

JOHNSON SELECTBOARD MEETING MINUTES
JOHNSON MUNICIPAL BUILDING
MONDAY, AUGUST 1, 2022 (CONTINUED AUGUST 4, 2022)

Present: Selectboard members: Beth Foy, Duncan Hastings, Eric Osgood, Eben Patch (August 4 only), Mark Woodward

Others: Brian Story, Rosemary Audibert, Jeff Bickford, Sam Barbeau, Arantha Farrow, Mike Dunham, Margo Warden, Dean Locke

Note: All votes taken are unanimous unless otherwise noted.

1. Call to Order

Beth called the meeting to order at 6:32.

2. Additions, Changes to Agenda

Duncan asked for an update on the status of the grader. Beth added discussion about Holcomb House.

3. Review Invoices and Orders

The board reviewed invoices and orders. (*Mike Dunham arrived at 6:37.*) The board asked Rosemary to check into whether the former Holcomb House tenants owe anything for rent. Duncan said he had heard the Holcomb House apartment was not completely cleaned. Beth suggested waiting to discuss and approve the bill for cleaning until the Holcomb House agenda item. (*Sam Barbeau and Arantha Farrow arrived at 6:40. Margo Warden arrived at 6:42.*)

4. Review Approve Minutes of Meetings Past

Eric moved to approve the minutes of July 18, 2022, Mark seconded and the motion was passed.

5. Public Comment

Mike Dunham asked if it was too late to add discussion on the Northern Border Grant. Beth invited him to make a public comment about it if he wished. Mike said he saw in the May 2 minutes that it appears we missed an application deadline again this time around. He would like to know why. This is very important. It is a way to jumpstart the industrial park.

Beth said at that meeting the board discussed what happened. It was not a missed deadline but a new requirement that formerly was not there to submit a letter of intent. There was an admission that there was a dropping of the ball in not finding out that that requirement changed. Mike said it would have been good for someone to check into whether the requirements had changed.

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

Rosemary said she would say the budget report for FY22 is 97% done. Our cash flow will be fine with the outstanding expenses we have. Duncan asked if there will probably be an accurate accounting of total surplus and recommendations for it at the next meeting. Rosemary said yes.

Rosemary said there are 4 grand list errors and omissions to approve. One is due to a mobile home that was moved before April 1, one is due to a fire at a trailer, one is because the village tax for the Transco transmission lines was incorrect and one is because a new

building that went onto a property had been missed. Eric noted that the gains and losses were pretty much a wash.

Duncan moved to approve the grand list errors and omissions as presented, Mark seconded and the motion was passed.

Rosemary said the test of the new tabulators last week went perfectly. They should be all ready for the election next week.

7. *Review Planned Purchases*

Brian said the Vermont River Conservancy installed stairs for access to the Lamoille River two or three years ago on Lendway Lane across from the salt shed area. The stairs have to be taken out every winter because otherwise they would be damaged by ice. While they were in our storage area over winter the stairs were damaged when the roof collapsed onto them. The River Conservancy is asking us to pay for the stairs to be repaired or replaced at an estimated cost of \$1200. The cost depends on how much wood can be salvaged.

Duncan asked how much our insurance deductible is. Rosemary said \$1000. Duncan said he wonders if it is worth submitting a claim. We won't be penalized for filing a claim as we might be with other insurers. Eric and Mark pointed out that the actual cost may end up being less than \$1000. Beth said she thinks the time spent entering a claim would be worth \$200.

Eric moved to authorize expenditure of up to \$1200 for stair repairs. Duncan asked where the money will come from. Brian said he thinks from buildings and grounds. **Duncan seconded.**

Mike Dunham said the cost seems excessive for such a small job. Beth said the motion is for up to \$1200. It could be less.

The motion was passed.

8. *Willow Crossing Noise Waiver Request*

The town received a noise ordinance waiver request for a celebration of life for Fern Feather to be held on August 26 and 27 at Willow Crossing Farm. They would like to go to 2:00 a.m. but are willing to end earlier if required.

Mark asked how late music goes at Moog's Joint goes. Beth said they do not request noise ordinance waivers so they are violating our ordinance if they go beyond 10:00.

Mark moved to approve the noise ordinance waiver request for the August 26-27 event at Willow Crossing Farm with an ending time of 2:00 a.m.

Duncan asked if they are having live music. What will the noise be? Sam Barbeau said they plan on having live music but everything will be kept under control. Duncan asked if they have any idea how many people will attend. Sam said they expect roughly 200-300. Duncan asked what they are doing for security. Arantha Farrow said they are having security. They are still figuring out who will provide it.

Eric said he would be more comfortable with an ending time of midnight. There is a farm nearby and he is sure they get up early. There is also a neighbor on top of the hill. Arantha said they will talk to all the neighbors. Her understanding is that the neighbors are relatively aware of the event.

Duncan asked if there will be room on site for parking. Arantha said they are still figuring out how to handle parking. The neighbor next door generally works with Keith Morris on parking. There probably will be some parking at the neighbor's.

