

JOHNSON SELECTBOARD MEETING MINUTES  
JOHNSON MUNICIPAL BUILDING  
MONDAY, JULY 6, 2022

**Present:** Selectboard members: Beth Foy, Duncan Hastings, Eric Osgood, Eben Patch, Mark Woodward

Others present in person: Brian Story, Rosemary Audibert, Trevor Bidwell, Janeice Bidwell

Others present via Zoom: BJ Putvain, Sally, Nadeau

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

**1. Call to Order**

Beth called the meeting to order at 6:30.

**2. Additions, Changes to Agenda**

Items added to the agenda were the mural on the town garage, the sheriff's department budget and contract, and attorney communications.

**3. Review Invoices and Orders**

The board reviewed invoices and orders. Duncan said he was approached by a member of the public regarding reimbursements to individuals. The member of the public was under the understanding that under the town's purchasing policy we should not reimburse individuals but the purchases should be run through town accounts. What does the purchasing policy say? Beth said she would look that up.

**4. Review Approve Minutes of Meetings Past**

**Eben moved to approve the minutes of June 20, 2022, Mark seconded and the motion was passed.**

**5. Review Invoices and Orders (continued)**

Duncan noted that it looks like we are paying Tuesday Night Live performers in advance of the performances. Rosemary said we write the checks and they are held here until the night of the performance. Mark asked, Tuesday Night Live is self-funding so there is no net loss to the town from TNL-related expenses, correct? Rosemary said that is right. Mark said it is the same with the Community Oven Committee. In reality, expenses for those groups are not affecting the town's bottom line. Duncan said they are in reality town funds. Mark agreed, but he said he is more concerned about the town budget.

Duncan said he is opposed to people paying sales tax and the town reimbursing them including the sales tax. They can make purchases using a single-use purchase form that prevents them having to pay sales tax. Beth said we have purchasing agents identified in our policy. Brian said designated purchasing agents are the ones who can approve purchases. We strongly discourage people from making purchases and getting reimbursed because they could buy something that the purchasing agent feels is unnecessary. It is not expressly against our policy but it is strongly discouraged. Duncan said he is most concerned about payment of sales tax. He thinks if someone says they want to buy supplies and get reimbursed we should give them a single-use purchase tax exempt certificate. He feels we need to implement that.

Brian said he is hearing that we should be turning down more requests for reimbursement to people who paid sales tax. Eric said it is not a good use of the town's funds. Duncan said it is not a huge amount of money but he is against it on principle. Eric said there could be exceptions if a purchase needs to be made on the weekend, for instance for the rec committee, but those should be exceptions. Beth brought up a question: if we expect an invoice to be provided for reimbursement, what does that look like when the payment is for services that are not goods?

**6. *Selectboard Issues/Concerns***

Beth brought up a recent incident on Coddling Hollow Road involving a vehicle and a dog that did not end well. Duncan said it seems to him that Coddling Hollow Road might be a place we would want the sheriff's department to spend time. Beth said she talked to Roger Marcoux. It sounds like there is a safety concern in that area and it may be worth taking a look at. Roger is thinking along the same lines.

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

Rosemary said we had spent 94% of budget as of June 30. That does not include booking up the paving as this year's business or the invoices approved tonight. We should have an end of year surplus of more than \$100,000. Duncan asked, aside from the \$100,000 we plan to apply to current year taxes are other funds to be set aside for dedicated uses? Brian says he thinks our plan was to split funds about evenly between the reappraisal, capital equipment and tax anticipation reserve funds. Beth asked when we will close out the year. Rosemary said probably in August. Mark asked if that is typical. Rosemary said yes. We have to get all the bills first. Beth asked if we have received invoices for mowing. Rosemary said not since May. Beth asked Brian to follow up on that.

**8. *Review Planned Purchases***

Brian said the public works department would like to buy a new post driver with funds from PACIF. Every year PACIF gives grants for safety equipment and things that reduce the risk of injury. The post driver we have currently is mostly fabricated by the crew. It takes two people and two trucks to operate. It is pretty labor intensive, is not purpose-built, and is getting on an age. A new driver that can fit on the back of a pickup truck and requires less prep work will save time. One person will be able to operate it. The purchase will be fully grant funded. The grant is also paying for some small recreation safety items. Duncan asked what kind of posts this would be used with. Brian said fence posts and sign posts. **Eben moved to approve the purchase of a post driver for the public works department, Duncan seconded and the motion was passed.**

