

JOHNSON RACIAL JUSTICE AND SOCIAL EQUITY COMMITTEE
MEETING MINUTES
JOHNSON MUNICIPAL BUILDING/REMOTE PARTICIPATION VIA ZOOM
THURSDAY, MARCH 3, 2022

Present:

Committee Members: Sophia Berard, Jeff Bickford (via Zoom), Raven Pfaff (via Zoom), Adelle MacDowell (via Zoom), Shayne Spence (via Zoom)

Others in person: Kyle Nuse

Others participating via Zoom: Jackie Stanton, Jasmine Yuris, Jae Basiliere, Roger Marcoux

Absent: Offie Wortham

Note: All votes taken are unanimous unless otherwise noted.

1. Call to Order

Sophia called the meeting to order at 6:36.

2. Review Agenda – Adjustments, Changes, Additions

Jackie suggested adding discussion of Black History Month activities.

3. Approve Meeting Minutes from 2/3/22

Jeff said the sentence “Another one is about not trying to fix things” should be changed to reflect that what he said was, “No fixing.” **Shayne moved to approve the minutes with Jeff’s suggested change and the motion was passed.**

4. S.254 Qualified Immunity Discussion

Jeff said proposed bill S. 254 is apparently in an advanced stage. The bill would remove qualified immunity for law enforcement officers. It would not remove the ability to prosecute if an officer breaks law. This would be for civil cases. He read a position paper making an argument that qualified immunity should remain. He wanted to get Sheriff Marcoux’s comments and he would like the committee to consider whether to take a formal position on this bill.

Sheriff Roger Marcoux said qualified immunity is something that extends not only to law enforcement officials but to all public officials, including members of this committee. Qualified immunity applies if there was a violation of constitutional rights and it is not determined that a hypothetical reasonable person would have known that conduct violated a person’s rights. Law enforcement officers can face a lot of frivolous lawsuits and without qualified immunity they will have to pay out of pocket for them. The way the law is written now, the agency has responsibility.

Jeff asked Roger what his position is on the bill and what he sees as the pros and cons. Roger said he thinks he understands the reasons behind the bill. He is concerned about not going overboard. There are a lot of good police officers in this state. This got started because of more of a national narrative. There have only been 12 Vermont Supreme Court cases where qualified immunity was claimed. The Supreme Court denied qualified immunity in 3, allowed it in 5 and didn’t reach a conclusion in the other 4. He thinks there have only been 10 Second Circuit federal cases where qualified immunity was claimed. He believes our courts do a pretty good job of making good decisions in these cases now. If law enforcement

officials were in the wrong they are taken to task. We are now in crisis in this state. We can't find enough law enforcement officers. There is quite a bit of concern that if people have to provide their own insurance and can't come under the umbrella of a law enforcement agency that will further deteriorate the staffing situation. Right now we are losing more law enforcement officers every year than we are graduating from the academy. It is demoralizing for the good cops to think their work is not appreciated and the rights other public officials have are taken away from them. He is an advocate for police reform. He thinks we have to go through exercises like this. The position paper was interesting to read. He listens to what the ACLU and the NAACP say. If he had to say yes or no on this bill, he would say no. He thinks we are well covered. There is a new use of force policy that safeguards the rights of Vermonters. Through Act 56, which he helped work on, we have a mechanism to decertify police officers who hit certain benchmarks like being involved in felonies or gross police misconduct. We have things that are in place. He sees this bill as more of a nuclear option. He will continue to monitor what is going on but his sense is that Senator Sears would like to come up with a compromise. But there is not much of a compromise that can be made. We either make officers pay or we allow them to be indemnified. Part of Act 56 on police reform allows each community with a law enforcement agency to have a citizen review board. When an internal investigation is done and discipline is handed out, that is reviewed by the citizen review board, which advises. We are still working on that because there is no standard for what training is expected for that group. The state police have also had an advisory council for a few years. There is police reform that will make things more transparent. He would like to see that process continue and maybe we should put the brakes on this bill. He can say from personal experience that frivolous lawsuits are very difficult for him and his family.

Jeff said what he is hearing from Roger and getting from the position paper is that use of force policies and the provisions of Act 56 will make it easier to prosecute or decertify police officers. Roger agreed. He said a law enforcement officer can be decertified without breaking the law. Someone can be decertified for violating policy.

Shayne said he is concerned about frivolous lawsuits and morale of law enforcement officers, but at the same time he wants any public servants to be able to be held accountable, especially those given guns and the ability to use them. Is there a compromise to be had, maybe around use of force? Can we say law enforcement officers won't have qualified immunity in those cases? He asked Roger's thoughts on that.

