

JOHNSON SELECTBOARD MEETING MINUTES
JOHNSON MUNICIPAL BUILDING
TUESDAY, OCTOBER 18, 2021

Present:

Selectboard members: Mike Dunham (via Zoom), Beth Foy, Nat Kinney, Eric Osgood, Eben Patch

Others: Brian Story, Rosemary Audibert, Paul Warden, Charlotte Reber, Offie Wortham, Shayne Spence, Rob Moore, Val Davis, Jasmine Yuris, Sal Morales, Jessica Bickford

Note: All votes taken are unanimous unless otherwise noted.

1. Call to Order

Eric called the meeting to order at 6:48.

2. Additions, Changes to Agenda

A presentation by Lamoille FiberNet was added to the agenda after the Planning Commission report.

3. Review Invoices and Orders

The board reviewed and discussed invoices and orders.

4. Review and Approve Minutes of Meetings Past

Eben moved to approve the minutes of October 4, 2021, Nat seconded and the motion was passed in a roll call vote with Eben, Nat and Eric voting in favor and Mike and Beth abstaining.

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

Rosemary said current taxes are 40% collected to date, slightly above the previous two years. She hasn't had a chance to talk to Jim Barlow yet about handling our tax sales.

There is a listers' errors and emissions certificate for the board to approve. They accidentally assessed a property to the Green Mountain Club that actually belongs to the state. The difference in value is \$35,300. **Beth moved to approve the errors and emissions certificate, Nat seconded and the motion was passed.**

Rosemary said today she got maps for the district reapportionment. It looks like Johnson will go down to one member shared with Belvidere and Waterville.

Brian and Rosemary will work on a policy on reimbursement for expenses.

6. Public Works Supervisor/Highway Foreman Report

Eric congratulated Jason on being the new public works supervisor.

Jason said the crew completed the paving project. The current project is Fox Lot Road. It needs to be done by the end of October. That will be the main focus for the next week or so.

Jason would like to get a set of winter tires for the Dodge Ram 3500 truck. They will cost about \$1,000.

Jason said it would be convenient if Mark and Ryan could put in some overtime on the grant project they are working on. Crew members are willing to work an extra 2 hours a day for two or three days a week. (*Offie Wortham arrived at 7:11.*) The project has to be done by October 31. The board agreed that would be okay.

Beth asked if Jason has an update on grading all the roads. Jason said the crew had completed all but two a week and a half ago. He hopes they will have time to grade every road again before winter after the grant project is done.

7. *Planning Commission Report*

Paul Warden said since he has been chair the Planning Commission has mostly been working on Class 4 roads and water and sewer line extension. They have also updated the Planning Commission section of the website. The Planning Commission wrote a draft Class 4 road policy and has some specific recommendations regarding Class 4 roads.

The current policy says the town doesn't do any maintenance on Class 4 roads. The Planning Commission felt the town should do regular maintenance to maintain structure of the roads. They propose adding language in the policy calling for the foreperson to survey roads annually to determine what is required and for the town to do as much as possible to maintain structure of roads.

The policy currently says a permit is required for snow plowing on Class 4 roads. But no one seems to get permits and it seems to work well. They feel it is not necessary and they recommend that snow removal will be allowed without a permit.

If there is a disputed right of way the Planning Commission thinks it should be the town's obligation to mark the right of way and if the dispute remains unresolved the burden of proof should be on the complainant.

The Planning Commission added penalties for non-compliance to the policy.

The Municipal Roads General Permit says the town has to make a multi-year plan and do quite a bit of work to reduce erosion. Just getting town equipment to some Class 4 roads would be hard. Legal trails are exempt from the requirements. The Planning Commission worked with the road erosion inventory report from LCPC. LCPC decided which 300-ft road segments are hydrologically connected and which of those have erosion controls that meet or partially meet the standards. There are ten Class 4 roads with hydrologically connected segments. Only four have sections that do not meet or only partially meet the standards.

Town Highway 47 off of Upper French Hill Road goes right through a wetland. The Planning Commission recommends reclassifying it as a trail. Reclassifying a road as a trail maintains the town's right of way.

On Hoag Road there is only a short section in the middle that doesn't meet the standards. The Planning Commission's recommendation is to classify just those two sections as trail and to leave the rest as Class 4 road.