**9. *Beautification Resignation***

**Eben moved to accept Carrie Watson's resignation from the Beautification Committee and Eric seconded.** It was agreed to send her a letter of thanks. Brian will post the opening. **The motion was passed.**

**10. *Oven Committee Grant Application***

Brian said the Community Oven Committee would like to pursue grants to pay for food items, as they have in the past. There will be no matching funds required. **Eben moved to approve the Community Oven Committee applying for grants, Duncan seconded and the motion was passed with Mark abstaining as he is on the Community Oven Committee.**

### ***11. Mural on Town Garage***

Eben said the village trustees would like to have a vote on putting the mural on the town garage instead of just being informed of the selectboard's decision. Beth asked if this is coming from the chair. Brian said yes. The trustees believe they should hold a vote on us putting a mural on our garage, which is actually jointly owned. Duncan and Beth asked what happens if their vote conflicts with the selectboard's vote to allow the mural. Brian said we did not finalize the memorandum of understanding between the town and village about how to handle town and village buildings. But the sticking point with regard to that MOU was not about each municipality having independent authority over their own buildings; it was about how to handle the old mill house. We had a pretty good understanding that each entity would maintain their own garage. Eric said it is pretty clear-cut that any decision about the municipal building or the old mill house would require positive votes from both entities. The garages are more of a gray area because there has been a gentleman's agreement that each entity would maintain its own garage. If they are asking for the right to vote on this he doesn't see that we can deny it because the building is jointly owned. Brian said the Beautification Committee has started fundraising and getting supplies for the mural. The board agreed that Brian should contact the Beautification Committee and let them know the trustee vote on this is pending.

### ***12. Cemetery Fencing***

Brian said we were surprised by the cost estimate for cemetery fencing so he looked into splitting it up into two or more projects or fencing the street facing side with something more decorative and the other three sides with something more utilitarian. The company that gave us the estimate will not hold the price if we split the project up over multiple years but there is no penalty for doing that. We will just pay more if the price goes up. They are willing to break the project into multiple years. They also gave us a quote for split rail fencing on the street side and black wire along the back and sides.

Janeice and Trevor Bidwell said they own property neighboring Grow Cemetery. They don't bother the cemetery and don't see why the town is thinking of putting thousands of dollars into fencing. Why does the town want to put up fencing? Eben said the selectboard is statutorily required to fence cemeteries to keep livestock out and there was a complaint from a citizen in the town that the cemetery was not fenced.

Janeice asked if the town has the boundaries totally figured out. Brian said we think we have a pretty good idea where all the boundaries are based on old fence posts. Our intention is to mark the boundaries before the fence goes up so neighboring landowners can see where we intend to put it.

Janeice asked if she and Trevor have any responsibility for the cemetery. Brian said the history of ownership is not clear. We were not able to locate the deed. The cemetery appears to be Grow Cemetery, which was at one time a public cemetery, not just a family cemetery. Duncan said he spent some time researching it. It was originally in the town of Sterling. Land records for that town are in Morristown. Deanna French did a lot of research on the history of the cemetery. Her research indicated that the person who originally owned the land where the farm is now set aside a parcel of land for the cemetery. She was never able to find written documentation of that. Duncan looked at her research and he thinks that if she did not find it

he probably wouldn't be able to. It is not unusual for the town not to have a deed for a cemetery. We don't have deeds for the Plot or Whiting Hill cemeteries. There is mention of the cemetery in old selectboard minutes. He thinks we should say where we believe the corners are and get agreement from the neighboring property owners. If they agree he thinks it makes sense to record the corners in the land records.

The amount budgeted for cemetery maintenance for FY23 was \$6K. Brian said the street facing fence needs some work but there is not much fence on the other three sides. He suggested we could start with those sides. Eric said we have a very limited amount of money. If we spend much on fencing then we will not be able to do any cleaning or stone repair in any cemeteries. He suggested waiting until next year and budgeting for the fence along with normal cemetery maintenance. Duncan said he has to believe we might be able to get someone else to bid on fencing. He would be more comfortable with more than one bid. He also noted that we did not spend all of what was budgeted for cemetery maintenance in FY22. We spent \$1400 out of the \$6K budgeted so we could conceivably apply some of the prior year surplus toward the current year expense. Eben said looking at the budget as a whole he doesn't think there is that much prior year surplus. Duncan said he doesn't think we have to decide that tonight.

Mark asked how many linear feet of fence is needed. Beth said the quote says 390 ft. It also says that for all posts requiring rock drilling and hydraulic concrete we should add \$100 per post.