Roger said what he has heard the senate committee suggest is that the police department would be able to pay for insurance for law enforcement officers. He doesn't see the difference between having a department insurance policy that covers employees and the department paying everyone's insurance premiums. He doesn't know what other compromises they might have in mind. He thinks Act 56 gives him leverage to deal with use of force situations. Shayne said the idea of a "get out of jail free" card for officers is not something that feels good. He is glad to hear there are other ways to hold people accountable.

Roger said the fact that the attorney who wrote the position paper could only find 10 Second Circuit cases and 12 Vermont cases indicates to him that qualified immunity is not a huge problem. He thinks we deal with the issues in other ways.

Jeff said he noticed that an amendment proposed a few days ago would allow a court to award attorney and court fees to the defendant. Does that ease some of Roger's concerns about frivolous lawsuits? Roger explained why he has an issue with that.

Jackie asked about the Vermont Criminal Justice Training Council mentioned in the position paper. Roger said it is now called the Criminal Justice Council. It is chaired by a former attorney general. The executive director is appointed by the governor. The executive director now is Heather Simons, who runs the police academy. The Council establishes rules, policies, regulations and standards for certification and training of criminal justice personnel. The Council consists of the Commissioner of Public Safety, the Commissioner of Corrections, the Commissioner of Motor Vehicles, the Commissioner of Fish and Wildlife, the Attorney General, a member of the Vermont Trooper's Association, and a member of the Vermont Police Association. There are also members at large appointed by the governor. The Council is very important. Law enforcement is well outnumbered on it. It has the charge of protecting all our citizens not only from criminals but from law enforcement. Roger thinks it is a good thing. A subcommittee makes recommendations on decertification.

Shayne said there have been cases where a police department let someone go before decertification was completed. Roger said that is what drove Act 56. If someone violated policies, the department would start an internal investigation but if the person resigned, the investigation would stop there and there would be no real record of wrongdoing. If another department called and asked about them, labor attorneys would advise saying only what dates they worked there in order to avoid lawsuits. One piece in Act 56 is that a person who wants to work for a law enforcement department has to sign a release allowing talking to heads of their former agency. That is supposed to protect agency heads from lawsuits. But there are still deals going on where parties agree they will not talk ill of each other.

Roger said he has been meeting with a local group since 2019 or 2020. That has been helpful for him. One thing he learned is that the sheriff's department should not make people come into the office to get complaint forms.

Jeff said he wants to have time to reflect. He doesn't have a motion. Roger asked if it would make sense to wait and see what the final draft will look like. Jeff said he thinks so, since it is in pretty active status. Shayne said he wants more time to read over the position paper and reflect on what we talked about. He is fine with revisiting this in a future meeting. Jeff said that is a good idea.

5. *VHC Rapid Response Grant Update*

Sophia said part of what we were going to do with the Rapid Response Grant was bring an anti-racist story time here. Having Laura Smith do it has not panned out but she and Jeff recently met with Isaac Eddy and Jae Basiliere and Jae mentioned that they could do anti-racist programs.

Jae said they are new to Johnson. They currently run the NVU Center for Teaching and Learning. They have a background in gender studies and community organization.

Sophia said our local librarian does a fantastic job with story time but nothing specifically geared to anti-racism. In 2020 Sophia and her child attended a few anti-racist story times conducted by a friend, Laura Smith. They were for kids from about 2 to 7 or 10. They provided a great opportunity to introduce concepts and terminology and allow kids to ask questions and be curious. If we want to partner with the library, it sounds like Jae has some credentials and that is one requirement the library has. To host a story time someone has to have qualifications. We could work with the library or hold our own event with Jae.

Shayne said he thought talking to the library would be a good place to start. Jackie said she is all for partnering with the library. They already have infrastructure and have well-attended events. It would be easier to partner with them if possible. Kyle said she agrees it makes sense to have a story time in a town-owned space where people are used to gathering for story times. She would love for it to maybe be on a weekend and for all ages. Library story times now are mostly for preschool kids but she thinks kids in kindergarten or first or second grade would get a lot out of this one.

Jeff asked what the process is for arranging a story time at a time when the children's librarian is not usually working. Jasmine Yuris said Kristen MacDowell and Jeanne Engel make all the decisions when it comes to programming. Both Kristen and Jeanne have said they are in favor of this and would work with the committee. It would be helpful to suggest a date and time.

Shayne asked, is this being paid for by the money we want to spend as quickly as possible? Jeff said it is funded by the Rapid Response Grant but we got an extension. The grant report is not due until the end of April. Ideally we would want to have the event before the report is due but as long as it is scheduled that would be the bare minimum.