Prospect Rock Road currently is mapped as partially meeting standards. There is a lot of recreational use of that road. The burden of maintaining it is now on the property owners. The Planning Commission would like to see the town consider reclassifying it as Class 3 from Hogback Road to the Prospect Rock parking area. That would be a significant undertaking but with infrastructure money available it seems like a good time to think about it. It would require talking to landowners. The road would need to be widened in spots. It would increase accessibility to Prospect Rock, a town recreational resource.

Mine Road only has a short section of three segments that do not meet standards. That section is immediately adjacent to a section that is already classified as a legal trail. The recommendation is to extend the legal trail section to include those sections.

The Planning Commission decided that it is advantageous to the town to have people connect to water and sewer lines in terms of property values and environmental stewardship so it should be encouraged. They spoke to Williston, Montpelier and Stowe and found that none had water and sewer line extension policies so they looked further afield. Dave Butler suggested that the policy should be that if there is sufficient capacity anyone who wants to connect can do so, providing they do a hydraulic study to determine if there is capacity, the developer bears all the cost, the connection is engineered to state standards, trunk/spur lines (lines that serve more than one house) become municipal property after the warranty period, and there are permanent easements for service line inspection, maintenance and repair. The developer would be required to start within 12 months and finish within 36 months after getting permission.

If that is the blanket policy then the selectboard gives up control. This policy would apply when someone approaches the town asking to connect. That is separate from the town deciding to extend lines or steer development into a certain area. The Planning Commission didn't really think it was their place to pick winners and losers with respect to property values. They are not comfortable doing that and they are not sure if they are being asked to. Are we trying to encourage specific development types? That is something to think about.

Eben said he is curious about the reasons why some Class 4 road sections did not meet the standards. Paul said some are obvious. The survey LCPC did is supposed to be done on a 5-year basis. Some road segments didn't get inspected at all and some segments we know are wrong. The Planning Commission did look at why some segments failed to meet the standard.

Beth asked about the proposal that in a right of way dispute it is up to the complainant to prove the town is wrong. How does that compare to similar towns? Is that a standard approach? Paul said they didn't look at other town so he doesn't know.

8. *Lamoille FiberNet Report*

Charlotte Reber gave a presentation on Lamoille FiberNet's work. Lamoille FiberNet CUD wants reliable, affordable high speed internet, with a network that is flexible to geographic and economic needs, net neutral and able to meet current and future needs. The CUD formed in July 2020. Every town in Lamoille County except Elmore is in it. CUDs were set up by the state legislature to address lack of broadband, especially in rural areas where there is not

enough density for providers to find it profitable. CUDs are a not-for-profit system that allows towns to work together to serve those areas. CUD board members are all volunteers appointed by their town selectboards. They will oversee financing and building of the network to be built. Lea Kilvadyova did a lot of work in helping get the CUD off the ground. It serves a population of about 23,000 people. There are about 500 road miles that need to be served. They collaborate with selectboards, LCPC, LEDC, the Department of Public Service, the Vermont Communications Union District Association, and the Vermont Community Broadband Board.

Paul Warden discussed Lamoille FiberNet's financial model. The idea is to start with grants, build some infrastructure, then borrow some money based on existing assets to extend the network further. They would go the Bond Bank for financing.

Paul said Lamoille FiberNet needs policies, procedures, legal advice, etc. There has been a lot of work getting it set up. They have done a feasibility study, a community survey, a high level design and a business plan. They conducted a second party review of the business plan. They recently hired a new executive director, Val Davis. Northeast Kingdom Broadband and Lamoille FiberNet jointly authored an RFP to providers. They are searching for partners to build networks, manage installation to homes and do maintenance, customer service and billing. Once an ISP is chosen they will refine the high level design then go to VCBB for funding. VCBB will be a state warehouse for federal dollars coming in. They are also meeting with providers who are already on the ground in the area. If the town decides to invest some ARPA funds in broadband, they ask that the town talk to Lamoille FiberNet first.

Val Davis said one of the requirements for partners is that they be committed to universal access – getting service to everybody. Val said he has been blown away by the breadth and depth of knowledge on the Lamoille FiberNet board.

Nat asked if the town or village loan funds would be helpful to the CUD. Val said any money is helpful. They are looking at federal funds covering 40 to 60% of the build-out cost. They will initially build into some areas and revenues from those areas will let them continue to build out.

