

JOHNSON RACIAL JUSTICE COMMITTEE MEETING MINUTES
REMOTE PARTICIPATION VIA ZOOM TELECONFERENCING
TUESDAY, JANUARY 26, 2021

Present:

Committee Members: Rick Aupperlee, Eric Hutchins, Brynn Nuse, Raven Pfaff

Others: Kyle Nuse, Scott Meyer, Pam Aupperlee, Diane Lehouiller

Note: All votes taken are unanimous unless otherwise noted.

1. Call to Order

Rick called the meeting to order at 6:10. He explained that this special meeting was warned due to a technical issue with Zoom changing the meeting ID shortly before the last meeting.

In honor of Black History Month, which he noted will start before the committee meets again, Rick read a quote from Nelson Mandela: *It is not our diversity which divides us; it is not our ethnicity, or religion or culture that divides us. Since we have achieved our freedom, there can only be one division amongst us: between those who cherish democracy and those who do not.*

2. Ratify Actions Taken on 1/7/21

Rick read from a Vermont League of Cities and Towns statement on Open Meeting Law:

Transparency is an essential element of open and democratic government. In Vermont, the primary means of providing transparency are the State's open meeting law, 1 V.S.A. §§ 310-314, and the public records law, 1 V.S.A. §§ 315-320. These laws implement the command of Chapter I, Article 6 of the Vermont Constitution that officers of government are "trustees and servants" of the people and are "at all times, in a legal way, accountable to them."

The Open Meeting Law clearly emphasizes the openness of and accessibility to government. It declares that "All meetings of a public body are declared to be open to the public at all times, except as provided in section 313 of this title [on executive sessions]." 1 V.S.A. § 312(a). The Open Meeting Law and its requirements are meant to empower the public to play an effective role as not only an active participant in government but also a check on it as well.

Every municipal board, council, commission and committees (legally defined as "public bodies") of a municipality is required to comply with the Open Meeting Law. The Law applies when there is (1) a quorum of a public body; (2) involved in a discussion or taking action; and (3) the subject matter of the discussion is one over which the body has authority or responsibility.

Rick read from a letter he received from Jenny Prosser of the Vermont Secretary of State's office. She said the law does not explicitly address the situation Rick described where Zoom changed the meeting ID of an already warned meeting. She suggested consulting the town's attorney but said she could share general thoughts. There is an obligation to post information on how the public can access meetings. The information was rendered inaccurate after the

fact by Zoom, not by the town. There is risk that a court could decide Open Meeting Law was violated and perhaps invalidate decisions made at the meeting or require the public body to implement a court-ordered cure such as redoing the meeting, adopting practices to prevent a similar situation, or education. Upon determining the Zoom link had changed, one option would have been cancelling the meeting and rescheduling. The safest approach may be a do-over of the meeting at which the committee could ratify or declare void any action taken at the meeting in question.

Rick said Brian Story suggested a redo of the last meeting and Jenny Prosser concurred so the committee is meeting to ratify its previous actions.

Eric moved to ratify the actions taken by the committee on January 7, 2021.

Kyle Nuse thanked the committee for quickly and thoroughly taking care of this issue.

The motion was passed.

3. *Write a Statement from the Racial Justice Committee for the Annual Report*

Rick suggested that the committee write a statement for the annual town report talking about how the committee came to be, introducing the members, telling when the committee meets and including our mission statement.

Eric said although Brynn was able to vote on ratifying the past actions that were taken when she was a resident of the village, she is not a resident now so the committee doesn't have a quorum to write and pass this statement.

4. *Public Discussion*

Eric said he admires Rick's diligence regarding adherence to Open Meeting Law. The Secretary of State's office said the law does not explicitly address this situation. Eric's understanding was that all but one member of the public were able to access the last meeting. The person who could not access it was one who could have helped answer some questions but he understands that the person does not have any dissenting opinions to the motions. Since we are a committee we have no actual power. We only make recommendations. There is literally nothing we can do that could come up in a court of law. There is nothing we do that is irreversible or will not have an opportunity for public input in the future. He doesn't think a cure was needed for an unintentional change of Zoom meeting address. The trustees and selectboard have each met twice since the committee passed its resolutions. He would have liked to see those resolutions presented to them. He thinks that was delayed for no good reason. Everything the committee does can be addressed again in a public forum before it takes effect. Unintentional mistakes will happen but he thinks he can prevent that mistake from happening again. In the future he will check the meeting address.