Shayne suggested a date later this month. Jasmine said the library currently is asking people to make their visits less than 15 minutes. She is worried about scheduling an indoor story time. She was picturing having it outside when the weather is better.

Shayne moved to contract with Jae Basiliere to lead an anti-racist story time at a time and date appropriate to all parties. The motion was passed.

Sophia said she is still waiting for the resources from Amanda from the two workshops. As soon as they are shared with her she will share them with the committee, the trustees and the selectboard.

Jasmine said she wished she could have experienced the bystander intervention workshop in person. She felt the role-playing part of it was not effective on Zoom. But other than that she thought both workshops were great. Adelle said she was only able to make it to the bystander intervention one. She agrees that it was really great but she wishes it had been in person and that more people could have been there. Maybe a larger audience could have been reached if it had been in person. Sophia said she hears that. We had larger registration numbers than attendance at both workshops. Amanda mentioned that there is some other training some of her facilitators do. Hopefully Sophia can get more information on that. Jackie said she

thought the facilitators were very skilled, especially at the second workshop. And the first one was totally revamped since the first time they did it in Johnson. She thought it was even more effective. She wished more people and more RJSE members could have come. Sophia agreed. She feels Zoom worked well for the first one.

6. *NVU Production of Hair*

Sophia said Isaac Eddy, the theater director at NVU, reached out to her and Jeff about NVU's production of *Hair*. He had some concerns because the musical was written in 1968 and satirically offers racial tropes and themes that were being discussed at the time. When the theater group signs on to do a show they are contractually not allowed to change any words. There is a racial slur and some language about indigenous groups and oppressive cultures that now would be seen as possibly offensive. Isaac has found examples of other groups doing this musical and tweaking it by omitting certain songs and working with a very diverse cast to make sure parts are played according to who should be speaking them. She and Jeff met with Isaac and Jae to talk about what this committee can do pre and post show. There may even be a debriefing with the cast for the audience after the show. There is going to be an open rehearsal of this play at NVU on March 16 from 6:30 to 8:30 pm. Committee members are all welcome to go and see what comes up for us.

Jae said they are very supportive of Isaac putting on this play because of the space it creates to have important conversations. They would love to have some more community-facing discussions, not just discussions on campus.

Shayne said the play also originally included nudity and drug use. He is assuming the cast won't be doing drugs in Dibden Center. Is there room to honor the material while maybe not using racial slurs? Sophia said there are some changes they have been allowed to make. They are excluding the nudity. She doesn't know if there will be mimicked drug use but there will not be real drug use. White people in indigenous regalia will be removed. The songs "White Boys" and "Black Boys" will be removed. They are using a consent-based directing philosophy, leaving use of the racial slur up to the woman of color whose character says it.

Jae said the NVU theater group wants to invite as much engagement as the RJSE Committee feels comfortable with. They will keep an open line of communication with Jeff and Sophia.

7. *Adoption of Committee Agreements*

Jeff said he and Sophia put together a draft of community agreements for the committee. He suggested discussing the draft, and then he and Sophia can come back to the next meeting with a more final draft. Shayne said he thinks some more values could probably be added. There were others mentioned at the last meeting. Sophia suggested including some language she liked from agreements used by Every Town Vermont's Neighbors network. Jackie said Jae is one of the 4 co-chairs of the NVU equivalent to this committee. They might be able to send us the agreements that group uses.

Kyle asked about how the committee plans to implement these agreements once they are approved. Jeff said his intent is that we could do a quick reminder at the beginning of each meeting and they are a framework we can call on if we are stuck or there is tension. Sophia said she doesn't foresee us reading the agreements at each meeting but they will be something we can call on and give to new members. Shayne said we can bring them up when

we see a need to remind people what we all agreed on. He wouldn't mind if there was a reminder about them at the beginning of meetings.

Jeff said he hopes to adopt a final set of agreements at the next meeting.

8. ***H.273 VT BIPOC-led Land Access & Opportunity Act Update***

Sophia said she will send out an email with an update on this.

9. ***Other Business***

Kyle noted that the selectboard formally accepted the committee name change at a recent meeting. Last night Beth Foy was elected selectboard chair. Kyle believes she is the first woman in Johnson's history to have that position.

Jackie asked if anyone else did the Black history master class she had talked about. She did the whole thing and thought it was fantastic. Kyle said she got through about half of it. She agrees that it was great.

10. ***Adjourn***

Shayne moved to adjourn at 8:23 and the motion was passed.

Minutes submitted by Donna Griffiths