

JOHNSON VILLAGE TRUSTEE BOARD MEETING MINUTES  
JOHNSON MUNICIPAL BUILDING  
MONDAY, JULY 14, 2014

**Present:**

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

Others: Duncan Hastings (Manager), Rosemary Audibert (Clerk), Steve Towne, Tom Elwood, Walter Reeve, Steve Engel, Jeanne Engel, Arjay West

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

**1. Call to Order**

Gordy called the meeting to order at 7:00.

**2. Changes, Additions to Proposed Agenda**

Duncan asked the board to move the Municipal Manager Report to earlier in the meeting. He also asked to add an item to that section of the meeting – discussion of a possible cut over this week to the Morrisville Water & Light transmission system. Steve asked to add an item concerning work on Clay Hill. Gordy asked to add discussion of how detailed minutes should be. Ellis asked to add an item concerning the compost facility. The board consented to add all the requested items. *(Chris arrived at 7:02.)*

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

**Walter moved to approve the minutes of the June 9, 2014 joint trustee/selectboard meeting. Chris seconded, and the motion was passed.**

**Walter moved to approve the minutes of the June 9, 2014 trustee board meeting. Chris seconded, and the motion was passed.**

**Walter moved to approve the minutes of July 1, 2014, Chris seconded, and the motion was passed.**

**4. Treasurer’s Report, Review and Approve Bills and Warrant, Budget Status Report**

Walter noted that with 6 months of billing we are at 52% of budget for sewer revenue and 48% of budget for sewer expenses. Walter asked about the \$6500 spent for outside repairs and parts under the general budget. Rosemary said that is for repairs to skid steers, the big truck, etc. Steve said there have been a lot of repairs. The Kubota tractor, which will be rented to the town, recently needed two new tires. We need to come up with an hourly rate to charge the town for use of that tractor. Electric contracted services is a little high for tree trimming, but so far Fairpoint has been willing to pay invoices Steve has sent them for reimbursement of contracted tree trimming. Walter asked if Steve sees an impact to us if Fairpoint goes on strike. Steve said yes; it will impact pole setting and any work we do with them. Rosemary said Sharon Green hasn’t set a tax sale date yet.

**5. WWTF Chief Operator Report**

Tom said leakage is at 11%. The village crew has been inspecting manholes on Clay Hill and they have found all but two. They are working up a materials cost estimate to raise them to the surface. So far it is only \$1300. The plant has been running well.

Duncan said the sewer camera has come in. Tom has ordered an attachment to help run it up and down larger pipes. Steve and Tom will use it to look at the Pearl Street catch basins. Gordy asked if Steve could prepare a report for the next board meeting after he looks at them. Steve said yes.

Walter asked if the new camera can inspect residential sewage lines. Steve and Tom said yes. Walter asked if it could be used on a proactive basis after work is done to see if anything had been damaged. Steve and Tom said yes, with access granted by the homeowner. Duncan said that will just give a snapshot at that point in time. In the past we have had settlement or frost action issues that did not develop right away. But when we complete a project we could go into each house and take a video.

Janeen and Jim Boivin submitted an excess water application. Water ran underneath their mobile home and did not go into the sewer. **Walter moved to adjust Janeen and Jim Boivin's June water bill to \$95.28 (3 times the average of the last 3 months) and to adjust their sewer bill to \$57.37 (the highest bill in the last 12 months), Chris seconded and the motion was passed.**

Don Foote also submitted an excess water application. In his case, the water did go down the sewer. **Walter moved to adjust Don Foote's June water bill to \$307.80 (3 times the average of the last 3 months) and to adjust his sewer bill to \$542.58 (3 times the average of the last 3 months), Chris seconded, and the motion was passed.**

Duncan said there was a recent situation where an elderly person with very low normal usage had excess usage and would have ended up paying more than her actual bill if the board's policy had been applied. He, Rosemary, and Susan talked and Susan was asked to come up with a potential policy change that would be more uniformly applicable. She has finished a draft but Duncan hasn't seen it yet.

David asked if there are any quotes on the roof. Tom said he hasn't had a chance to work on it.