Nat asked, if we wanted to use some of our federal dollars on broadband, would we do so through the bond process described or would it be an allocation to Lamoille FiberNet? Val said any bond process will have a payback and allocations through ARPA would be grants.

Nat asked if Lamoille FiberNet anticipates other towns joining or thinks they should. Val said the CUD is at a good size. Other towns may join and that is a good thing. The larger potential customer base we have the better. Paul said that makes it more attractive to ISPs. Charlotte said we are one of the smallest CUDs.

Val said the overarching goal of all the CUDs is making sure every address in Vermont is connected. CUDs can't pick and choose like for-profit ISPs. Paul said one thing they are doing is getting existing providers to extend out more. The CUD can be a channel for federal dollars for them if they are willing to commit to the CUD's goals.

Shayne Spence asked if there will be a clawback provision in contracts with ISPs that will allow us to get some money back if they renege on their commitment. Val said they won't put money in. We will spend money to build the network and then we will own it. We can be the ISP or we can find an ISP to provide service. The idea is to pick a provider who we don't have to worry will collapse under us.

9. Racial Justice Committee Report

Beth read the written report Sophia Berard had sent. Shayne Spence and Offie Wortham both attended the last RJC meeting. Shayne brought forth a fundraising idea – a t-shirt with the inclusivity statement. The RJC unanimously supported the idea. The implicit bias and bystander training will be rescheduled for January or February. The RJC extended the deadline for the written expression contest to December 1. Raven and Sophia recently went to a meeting of local justice groups. (*Val Davis and Charlotte Reber left at 7:57.*)

10. Review Planned Purchases

Brian said winter tires for the Ram 3500 are estimated to cost \$1000 to \$1400.

The salt shed has a problem with water infiltrating around the blocks that make up the side of the shed. (*Paul Warden left at 7:59.*) That wastes salt. Nat asked if this is a new problem. Brian said he thinks it has gotten worse but it was probably always inherent in that structure. We got a quote of \$3,500 to use roofing material sealant over the blocks. Brian's advice would be for the board to approve spending up to \$3500 for work on the salt shed. He will see if he can get a lower quote, but he knows this company has an opening in their schedule soon. This amount doesn't require multiple bids.

Beth moved and Nat seconded to approve spending up to \$3500 on salt shed sealant and to get at least one more quote for the work. Eben asked if Jason likes this approach or wants a different one. Jason said he thinks there might be a couple of options. He and Brian were planning to do some more investigation. Eben said he thinks this is a problem that needs to be dealt with but he doesn't know if he likes the proposed solution. He feels the membrane will be too weak. Jason said there will be equipment operating in close proximity so there is potential for damage. Eric suggested maybe trying some other ideas for a year and if that doesn't work then doing this. Brian said he thinks the motion gives us the ability to do something else. If he and Jason come up with a better option that is more expensive he would come back to the board. **The motion was passed with Beth, Nat, and Eben voting in favor and Mike opposed.**

Eben moved to authorize Jason to purchase tires for the Dodge Ram 3500 at a cost not to exceed \$2000, Beth seconded and the motion was passed.

11. Racial Justice Committee Appointments

Both Shayne Spence and Offie Wortham sent letters of interest in the open Racial Justice Committee position.

Offie said if the board appointments one person to the Racial Justice Committee then there will be an even number of people on the committee. He believes the board has the power to expand the size of the committee and accept two candidates. An uneven number is good for breaking ties.

Mike said he thinks a 7-member committee is a good idea. Eben said he likes an odd number on a committee. Shayne said he thinks that is a good idea. He thinks this is the only committee in town with an even number of members. There was a reason for it at the beginning.

Beth said she doesn't like the idea of appointing two new members tonight. One reason is that she prefers not to see a shift in the male to female ratio. She also doesn't think it is fair to the Racial Justice Committee to change the membership number on the fly. Is the rationale for changing the membership number just that it is easier for us? That is not a good reason.

Eben said we have two good candidates and both are qualified. Eric asked, do we want to stay at 5 members? Then we would have an odd number. Beth said she thinks 6 members is not necessarily a problem. Eben said Beth brings up valid points but he likes having an odd number. Beth said we didn't warn a decision on changing the number of committee members. Nat said he doesn't have a strong feeling one way or the other.