Janeice asked if the town has to use a contractor. If it was marked out, could some volunteer come in and drive fence posts? Brian said we need someone insured. Janeice said she and Trevor can insure themselves because it is their land adjoining. Mark suggested demarcating where the fence is going to be then talking about possibilities. He thinks the quote is very expensive for this much fence. It was agreed that Brian will mark the boundaries, then reach out to the neighbors to confirm the boundaries, then discuss possibilities for getting the work done with Janeice. He will talk to our insurance about using volunteers to do the labor. Duncan said there may be relevant statutory language about two parties building fence on mutual boundaries.

### ***13. Economic Development Proposal Draft***

Brian said he made a new draft with the changes requested. Eric asked where he is planning to post it. Brian said he thinks he will post it with VLCT. He wants to talk to contacts he has with consulting groups. Mark asked how we feel about hiring someone who is not local. Brian said if they demonstrate that they can do the job he feels we should give them a shot even if they are not local. The board agreed that Brian can circulate the ad. Duncan said he wants to advocate for making this a true competitive bid process. He feels very strongly that it needs to get into some recognized publications. Works in Progress does RFPs. There is the Vermont Business Registry.

Beth suggested changing language about our proposal requirements to encourage applications from individuals who are not part of a large firm. She does not feel we necessarily need people to submit proposals as opposed to submitting a resume. Eric said it is easier on us if someone submits a proposal. That makes it easy to compare. But if someone

just wanted to send a resume, that could also work. Beth suggested changing the language that refers to the applicant as a firm to encourage individuals to apply. It was agreed to remove references to firm and to refer to applicant instead and to remove the requests for information that only applies to a multi-person firm, such as number of people employed. It was agreed that Brian should make the changes discussed and email them to Beth.

There was discussion about where to advertise. Brian said he doesn't know that any newspaper would do well to draw applications. He will publish it on the VLCT site and with Works in Progress. Beth suggested putting it on LinkedIn so board members can all share it. It was agreed to do that and to put it on the town Facebook page. Duncan asked if the Vermont Planners Association has an online newsletter. Brian said he doesn't know. He was going to contact VLCT directly. There may be something for planners. Eric said he would not advocate using the Burlington Free Press but he does see value in putting the ad in the News & Citizen. If nothing else, that provides transparency for voters to see that we are advertising a position. Beth suggested putting it in the newsletter Emily Rosenbaum sends out.

**14. *Atlas Contract for Water Testing Management***

Brian said Atlas updated their contract to include the village as requested and also they were able to extend funding so now we are not being asked to pay anything for the service. **Eben moved to authorize Brian to sign the amended contract with Atlas for water testing management, seconded by Mark.** Duncan asked if we know how much longer the testing will last. Brian said they have not given us any indication. Some years the results have been better than others but we have not had a clean well sample yet. **The motion was passed.**

**15. *Mowing the Lamoille Valley Rail Trail***

Brian said our insurance says they have been providing and will continue to provide insurance coverage while we are mowing the rail trail. Eben said they did suggest having a conversation with the state. He thinks VLCT does not understand the difference between mowing a roadside and mowing a trail with people walking on it. Our town crew shoots for the worst weather to do the mowing and that could be more dangerous for them. Eric said he pointed out to VLCT that there will be many towns mowing on the rail trail once it is finished but they did not seem to have an issue with that. Brian said we will need permits for mowing after July 1 and the state has indicated that they will be mowing at least once a year. He doesn't believe there is a fee associated with the permit. Duncan asked if Brian knows if they will be looking for a certificate of insurance in the permit process. Brian said they have not indicated that yet but he would be surprised if they do not want that. Since it is now after July 1 we will need a permit before we can mow. He would like to get the permit and do the mowing. Eben said if we do it he thinks we should keep track of our hours and send a bill to the state. Beth asked which department we get a permit from. Brian said it is the Rail and Aviation Bureau. Mark asked how many times a year the trail needs to be mowed. Brian said we used to mow it once a year and we got requests to do more mowing. We now mow it two times a year and we are still getting requests to do more. Eric suggested asking the Rail and Aviation Bureau if they will hold harmless a town mowing on their property.

**16. *Assessor Services Update***

Duncan said he and Rosemary attended a meeting of several towns to discuss assessor services. Terri Sabens was there. The towns present felt it was probably prudent to see if the Lamoille County Planning Commission could act as the service provider to pay the assessor

and provide benefits. They have statutory authority to do that. The consensus was that the representatives from the different towns were going to go back to their boards and ask for conceptual approval for LCPC to act as service provider. That would have to be approved by LCPC.