Ellis asked Tom's feelings about just marking where the manholes are and letting the town pave over them. Tom said some will be very easy to bring to the surface. Ellis said he was thinking we might want to do some of them but not all of them. Tom said we could select just some. He thinks materials will be less than \$2K and most of the labor has already been done. Ellis asked about the chance of influx of water if we raise them up. Tom said there has been no influx on ones he has opened. Tom said he is concerned about burying brick that is loose. Some are bricked up. That is his only issue. *(Tom left at 7:38.)*

## 6. **Manager's Report**

Duncan explained that we had paid a Hartigan bill for Steve Engel in the past. Walter said, based on the minutes, it looked like that past bill was related to cleanup. Duncan said he doesn't remember what it was for. He assumes it was also for rodding or jetting, but he isn't sure. It wasn't clear to him from looking at the minutes whether the bill came after the fact and got put into orders without being discussed. That is what he suspects.

David asked, is it the case that we have paid Steve Engel for the same work the Whittemores had done? Duncan said not entirely. Camera work was the biggest part of the Whittemores' bill. Walter said we just declined to reimburse Steve Engel for camera work. The minutes are unclear about what was paid for previously and don't say that the board approved paying anything. He thinks we should tell Steve Engel he was lucky he got paid before and that that shouldn't have happened. Either that, or we need to pay everyone who has since come to us. Steve Towne said he met with Steve Engel after the last board meeting and told him he shouldn't have been told that we would pay the bill.

Duncan distributed some documents related to the failed crosswalks – a letter from L&D, a quote from GW Tatro, and a quote from Kingsbury Construction. The L&D proposal is to excavate the brick and bituminous bedding layer and the concrete layer, cutting it back about 14 feet. All 3 parties believe poured impregnated concrete will not work. L&D proposes using colorized pavement and rolling in longitudinal lines as the pavement is done. The estimate from Kingsbury to do that work is about \$112,500, which Duncan characterized as steep. Steve said Peter DeGraff recommends including a 10% contingency on top of either price estimate. Duncan suggested we might want to get a quote from someone like SD Ireland that does construction and paving. He thinks the next step is to get the parties to agree what each is willing to contribute to the replacement cost. (*Walter Reeve arrived at 7:56.*) The board agreed that before the August meeting Duncan should ask SD Ireland for a quote and then discuss with the parties how much each will pay. Steve said the board should be aware that the quote from Tatro doesn't include inlaid striping or traffic control. (The village would provide traffic control if Tatro did the work.)

Duncan said he got a determination that we could defer the School St. work for a year. But he has verbal approval that we have received a paving grant and that would be more difficult to defer for a year. We also have verbal approval for a structures grant for the drainage work on College Hill and that also would be more difficult to defer to a future year. We would be risking that funding. Gordy said by end of this year we will know what the crosswalk replacement will cost us. Then we can look at the numbers for the coming year and decide about School St. Duncan said if we decided not to do the School St. work at all, he thinks the worst case scenario cost to the village would be \$20K. Main Street paving by the state is currently scheduled for 2016.

7. ***Public Hearing: Rebuilding of Sidewalk on South Side of School Street***

**Chris moved to recess the meeting to move into the public hearing, David seconded, and the motion was passed.** The public hearing started at 8:07.

Duncan explained that the reason for this hearing is that we are not entirely sure an easement was acquired when the existing sidewalk was put in. The dedication and acceptance process can serve in lieu of a written agreement. (*Steve and Jeanne Engel arrived at 8:08.*) This process recognizes that the village constructed the sidewalk and has maintained it for at least 15 years. Duncan had previously sent a letter to the Reeves explaining the process and inviting them to the hearing. [*See attached letter.*] The village also will need a temporary construction easement. Walter Reeve said he owns a vacant property in the area where sidewalk will be replaced. The village can park equipment there if necessary. He asked if the work can be done without damaging the hedge that is on the property. Duncan said he thinks so. The contract would state that the contractor was to do the work without damaging the hedge. Walter Reeve said he has no problem with dedication and acceptance or a temporary construction easement. He said the existing driveways need to be left. The board agreed that the hedge should be left undamaged and existing property accesses should be maintained. Duncan gave Walter Reeve a copy of the plan for the School St. project.

