thinks we should deny the request for reimbursement. No other board members disagreed.

Rich said he has talked to his attorney and his attorney feels the village will end up paying both the Hartigan's bills and his attorney fees.

**8. *Mike Dunham to Discuss Water/Sewer Allocations and Filing of Property in the Village***

Mike Dunham said he is a village property owner. Possible development on an adjoining lot could involve filling in and re-grading the lot which could increase stormwater runoff to Mike's property. He proposes a new village ordinance: "No land owner shall change the grade of their property so as to allow runoff to affect their neighbor's property." In litigation, if someone changes their property and it affects someone else's, the courts usually side with the person who has been aggrieved. Walter asked if these are Vermont court decisions. Mike said he saw one that was. He said in the case of the possible development by his neighbor, the state can't get involved because the area affected is not an acre or more. He would have to go to civil court. He would like to see something from the village that addresses this so property owners would not have to pay an attorney to represent them. He would like to see an ordinance passed or discussed.

Walter asked, why limit it to changes in the grade? Mike said because most of the time the grade is the issue. Steve asked, would ditching be considered grading? Mike said he just wants to start a discussion about this. Duncan said if the language were made broader, as broad as saying a property owner couldn't do anything affecting water or drainage on another lot, that would be problematic because merely building a house with a roof has an effect. Steve said putting in a blacktop driveway also has an effect. Walter said cutting trees would be another example. Right now he has a similar issue on his property but it is due to building on an adjacent property, not to a change in grade.

Walter said he doesn't want to dismiss this, but the zoning process is starting. A consultant has been identified who will work with the village. The consultant will talk to constituents and ask what we want to see. Mike should attend one of his meetings. Then we will get a better idea of the town consensus on this issue. Zoning would address the issue not just for village but for the whole town. Mike asked when the meetings will be. Gordy said after the contract is signed with the contractor he will have weekly meetings. Those for zoning and those against it will be encouraged to attend. He thinks that is a good place for bringing this up.

Duncan said perhaps the language could be limited to filling a lot so as to divert water onto a neighboring property. Steve suggested it might need to refer to filling or regrading, because existing material could be moved from one part of the property to another. Duncan said he thinks that amounts to placing fill.

Walter said he feels there is another avenue going forward that is the proper place for this to be addressed. He feels Mike should address it there, and if that fails then he can come back to the board. Mike asked when the next zoning meeting is. Walter said he doesn't think there is any schedule yet. Duncan said the consultant is not hired yet, but when he is meetings will be announced on the town web page, on Front Porch Forum, etc.

**9. *Public Works Superintendent Report***

Steve said he is going to provide an estimate to a customer who is interested in an extension for a sugar house. The build of the B-22 metering structure at the substation has begun. This is a joint effort between Morrisville Water & Light and village crews. They are reviewing technical data to see if they can go with purchase of a lower cost meter set up. After-hours emergency dispatching is

now being handled by VEC. So far they are doing a good job and have come up with solutions to some issues. There are temporary radios in all the vehicles and they work well.

The tree that had been planted at the Village Green lot to serve as a Christmas tree has died. Sue Lovering's tree board is interested in planting a replacement tree. They are looking for approval to spend \$170 for a nursery tree. The village crew will help with excavation and the tree board will install the tree.

David asked, do we need a tree? Walter said the idea was that we could save money by planting a live tree instead of buying one every year. Steve said the Village Green is where there is an annual lighting of the tree. **Walter moved to authorize purchase of a replacement tree for the Village Green at a cost not to exceed \$200, Ellis seconded, and the motion was passed.**

Steve said Tim Percy has been asked to help run the NEPPA Rodeo. It is on June 18 and 19. He would stay overnight one night. There is money in the budget to pay for it. Steve will see if NEPPA can pay for Tim's hotel room. He thinks \$400 would cover any cost and he believes we have that in the training budget. **Walter moved to allow Tim Percy to attend the NEPPA Rodeo at a cost not to exceed \$400, David seconded, and the motion was passed.**

Steve would like permission to attend a safety conference in Fairpoint, NY on July 22. It requires a one-night stay on July 21. His hotel room is covered and he will pay for his meals. He will carpool with the safety manager of VELCO. The board agreed Steve could attend the conference. David said he shouldn't have to pay for his meals if he is on village business. Walter said there is already a policy in place for reimbursement of travel costs for employees and Steve can submit a request for reimbursement if he wishes.

Steve asked if the board would like to have fog lines repainted on either side of the Main St. crosswalks. Ellis asked about the crosswalk on 100C. Duncan said that is the state's responsibility. He will talk to them about it. Walter said he thinks the lines on the Main St. crosswalks need to be repainted.

#### ***10. Manager's Report***

Doug Molde has suggested that the board develop a written policy on cost responsibility for sewer connections affected by the 2006 water project, and he recommends amending the sewer ordinance to reference the policy. The board agreed to defer discussion of this to a future meeting.

The board previously committed to a 20% match for the Main St. kiosk grant. The cost estimate we got previously was \$14K. Our share of that would be \$2800. LCPC is ready to put the project out to bid. Lea wants to know if the board is still willing to pay the 20% match. David said his opinion is that we don't have the money for a kiosk. Walter agreed. He said because of the need to repair the crosswalks we need to be conservative now. Ellis asked if we can wait until next year. Duncan said he doesn't think so. The kiosk would be at the Village Green. Duncan asked, if the selectboard agreed to provide the 20% match would the trustees have any objection to the kiosk being built? Gordy said if the village can't afford it we shouldn't have it, because we would have to maintain it. David agreed.