Eben asked if it is too early to have a ballpark price figure. Duncan said yes. That would be part of the proposal that would come to the board. If the position is full time and has benefits it will cost the town more than if we paid someone an hourly wage for 20 hours a week.

Beth said she was surprised to hear that Terri was there. Was the discussion about her proposal? Duncan said he thinks Terri is not looking at this as a business opportunity. She is trying to get people involved. She said she would volunteer her time to help train someone but he does not think it is appropriate for her to do it without being paid. But none of that has been worked out. A shared assessor position is not likely to involve a rolling reappraisal, at least initially. It would be for basic grand list maintenance.

Eric asked if the amount paid would be prorated by the number of parcels per town. Duncan said that was discussed and it seemed like using grand list parcels would be a reasonable way to divide the cost. Rosemary said this shared position may include towns that are not in Lamoille County. Duncan said Vergennes was on the Zoom call. They are very interested. Vergennes is a small town but they have a lot of businesses. We may have to look at some combination of number of parcels and value of parcels to determine cost sharing.

The board is conceptually in favor of pursuing a shared assessor position with LCPC as service provider.

#### ***17. Holcomb House Apartment Inspection Report***

Brian said he inspected the recently vacated apartment at the Holcomb House. He asked Mark to come along given his experience as a landlord. The apartment needs to be cleaned and probably needs some repairs. Mark said a 10-wheeler will be filled with trash from the apartment and it will not be cheap. It will probably cost at least as much as their whole security deposit. The structure is not up to code and he does not think we should be involved in renting it out in the future. Rosemary said the security deposit we have is \$975 and the tenants owe \$290 in rent.

Mark recommended that Brian contact the former tenants and get in writing that the things they left there are abandoned. Brian said he did that and today he heard back that they do consider everything abandoned. Mark said typically we have 14 days to let them know in writing that we are keeping the security deposit and why.

**Mark moved to instruct Brian to notify the former Holcomb House renters in writing that costs we incur for cleaning and repairs will be applied against their security deposit. The motion was seconded.**

Duncan asked if we have to give them a formal accounting of our expenses. Mark said yes. We need to send that within 14 days of them moving out. Duncan asked if we have to incur those costs within 14 days or just notify them that we will be incurring them. Mark said he doesn't know. Eric said getting repairs done will

take longer than that. Brian said we can get the necessary cleaning done within 14 days and that will use up about all of their security deposit.

**18. Sheriff's Department Budget and Contract**

Beth said she has talked with Roger Marcoux as well as Wolcott and Hyde Park. Everyone seems eager to dig into the sheriff's department contract. Would anyone from this board like to participate? And is anyone interested in budget discussions with the sheriff's department? That will be a separate conversation. Brian said he would like to continue to be involved with budget discussions. It was agreed that Mark and Beth will participate in the sheriff's contract discussions. Eben and Eric will be involved in union negotiations. Duncan and Rosemary will work on the assessor shared contract.

**19. Review Job Descriptions for Town Employees**

Brian had included existing job descriptions for town employees in the board packet. Duncan suggested a working session to work on job descriptions. Eric said the economic development, town administrator and rec coordinator job descriptions need to be updated. Beth suggested that Brian can send out the rec coordinator job description, which was not included in the packet, and then board members can mark up the job descriptions and send feedback and we can have the working session Duncan suggested.

**20. Review of Dilapidated Building Ordinance and Enforcement**

Brian had sent out a draft of an inspection report form to be used for inspections of dilapidated properties. Beth read from the ordinance. A public hearing will be held to consider an inspection report from an inspection official. If the building is found to be a public nuisance then the owner has to submit a remediation plan. If the owner does not submit a plan or does not comply with it, the town shall proceed to enforce the ordinance and seek injunctive relief, enforcement remedies and penalties as allowed by law. Beth read what the penalties are for first, second and third offenses. Duncan asked if it says who the inspection official is. Beth said the ordinance says Inspection Official means "the Town Health Officer, Assistant Town Health Officer, or such other person so designated and appointed by the Selectboard from time to time to enforce or executive the provisions of the ordinance."