**Walter moved to close the public hearing at 8:13, David seconded, and the motion was passed.**

8. ***Steve Engel to Discuss Sewer Bill***

Steve Engel said the issue concerns the sewer line that connects to the main line for his property on Main St. When Percy did the water project, his line was disconnected but was never reconnected. This was discovered a year or two later when he had a problem. The village replaced the missing

section of pipe and there were no more problems until the Main St. project, when the sewer line was again disconnected and reconnected but also accidentally disconnected from the section going into the house and left that way. A hole was also drilled in the pipe. When his tenant notified him of a problem he called the village and then at Tom's suggestion he called Hartigan. The Hartigan employee called a pump truck, but there was no need for it and it was not used. The pipe was repaired after the problem was identified. When this happened in 2009, the board paid the Hartigan bill. He understands that he owns the pipe, but he did not disconnect it and he doesn't think he should be responsible for any of the cost. Steve Towne said he doesn't know how the hole got in the pipe. He doesn't know why Hartigan called a pump truck. He asked if Steve Engel had disputed with Hartigan the charge for the pump truck. Steve Engel said no. He said Tom had signed for the bill and told him later that he should not have.

Gordy said other people have come in with similar situations. The board is trying to set a new direction about how far back the village goes in taking responsibility. Steve Engel said he thinks the other recent situation is different because it involved a collapsed pipe. In his case, the pipe was separated.

Steve Engel said the bill for the pump truck was \$300 and he thinks the total Hartigan bill was around \$500. He didn't get the bill because Tom signed for it. Steve said he will call Hartigan. He thinks the bill can be adjusted because he feels there was no justification for calling the pump truck.

Gordy said he feels the board has two choices – either say no to Steve or reimburse him and also reimburse the Whittemores. The board agreed to wait until after reviewing the proposed new ordinance to give the Engels an answer. Steve Towne will address the bill with Hartigan and get back to Duncan, who will get back to the board. *(The Engels left at 8:39.)*

**9. Arjay West to Discuss 2014 Dry Hydrant Grant and Route 15 Accident**

Arjay said the fire department has conceptually been awarded a dry hydrant grant for Willow Crossing. They would like approval to act on behalf of the village to get property owner permission, then put together a scope of work with cost estimates to be approved for reimbursement. There is a 25% match, which he feels can be contributed through labor and perhaps a little gravel. Steve said there is some dry hydrant material in the shop that could perhaps be used. Duncan asked if Arjay wants him to ask the selectboard about donating gravel. Arjay said yes. The current value of the product and trucking could contribute to our match. Duncan asked Arjay to email him when he knows the quantity needed. **Walter moved to authorize the fire department to proceed with getting property owner permission and cost estimates in order to receive grant funding for dry hydrant construction, Chris seconded, and the motion was passed.**

Arjay said he has prepared two bills for reimbursement of costs connected with the fatal car accident on June 16. One is a \$2K bill for hazardous material containment, to be sent to the insurer of the truck, and the other is a \$3200 bill for traffic control, to be sent to the insurer of the car. **Ellis moved to authorize Arjay to send the bills he described, Chris seconded, and the motion was passed.**

Duncan said it appears to him from his research on open meeting law that the fire department officers' meetings are the equivalent of staff meetings and are not subject to open meeting law requirements in terms of posting agenda and taking minutes.

Regarding the bill from North Hyde Park for the garbage truck accident in November, Arjay said he understands the directive to try to bill the insurance company. But because the department generated some revenue as a result of that accident he feels there is money to cover the North Hyde Park bill. Walter said his idea was not that we should not pay North Hyde Park; he just wants to make sure we all get the same percentage if it is not fully reimbursed.

Steve said there are two openings in a chainsaw training event this week if Arjay feels any employee of the fire department could benefit from attending. *(Arjay left at 9:01.)*

**10. Manager's Report (continued)**

There has been a request to put a stand on the Village Green that would serve as a place for people to put out excess produce from their gardens. Duncan said he contacted the farmer's market and they said as long as it is there all the time and not just on farmer's market night, they didn't think it would interfere. Jen Burton, who proposed this, said she would make sure rotten vegetables didn't accumulate in it. Ellis said his question is whether we could get sued if someone gets sick from something placed there. Duncan said that is a good question. Steve said the food shelf provides a place for people to donate excess produce. **Walter moved that the board not approve placement of an excess produce stand on the Village Green, but instead encourage people to donate excess produce to the food shelf, Chris seconded, and the motion was passed.**

Duncan said he had issued preliminary approval for the sewer and water permits requested by Ken Harvey, after receiving the fees and after the selectboard approved the TSSA permit.