Duncan had previously sent out a memo on the failed crosswalks. The result of the recent meeting was that everyone agreed the crosswalks had failed and pretty much agreed that the reason for the

failure is the side slab holding the bricks in place. There was discussion about whether the underlying slab is damaged. The only way we will find out for sure is to remove the bricks. The conclusion will probably be that we should peel the bricks off and pave the crosswalks. The parties agreed to look at repair alternatives, not to include brick pavers. TJ Kingsbury agreed to come up with pricing estimates. The parties will get together to look at the estimates and then L&D, Otter Creek, and Kingsbury will all agree to chip in money and make it happen, with board approval. Walter asked what the timeline is for all parties to come back together. Duncan said no specific time frame was set. He can tell them he would like to hear from them within 2 weeks.

Ellis said he would like us to hire someone to take the bricks out in a test section and find out exactly where the damage is and then have someone ready to pave the test section. Gordy said he doesn't think we should have any more studies. He agrees with Ellis. We can let the parties meet again, but a month from today he wants to see the bricks ripped out. Duncan said he thinks VTrans is going to want to see some kind of design for the repair. If we do it ourselves he doesn't know how we will come up with the money to pay for it. Gordy said he would like to find out if we can pull out of the School St. project and use that money for crosswalks. How much would we have to pay for what has already been done on the School St. project if we pulled out? Duncan said he thinks it would be short-sighted to cancel the School St. project to pay for crosswalks. Gordy said instead of cancelling the project we could just delay it a year. Duncan said he can look into that. Gordy said another point in favor of delaying a year is that he feels the school board should pay at least half of our 20% match. They are gaining more than we are. Why should we foot the whole bill? Duncan said he thinks Ellis's suggestion is good. He thinks we do need to expose the slab under the brick.

The board agreed they want cost estimates before the next meeting. Duncan suggested someone from Tatro might be able to come up with a plan we could give to AOT if we were to use our own forces to pave over the crosswalks. Walter said we should have a lot of information to discuss at our July meeting from whatever parties we feel are involved. He thinks we have to involve other parties because they will help pay for it. He doesn't favor using Tatro. We need the parties at fault to help us pay for it.

Steve asked if he is correct in assuming that we are only talking about replacing the 3 crosswalks on Main St., not the ones on Railroad St. or anywhere else. Board members agreed that is correct.

Gordy asked if the village should work this summer on fixing the puddle near Chris Parker's. Steve asked if we would have \$5K to pay for it. Duncan said he doesn't think so. He will know soon if the town will get the Class II grant. If so, he thinks the selectboard will vote to go ahead and pave Clay Hill this year. He thinks the project near Chris Parker's could be part of that work. We could do something temporary now, knowing it will be fixed next year as part of paving. He thinks we could do that for \$5K.

Ken Harvey has submitted sewer and water permit applications for another 8 lots on West Highland Drive. They have to go to the selectboard for approval first as it is in the Town Sewer Service Area. Duncan asked the board to provide preliminary approval. **Walter moved to authorize Duncan to sign the preliminary sewer and water permits requested by Ken Harvey pending receipt of village fees and approval by the selectboard, David seconded, and the motion passed.**

**Walter moved to authorize Duncan to sign the Bill of Sale, Quit Claim Deed and Property Transfer tax forms necessary to finalize the purchase of our interest in the Morrisville Water & Light transmission system, pending review by Primer Piper Eggleston & Cramer, David seconded, and the motion was passed.**

Mamie Laclair applied for an excess water usage reduction to her water and sewer bills. She had a leak that has been repaired and did not go into the sewer. **Walter moved to adjust Mamie Laclair's sewer bill to \$100.95 (3 times her average bill for 3 months) and to adjust her water bill to \$68.52 (3 times her average water bill for 3 months), David seconded, and the motion was passed.**

We have received some Change of Appraisal notices from the Listers for village properties, primarily due to an act of the legislature which calls for them to submit a value for tax exempt property even if there is no appraised value. It calls for using insurance replacement costs if there is no other known value. Technically, this does not make any difference in terms of taxes due as they are all exempt properties.

The Studio Store has requested reimbursement for water damage to their basement. A General Liability Loss Notice has been filed with VLCT.

A Vactor Memorandum of Understanding has been signed by Morrisville, Johnson, Waterbury, and Richmond. We are going to keep the Vactor in Johnson.

Maryline French submitted an electric claim. A tree came down on a line and she had a voltage spike. She was denied by her homeowner's insurance. Duncan submitted the claim to VLCT PACIF and it was denied as an act of God.

Duncan is doing research on alternative storm water collection designs. This is something we are going to be dealing with as a result of TMDL regulations.

We need temporary construction rights of way for 3 property owners on School St. So far two of the three have been contacted and are agreeable to easements.

#### ***11. Trustee Issues/Concerns***

Gordy said he hates the idea of making employee discipline a matter of public record. Steve asked if the names of the employees have to be included in the minutes. Duncan said he will double check. But this year the legislature has made open meeting law even more restrictive. The reasons for executive session have been made more restrictive.

#### ***12. Adjourn***

**It was moved and seconded to adjourn at 10:01 and the motion was passed.**

*Minutes submitted by Donna Griffiths*