Mike moved and Beth seconded to appoint Offie Wortham to the Racial Justice Committee. Nat moved to amend the motion to appoint both Offie Wortham and Shayne Spence. The motion was not seconded. **The motion was passed.** (*Jasmine Yuris arrived at 8:22.*)

12. Study for Scribner Bridge Maintenance Planning

Brian said we did the road work around Scribner Bridge but we were going to look into funding for maintenance planning. (*Offie and Shayne left at 8:23.*) LCPC is helping us apply for a Transportation Alternatives Program grant. He is asking the board to authorize the chair to sign a letter to apply for the grant. That will commit the town to spending public funds.

Rob Moore of LCPC said he has reached out two consultants for a ballpark figure. He is estimating a scoping study would cost \$30-50K. The grant will cover 80% of the total cost and the town is responsible for 20%. It is possible that the study would cost less than what he estimates but he thinks it is unlikely it would cost more. Eric said so the outer limit for the town's out of pocket cost would be \$10K. Brian said that is well within what we have in the bridge reserve fund.

Rob said there are some other possible grant programs. The FEMA grant program has some limitations. To get VTrans funding for construction we have to have a scoping study already in hand which must meet certain requirements. If the scoping study was funded by one organization and then we needed to get construction funding from someone else they might require us to redo the engineering. Putting the engineering study up front with this funding allows the most doors to stay open for future construction funding. (*Mike left the meeting at 8:29.*) The Transportation Alternatives grant is the best strategic recommendation from LCPC.

Nat moved to proceed with applying for the 2022 Transportation Alternatives Program grant for the Scribner Bridge scoping study and to authorize Eric to sign the application letter on behalf of the board. The motion was seconded. Rob said if the grant

is awarded the town the board will have another opportunity to discuss this before signing the contract and there will be a firm cost number at that point. **The motion was passed.**

13. Study of Barriers to Childcare for Lamoille County

Brian said LCPC is leading a countywide study on barriers for people who want to provide childcare and what we can do to support childcare providers. Sal Morales of LCPC said LCPC is looking for Johnson to join a consortium with Stowe and a couple of other towns to apply for a grant. No match is required. The town's role would be to review the findings, act as a check and balance and ask questions.

Nat moved to join with other towns to apply for a grant to fund a study of barriers to childcare in Lamoille County, Eben seconded and the motion was passed. (*Sal and Rob left at 8:36.*)

14. Review Library Memorandum of Understanding

Jessica Bickford said the only change since the last time the board saw the memorandum of understanding is that it now says the library trustees are responsible for smaller day-to-day maintenance expenditures under \$1000 and within the allocated budget. That makes the language in line with the town procurement policy.

Beth suggested simply referring to the minor purchase level in the procurement policy rather than specifying the amount of \$1000 so if the procurement policy is changed this automatically changes. She also suggested saying "town administrator" instead of putting Brian's name. Jessica said the plan was to update the MOU annually. Beth suggested referring to the emergency management plan instead of listing designated contacts. Eric said that is a good point.

Nat suggested approving it as is rather than making changes because we will need to approve it again in March anyway. Eric asked if Brian could look at the emergency management plan to see who is on it and how it matches what is in the MOU.

Beth moved and Nat seconded to approve the memorandum of understanding between the library and the town with the amendment that in the building and maintenance section, instead of referencing projects under \$1000 it will reference projects under the minimum purchase amount in the procurement policy, with the intent to update contact information and add a reference to the emergency management plan at the next review. Jessica suggested the friendly amendment, which was accepted by Beth, of saying that inspection is waived for this year. The motion was passed.

15. Speed Limit Ordinance

Brian said if the board approves the speed limit ordinance tonight that would serve as the first step in the approval process. (*Jasmine and Jessica left at 8:48.*) Brian said he sent the ordinance to Roger Marcoux for review and he hasn't heard back yet. He still recommends legal review for any ordinance.

Brian said the Hogback Road speed study is done. Right now Hogback Road is left off the list in the ordinance. It should either be left off the list or added in with a speed limit of 50. The study was done in two locations and the 85th percentile speeds were 48 mph and 49 mph. So people are going pretty fast. If we put up 50 mph signs people are going to think the road

is rated for 50 mph. Eric said that may be too fast for some of the corners for people who are not familiar with the road. Brian said he doesn't think we should put up any signs. We don't have data to justify lowering the speed limit to 40 because of the speed study and there are no accidents we can point to to justify lowering it.