Duncan distributed a proposed rate schedule for placing/replacing poles, to be presented to Fairpoint. The plan is to establish a service set territory. Fairpoint will handle one set of streets and we will handle everything else. Steve said when one party sets a pole the other party has to pay half the cost. We will set the poles in our area and they will set the poles in their area. **Chris moved to adopt the proposed schedule for the cost of placing and replacing poles, Ellis seconded, and the motion was passed.** *[See attached rate schedule and set area documents.]*

Duncan signed off on the work plan for the contaminated soil cleanup at the former talc mill as proposed by ECS. VTrans signed off as well. ANR has approved the plan. The work is covered by the state with no further cost to the town or village.

MW&L wants to do trimming this year. Duncan asked them to limit our cost share to no more than we budgeted for trimming. All documents have been signed to make us 15% owners of the MW&L system.

Steve is planning to do some work on the morning of July 17, which will require an outage. This would provide an opportunity to cut over to the MW&L transmission system. We would save about \$6K in charges to GMP, but would have to pay MW&L instead. The total savings would be several thousand. Primary metering is not in place so billing would be done by estimating. Steve said he would prefer to wait to cut over, as cutting over now would require one additional set of brief outages. Duncan said the savings will not be that great so he is inclined to take Steve's recommendation and wait until after primary metering is in place. The board agreed.

Gordy and Eric recently did an evaluation of Duncan. It was agreed to discuss the evaluation and possible extension of Duncan's contract later in executive session.

Duncan had sent out a clean copy of the proposed Town and Village Drug and Alcohol Policy, incorporating the changes both boards had made. **Walter moved to adopt the proposed revision of the Town and Village Drug and Alcohol Policy, Chris seconded, and the motion was passed.**

Gordy would like to keep village infrastructure and needs evaluation on the agenda so the board knows what needs fixing. Duncan said one possibility is to apply for a Municipal Planning Grant to conduct an inventory and needs evaluation and use it as the basis for a capital budget and plan. There would be a match, but Duncan is not sure what it would be. We could probably cover a lot of it with Lea's salary. David asked if there is a need for a grant to do this work. Duncan said it is a pretty extensive process and no one here has the time. Municipal Planning Grant applications are due in September. Walter said he thinks we should apply for a grant, keeping in mind that Duncan will be stepping down two years from now. Gordy said he would be in favor if the cost was paid for by the electric department, but not if it went to the village taxpayers. Duncan said he thinks most of the cost could be borne by the electric department as most of the infrastructure is electric. It was agreed that Duncan should come up with a proposal to present to the board next month.

Gordy had sent out a proposal for a policy on cost responsibility for sewer connections. Duncan took that framework, along with comments from Walter, and put it in the form of an ordinance. Doug Molde recommended an ordinance rather than a policy. He thought a standalone ordinance (vs. amending an existing sewer or water ordinance) would be okay as long as it didn't conflict with current water or sewer ordinances. Duncan doesn't think it does.

Walter had commented that Gordy's proposal didn't address things that aren't technically repairs such as camera or jetting work. So Duncan added language stating that the village's participation should be limited to the cost of actual repairs and not include preliminary work. This is just a starting point; it is up to the board whether or not to pay part of those costs. Steve asked, if the village does the preliminary work, is the employee's labor cost paid by the village? Duncan said we will do the work only where there was a previous project and where there is evidence the project contractor or the village caused the damage. Steve said if Tom does camera work we are doing work that could be done by Hartigan's. Ellis said we are also protecting our interests. Duncan said with the Whittemores' situation, we had no control over the bill. They decided to call Hartigan and then wanted us to pay for it. If we had had the camera we could have done it.

Walter said this ordinance just refers to water and sewer lines. What if we damage power lines, computer lines, etc.? Duncan said Dig Safe handles things like that. If a line is mismarked, it is the responsibility of the party Dig Safe called to make the marks. But if the mark is accurate and a contractor hits it, it is the contractor's fault.