Duncan said if our officials are going to issue tickets they need a number. Brian said only Tracy Myers has one; the others currently do not. Duncan said Rosemary needs to send in a form with their names and then they get an official number and a ticket book. **Duncan moved and Eric seconded to authorize deputy health officers BJ Putvain and Dean Locke to be issuing officials under the Municipal Ordinance Bureau.** Eric said BJ and Dean are also animal control officers, which is another reason they should be authorized to issue tickets. **The motion was passed.**

**Eric moved and Duncan seconded to appoint BJ Putvain and Dean Locke as constables.** Eric said we put them on probation and never followed through with appointing them. The only constable now is Tracy. **The motion was passed.**

There was discussion about what would happen if a property owner does not permit access to their property for inspection. Eric said we could get a court order for access to the property. Brian said we could do that or we could ask for remedy just based on what we can see. Or

part of the remedy we order could be to provide access to a town officer. The policy addresses how we will proceed if we can't make contact but not if we can't get access.

Beth said she likes the form. She asked if Brian could provide copies to the health officers and ask for their input. Brian said he will do that.

Brian said we had discussed identifying properties on the grand list that have been listed as under construction for more than 5 years. Beth said she would prefer that properties under construction not be our first target. She doesn't think those are our biggest worry. She thinks we have some structures that are in really poor shape. Brian said our belief is that those listed as under construction with no movement probably would be those properties Beth is thinking of. That gives us an objective measure of how we identified properties for enforcement.

Beth said anyone with feedback on the form should send it to her and she can pass it on to Brian. She suggested maybe the form should include the reason we checked the property, with a list to choose from (e.g. complaint, under construction for more than 5 years, any item mentioned in the ordinance clearly visible from the road.)

Duncan asked if there is a difference between the description of the property and the inspection target. Brian said one discussion we had when forming the ordinance was that we didn't want it to be used to go after something like an old historic barn that is not being used. There may be a situation where we don't want the inspection to apply to the whole property but there is something on the property we feel needs attention.

#### **21. Set Tax Rate**

Brian said our grand list rose faster than estimated. We were estimating a tax rate increase of about 2 cents but we only need an increase of a little over a cent. Rosemary said the school tax rate went down about 9 cents, she assumes because the school district used ARPA money. **Duncan moved to set a tax rate of 84.88 cents, Eric seconded and the motion was passed.**

#### **22. Sign Better Roads Grant Agreement**

Brian said the Better Roads grant will pay for work on Lendway Lane – ditching, culvert improvements and bank stabilization. It does require a match in kind. According to the most recent culvert and erosion report, Lendway Lane is one of the roads with most severe needs for improvement. There is some pretty severe erosion in a couple of spots. **Duncan moved to accept the Better Roads grant for work on Lendway Lane and to authorize Beth to sign the grant agreement and the motion was seconded and passed.**

Brian said this is probably not the last project we will have on Lendway Lane. Some areas closer to the river that are not eligible for a road grant will need shoring up.

Eben said Lendway Lane is a Class 4 road past where the town gravel storage is, so we should maintain it as a Class 4 road. Eric said it is Class 3 all the way to the end. Rosemary agreed. Eben said it is not shown that way on the town highway map or the mileage certificate. Duncan asked Brian to check into that and he agreed.



**23. *Discuss Communications from Town's Attorney***

**Eben moved to find that premature disclosure of communications from the town attorney may place the town at substantial disadvantage, Eric seconded and the motion was passed.**

**Eben moved to enter executive session to discuss attorney-client communications regarding litigation that the town may be a party of under 1 V.S.A. § 313(a)(1), inviting Rosemary and Brian to remain, Duncan seconded and the motion was passed at 9:19.**

The board came out of executive session at 9:31.

**24. *Discuss Communications from Town's Attorney Regarding Storm Water Issues***

**Duncan moved to find that premature disclosure of communications from the town attorney regarding storm water issues would place the town at a substantial disadvantage, Eben seconded and the motion was passed.**

**Duncan moved to enter executive session to discuss communications from the town's attorney under the provisions of 1 V.S.A. § 313(a)(1), Eben seconded and the motion was passed at 9:32.** The board came out of executive session at 9:49.

**Eben moved to authorize the chair to instruct the town's attorney to send the letter, Eric seconded and the motion was passed.**

**25. *Discuss Labor Relations and Contract Negotiations***

**Eben moved to find that premature disclosure of the town's position would substantially disadvantage the town in contract negotiations, Duncan seconded and the motion was passed.**

**Eben moved to enter executive session to discuss labor relations and contract negotiations under 1 V.S.A. § 313(a)(1), Duncan seconded and the motion was passed at 9:50.** The board came out of executive session at 9:58

**26. *Adjourn***

The meeting was adjourned at 9:58.

*Minutes submitted by Donna Griffiths*