Rick said Vermont statute says that a person who knowingly and intentionally violates the provisions of Open Meeting Law could be guilty of a misdemeanor. He knows we have no real power to create policy but the state does not give us the liberty to not follow Open Meeting Law. If anyone felt they were excluded from the previous meeting we would be setting ourselves up for a potential situation. He thinks the best practice is to warn a special meeting and present the cure rather than waiting for a letter stating that we are in violation. This is proactive.

Eric said the statute refers to intentionally violating open meeting law but we did not intentionally violate anything. If you look at the history of the state's response, typically every opportunity is given to cure the ill. He respects Rick's adherence to the spirit of the law but he doesn't think we need to adhere to the letter of it. However he doesn't think this will come up again.

Rick said he will make the recommendations the committee voted on to the selectboard and trustees.

Scott Meyer said he was able to read the minutes of the last meeting. He was frustrated he couldn't participate. When he read the minutes he saw a lot of speculation about where the trustees were on the Black Lives Matter flag. He takes full blame for the delay in putting up the Black Lives Matter flag. He asked Meredith not to use village funds to buy it because he, Athena and another board member were willing to buy it. Cal Stanton had sent him a link to a socially better company selling flags but they were out of stock and did not have the size we needed. He waited a week and they were still out of stock so he used a giant mail company that treats its employees badly. He has a hard time shopping with them but they were the only ones that had what we were looking for. Then the order was botched, leading to more delay, but Athena took over and was able to order the flag. It is in Johnson and has been here for at least 4 days.

Scott said he talked to Meredith and Athena about raising the flag. He thought it would be more fitting to allow the Racial Justice Committee or Be-Longing for Justice to raise the flag. Meredith thought that because of COVID issues perhaps one member of the Racial Justice Committee appointed by the trustees and one member appointed by the selectboard could raise the flag. He thought maybe in the spring it would be a good idea to do a ceremony involving Laraway, the Studio Center, NVU and maybe the elementary school.

Eric apologized for what happened last time. He was in charge of the Zoom meeting and he wasn't aware the meeting numbers were mismatched. Maybe he could have changed to the meeting address that was posted but that didn't occur to him. He knows it was frustrating.

Rick asked if Scott could talk about why the trustees don't want to be part of raising the flag. Scott said he would love to be part of it and he knows Athena would.

Rick said he would like to present this to the committee at the February 4 meeting. The committee is now operating without a quorum due to Brynn having moved out of the village. Meredith said she could vote to ratify the actions taken at the last meeting but the committee is not taking any further action tonight because we don't have guidance around further voting and he doesn't want to get into another gray area.

Brynn said she gave Meredith her letter of resignation, which is effective after this meeting. Eric thanked Brynn for her participation on the committee.

Diane Lehouiller asked if the flag could be raised tomorrow and a big celebration could be held at a later time. It seems like it takes a long time to find dates when everyone can meet

and we have been waiting a long time to fly the flag. Eric said it is not up to the committee; it is up to the trustees and the selectboard. Diane asked, the committee can't ask? Rick said he will pass on the request but probably not until the next meeting of the board. Diane asked if Scott can pass on the request. Scott said the selectboard is invited to the flag raising but the flag will be on village property so it is up to the village. No motion is needed to have the village put the flag up right away. The village already moved to fly the flag. Diane asked, don't you think it would be a good thing to do? Scott said yes.