Duncan said he would encourage the board to have this proposed ordinance reviewed by an attorney before it is adopted. It says we will require a one-year warranty from any contractor. We weren't able to require that during the Main St. project. But what if we had had this ordinance? Perhaps that would have allowed us to require a warranty. The board agreed to have the draft ordinance reviewed by an attorney.

Walter said he has problems with the proposed stepped system for cost responsibility, with our responsibility decreasing over time. If a problem is our fault, we should pay 100%. The question is when we stop saying it's our fault.

Walter asked why there is a penalties section. What are we assessing penalties on? Duncan said one possibility is if a contractor didn't honor the warranty. Another question for an attorney is whether the ordinance should be civil or criminal. Right now our sewer ordinance requires a permit for work on a sewer or water line, but we don't have a permit process for that. We could incorporate that into this ordinance and that's where a fine could come in – if someone did a repair to a sewer or water line without a permit.

Walter said cleanup isn't addressed. A serious backup could lead to major cleanup bills. Duncan said we have had a couple of cases like that in the past and when it was deemed that the backup was caused by a sewer main we ran it through our insurance. Walter said the biggest bill may be a cleanup bill. He feels that if we say we are responsible we should be responsible for cleanup. Duncan said generally cleanup costs will be pretty small.

Walter said he thinks we should pay 100% of costs for the first 3 years after a project and probably we should pay for everything, not just repairs. But if we are paying, he wants to have control, which means the property owner would have to contact us first. Duncan asked, what if we are paying for something that homeowner's insurance would normally cover? David said he doesn't think sewer backup is usually covered by homeowner's insurance. Board members suggested that should be another question for the lawyer. It was agreed that the ordinance should include language stating that the customer has to call us before incurring expenses.

Duncan said he can try to incorporate Walter's comments and send it back out to the board. Walter said he thinks it should say we will pay 100% of costs for 3 years only if we have control of what is being billed. Duncan said he thinks we need the latitude to decide whether or not an issue was caused by a project, or perhaps decide that 50% of the cause was the project and 50% was normal circumstances.

Gordy suggested asking the lawyer about paying 100% of the cost vs. paying a graduated amount. Duncan said he thinks it is probably not a big deal whether we pay 100% or a graduated amount.

**11. Discussion on Minutes Detail**

Gordy asked how detailed board members feel the minutes should be. Several expressed a preference for detailed minutes. No desire for change from the current practice was expressed.

**12. Municipal Manager's Evaluation**

**Walter moved to enter executive session to discuss the Municipal Manager's evaluation.**

**Chris seconded, the motion was passed, and the board entered executive session at 10:05.** The board came out of executive session at 10:15.

Walter moved to approve Duncan Hastings' employment agreement as presented, Chris seconded, and the motion was passed.

**13. Adjourn**

**Ellis moved and David seconded to adjourn at 10:26 and the motion was passed.**

*Minutes submitted by Donna Griffiths*



**VILLAGE OF JOHNSON**  
**Municipal Manager**

**Duncan Hastings**

P.O. Box 603  
Johnson, VT 05656  
Phone: 802-635-2611  
Fax: 802-635-2393  
E-mail: [ldhastings@townofjohnson.com](mailto:ldhastings@townofjohnson.com)

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June 25, 2014

Linda and Walter Reeve  
3513 East Hill Road  
Wolcott, VT 05680

Re: Public Hearing re Sidewalk on South Side of School Street in Johnson Village

Dear Walter and Linda,

I am writing to let you know about a public hearing to be held by Johnson Village in relation to the proposed construction of the sidewalk on the south side of School Street that abuts your property.

The purpose of the hearing is to invite public comments or hear appeals to the proposed sidewalk construction. We have previously discussed with your willingness to provide a temporary easement for the construction of the sidewalk. This easement would be in effect during the construction time only and provide a temporary right of way to an area immediately adjacent to the sidewalk for the construction crew's work.

As far as the sidewalk itself, approximately half of the existing sidewalk is located within the Town of Johnson right of way and another half is located on your property. We know that there has been a sidewalk in this location for many years but we do not know for sure if there was ever an easement obtained for the portion on your property. It would be likely that the placement of the sidewalk was done by a "handshake agreement" instead of an easement. It could also take many days of deed research to verify this.