Eben said he would like Roger Marcoux to get back to us with his thoughts. Eric said he would like Roger's thoughts on Hogback Road too.

Brian said if we leave Hogback Road with no signs, the speed limit on an unmarked road in Vermont is 50.

Eric said the board can make changes in the ordinance tonight but won't be able to make any changes next time. All we have to do tonight is recognize it on our agenda and at the next meeting we officially approve it. Beth asked, why vote on it tonight if we don't have all the information and feedback? It was agreed that the board will look at this again next month.

16. *Collecting Feedback on Downtown ATV Test*

Eric said ATV season doesn't end until October 31, but after it has ended, what process does the board want to use to decide whether to permanently allow ATVs downtown? He envisions soliciting input from the public on how it went. If we want to make downtown access permanent we will need to change the ATV ordinance. If the board decides to change the ordinance a petition can be raised requiring a special town meeting at which the voters will decide whether to adopt the revised ATV ordinance or not.

Eben suggested holding a special meeting to get public input. Nat said we set a precedent last year when we required a group to submit a petition after they approached us. Beth said she thinks getting feedback on the trail this summer and opening up the ordinance are two different things. She thinks we should get feedback on the trial. Eric said whether to open up the ordinance would be the board's decision. If the board feels the trial went well we can open up the ordinance. If we feel it didn't go well we can leave the ordinance as it is, but it needs to be opened up someday because it has some problems. Nat said he thinks any change to the ordinance should be voted on at town meeting. Out of fairness we should make anyone who wants a change to the ordinance go through the petition process. Eric said the voters directed us 2 years ago in a non-binding vote. That was why we made the change. Last year there was a ballot item to restrict ATV use and that failed overwhelmingly. The voters have indicated their preference. Beth said last year's vote wasn't about access to Route 15. She knows the town as a whole has a lot of opinions. She thinks we need to be careful not to be pro- or anti-ATV but hear both sides. Nat said he thinks anyone who wants a change in the ordinance should have to submit a petition and have a vote on town meeting day. Eric said in that case we wouldn't need a public information hearing. Brian said that would be covered by the information meeting before the vote. There was discussion about whether the vote could be by Australian ballot. Brian said he doesn't think we can add things to the Australian ballot. Rosemary agreed.

Eric said at some point we will have to decide how to proceed after the trial. Eben suggested talking about it at the first meeting in November. Beth said she thinks we should invite some people like the Lamoille County Sheriff's Department. Eric said we should invite a

representative from LCSD and advertise the meeting on Front Porch Forum to make sure we get public feedback.

17. Financial Security Update

Brian included an updated RFP for audit services in the packet. He doesn't have feedback on it yet from VLCT. He also included an updated fraud prevention policy draft. It is basically a whistleblower protection policy. The purpose is to give employees information about who to report it to if they have suspicions.

Beth said it needs to talk about what the people who receive the reports do with the information and what is reprimandable and isn't.

Eben asked how we come up with the names of people to report to. Brian said we probably designate people from the public works department, the office, the selectboard and the library. The idea is to eliminate the chain of command for this so you don't have to go to someone in your department to make a report. Having people to report to outside your department gives you the opportunity to remain anonymous.

Beth asked, do there need to be consequences if the person reported to doesn't handle the information well? The goal is to protect the person reporting. Selectboard members are all elected officials. There have been and will forever be problems with elected officials and the power they have. If one of them isn't trusted, how does the board handle that? Eben said looks like the policy needs a consequences section.

Brian said he has a couple of other examples of whistleblower policies. This is the VLCT model. Eric suggested Brian might reach out to other communities about how their policies have worked for them.

18. Lamoille County Sheriff's Department Report

The sheriff's department report was sent out to board members.

19. Selectboard Issues/Concerns

The board talked to Jason about the issue with water getting into the town garage. Jason described an approach that could possibly fix the issue.

20. Executive Session for Discussion and Negotiation of Restitution Owed to the Town

Eben moved and Beth seconded to enter executive session to discuss restitution owed to the town as allowed by 1 V.S.A. § 313(a)(1), the motion was passed and the board entered executive session at 9:29. The board came out of executive session at 9:40.

Eben moved and Nat seconded to approve a settlement of all of the town's claims against Hugh Albright in exchange for payment of \$14,635.73, and to authorize the chair to execute a General Release. The motion was passed.

21. Adjourn

The meeting was adjourned at 9:41.