Scott said he will defer to the Racial Justice Committee to make the call. Rick said Eric's motion from last month was to get the flag up in the next 2 months. We have gone about 3 weeks since then. He doesn't think the committee needs to take any action. We can try to get all the parties together at a set date and time to raise the flag. He would also like to reach out to Be-Longing for Justice. They were the committee that brought the proposal to the selectboard and the trustees. Scott suggested next Tuesday when Be-Longing for Justice is there.

Eric said there was already a motion from the trustees to put up the flag. This committee was just asking why it hadn't happened. He doesn't think the trustees need to wait for this committee to determine the timeline.

Kyle said she doesn't think there should be another delay with raising the flag. That motion by the trustees was made in October. It is now almost February. For some reason the village was quick to get the US flag up. It feels like there was a lack of follow-through with the Black Lives Matter flag. She agrees it needs to go up as soon as possible. She is unclear why the trustees didn't buy the flag and Scott and Athena personally bought it. She is curious about the rationale for that.

Scott said the only reason the American flag was put up so quickly was that the village had a few in stock. There was frustration expressed at trustee board meetings that the village was using taxpayer dollars to erect a flagpole and taking money from one fund to fund something else. That spurred his desire to pay for it himself.

Kyle asked, as soon as the Black Lives Matter flag arrives, the village crew is going to hoist it like the American flag and take care of it like they do the other flagpoles? Scott said yes.

Scott said he felt the need to provide the flag, like a donation. He makes a lot of donations and this felt like the same thing. Kyle said she appreciates that. But it feels like this is something the village voted on and therefore it shouldn't be the property of an individual. Scott said he and Athena don't have ownership of the flag. It is a donation.

Eric asked who purchased the American flag. Scott said it was probably bought with village funds. A lot of American flags in the village were tattered and needed to be replaced. He is not sure when the purchase was made but we had American flags already. He did not purchase those.

Eric said he understands Kyle's frustration. There was friction so rather than confronting the friction Scott came up with a solution through his generosity. But that doesn't take on the

problem of friction about the village spending a small amount of money to declare ourselves an open and welcoming town, which a democratically elected group chose to do.

Scott said the village probably will buy quite a few Black Lives Matter flags just in case, so the flag will remain flying.

Rick asked Scott to send something to Meredith and get a recommendation to the committee about the date to raise the flag and the committee can address other members of the public like Be-Longing for Justice. What constitutes a small gathering under COVID guidelines? Scott said it will be outside. He is not sure what the new numbers are. He doesn't want to put people at risk. He and Meredith discussed having just a handful of people.

Eric asked if there are other options. Perhaps we could have a drive-up ceremony or there could be a time range when people could show up. He does not know the limitations on public gatherings under the executive order. But he is sure there are creative ways to do a celebratory moment. Maybe it could be on Zoom and classrooms could join.

Scott said he is part of the town emergency management team. He feels if there is an organized gathering of more than about six people he will have to go to the emergency management team and discuss with them what we want to do. He doesn't want to wait longer. He thinks a gathering of five or six people who remain distanced is great. If it is bigger it will have to go through the emergency management team, which will delay it by about a week.

Rick asked if Scott could recommend that Meredith have the village crew put the flag up as soon as possible and then we can schedule a celebration for a later time. Scott said he can email Meredith tonight. Raven said she lives down the street and could come tomorrow. Rick said he could also. It was agreed that Scott will send an email to Meredith letting her know the Racial Justice Committee would like the village to please raise the flag as early as possible. He will include Raven and Rick on the email chain and Meredith can give them an idea when the flag is going up. He will include Athena also in case she still has the flag. Kyle said she supports the idea of getting the flag up as soon as possible. She is hopeful it will happen by the end of this week.

Scott said PBS had a show last week about how hard COVID has hit native populations. Native populations are losing people due to COVID 50% more quickly than white population. Due to COVID, they are losing a lot of history, language, and a way of life. He is not sure what our community could do in Johnson. He suggested that if others have an opportunity to find that show, it is worth a watch.

Rick read a portion of Joe Biden's inaugural address calling for unity.

5. *Adjourn*

It was moved to adjourn at 7:14 and the motion was passed.