The State of Vermont has a process in place called "Dedication and Acceptance" which allows a municipality to replace the sidewalk without needing to secure a permanent easement from property owners, provided the sidewalk will be rebuilt within the existing footprint, has been in public use for more than 15 years and the municipality has been maintaining the sidewalk for at least 15 years. Given the fact it has been there well in excess of 15 years, the Dedication and Acceptance process seems to be the easiest way to clarify this issue.

Before the Village of Johnson uses the "Dedication and Acceptance" procedure, we are required to hold a public hearing to invite comments or appeals. Please feel free to join us for the hearing. The hearing will be held on Monday, July 14<sup>th</sup> at 8:00 P.M. at the Johnson Municipal Building. If you have any questions, please let me know.

Sincerely,

Duncan Hastings

**FLAT RATE SCHEDULE FOR MISCELLANEOUS ITEMS**  
**VILLAGE OF JOHNSON, VT.**  
**AND**  
**FAIRPOINT COMMUNICATIONS**  
**SCHEDULE EFFECTIVE: MARCH 24, 2014**  
**REPLACES SCHEDULE EFF.: SEPT. 1, 1980**  
**NEW POLES IN PLACE**

## VOJ COST OF PLACING / REPLACING POLES

Setting Poles	Full Flat Rate	1/2 Flat Rate
30' & under	VOJ will not set 30'	\$
35'	\$1,094.53	\$547.27
40'	\$1,248.32	\$624.16
45'	\$1,566.37	\$783.19
50'	\$1,618.87	\$809.44
55' & above	Actual Cost	1/2 Actual Cost
Ledge set poles & Anchors	Flat Rate Cost of pole + \$700.00 (?) Balance and true up if actual cost exceeds 20%	½ Cost
Placing Anchors	\$486.00	\$243.30
Removal of J/O Poles (when applicable)	Actual Cost	1/2 Actual Cost

There will be no billing for removal of poles or credit for salvage. The party removing the old pole will retain or dispose of it, unless otherwise agreed by parties in the field.

Percent condition of poles in place to be determined by depreciating 3% per year on full length treated pine poles, 4% per year on butt treated poles and 5% per year on all untreated poles. Poles having only a brush treatment are to be considered as untreated. Observed depreciation may be applied to determine percent condition of poles if either party so requests.

Both parties will place triple thimble anchor rods at all side corners and mutual dead ends on all lines built for present or future joint use. If pole placement is for a line rebuild with other attachees in existence, anchors will be placed to provide space for all current attachees.

	Entire town	FairPoint Set Area/Routes					Total
		Route 15	Route 100C	Railroad St	Clay Hill Rd	Behind Grand Union	
Total number of poles:	776						
Primary-Sole Electric	97	6	9	2	2	0	19
Primary-jointly owned	493	102	53	25	53	5	238
<b>Total</b>	<b>590</b>	<b>108</b>	<b>62</b>	<b>27</b>	<b>55</b>	<b>5</b>	<b>257</b>
Secondary-Sole Electric	16	1	1	0	1	0	3
Secondary-jointly owned	73	15	5	7	9	0	36
<b>Total</b>	<b>89</b>	<b>16</b>	<b>6</b>	<b>7</b>	<b>10</b>	<b>0</b>	<b>39</b>
Stub-Sole Electric	14	3	0	0	2	0	5
Stub-jointly owned	24	3	5	1	4	0	13
<b>Total</b>	<b>38</b>	<b>6</b>	<b>5</b>	<b>1</b>	<b>6</b>	<b>0</b>	<b>18</b>
						<b>Fairpoint sets</b>	<b>287</b>
<b>Total Sole Electric</b>	<b>127</b>					<b>VOJW&amp;L sets</b>	<b>303</b>
<b>Total Joint Ownership</b>	<b>590</b>						

\* Totals do not include the 7 padmount transformers or the secondary pedestal along Route 15

\* Totals are based on POLE\_TYPE = 'PRIMARY', 'SECONDARY', and 'STUB'

\* Pole 377 on Clay Hill Rd is not included, POLE\_TYPE is not specified, not sure if it's a mistake, primary, secondary, etc. No verizon on 377