Duncan asked what time the event will start. Arantha said it will start on Friday at around 2:00 p.m. The intention is not to have a crazy party. The intention is for there to be amplified music that will be gentle and supportive of healing.

Brian said the noise ordinance limits noise after 10:00 p.m.

Mark's motion died for lack of a second.

Eric moved to approve the noise ordinance waiver request for the August 26-27 event at Willow Crossing Farm with an ending time of 12:00 a.m. He said he would also ask that the event organizers reach out to the sheriff's department and communicate with them.
Duncan seconded.

Eric said the weekend there was the celebration of marijuana legalization at Willow Crossing Farm there was a heat wave and there was a requirement that water be supplied. It could be hot for this event. Sam agreed. He said he will make sure water is provided. Eric said he thinks there was also an ambulance at the marijuana event but that was probably a larger crowd. Duncan said he thinks that crowd was over 500, which triggers some state requirements. Beth told Sam and Arantha that if there is the potential for over 500 attendees there will be additional requirements.

The motion was passed. *(Sam and Arantha left at 7:08.)*

9. *Racial Justice and Social Equity Committee Flag Request*

Brian said the Racial Justice and Social Equity Committee is requesting permission from the selectboard and the village trustees to display the Progress Pride flag for the month of September for Vermont Pride Month on or adjacent to the municipal building. The municipal building is jointly owned property. The flagpoles are on village property.

Jeff Bickford said the request was worded specifically not to invoke the flagpoles because previous requests involving the flagpoles have not been welcomed by the trustees. The request is to display the flag on or adjacent to the building.

Eric said when the request to fly a Black Lives Matter flag came before the selectboard he thought the selectboard was fairly clear. He personally was clear that he would not support any flag on this building or around it. He is a little disappointed to see this request come in. He personally feels that if the board approves this after having denied a request previously

that could open the board up to a lawsuit. He still feels very strongly that it would not be appropriate to display this flag and he would not support it.

Jeff said as far as why the committee is bringing this request forward again, part of democracy is respectful disagreement. The committee feels it is appropriate for town government to show support for communities that have experienced disproportionate harassment and discrimination. The selectboard can vote for against the request. There is no disrespect intended in making the request. The committee feels it is an appropriate request so they are bringing it forward again for consideration.

Eric said there are issues if we allow one flag and not another. We have to be neutral. There was a similar situation in Barre. There was a flagpole where the city was letting everyone fly flags and a religious group wanted to fly a flag and they denied it because of church/state issues. That went to the Vermont Supreme Court and they ruled against the city because they had opened the opportunity to everyone and discriminated against a group with a religious affiliation. That is a concern he has if we start approving flying flags.

Beth said she is disappointed that she feels she has to agree with that stance. Boston also ran into a similar issue with a religious flag and the case went to the US Supreme Court and they ruled that the city must allow any flag to be flown. It personally bothers her. She feels we should be able to fly these flags. But she worries about the potential for a lawsuit because of the history of cases being won. She ran for selectboard because she was sick of the division in our town. She wanted to be impartial and not play sides but do what was right and fair. She very much supports flying pride flags but she is not sure she can support this request for those reasons.

Jeff said it is not a citizen activist group making the request but a town committee. The request is consistent with the statement adopted by the town. (*Dean Locke arrived at 7:15.*)

Mark asked if we have talked to our attorney about this issue. Beth said no. Jeff said he thinks there is probably a difference between a citizen group requesting to fly a flag and a town committee making the request and saying that flying the flag supports the town's statement and position. Brian said he hasn't consulted with our attorney but VLCT has issued a recommendation that if towns are considering flying flags like this they establish a policy and have it reviewed by legal counsel. They do not have a model policy but they think some policies will be defensible. Mark said it seems that other towns are flying flags like this. Schools are doing it. Brian said he thinks the case Beth referenced is new. Beth said the decision is from last month.

Duncan said he doesn't believe that flying flags at the municipal building other than the state and national flags is a function of municipal government. He is opposed to this request. If someone wants to fly this flag on their own property he supports that, but not on public property. That puts everyone in an awkward position. How do we create a policy that is fair to everybody?

Beth asked how other board members feel about creating a flag policy. There was general agreement that it would be a good idea. Beth said we should take that up.

Margo Warden said she thinks it is beyond a shame that feeling safe has become a political issue. Flying a flag such as the Progress Pride flag communicates so much to people who are marginalized and oppressed – who don't feel seen or included or welcome or safe. She hears board members saying that is not the role of town government, but she would hope that the board's work is about building a community where people are welcome, included and safe. A flag can communicate so much. Flags are a visible affirmation of who we are and what we believe. The Progress Pride flag has flown on federal government buildings, at embassies, at NASA and at state capitals in many states. There are governments making the choice to fly these flags. The flagpoles in the center of town have flown the Black Lives Matter and Progress Pride flags. Who owns those flagpoles? Brian said the village. Margo asked if the village has gotten challenged about flying other flags. Brian said he is not aware of any challenges. Margo said she thinks if those challenges were happening we would be aware of it. The Progress Pride flag could perhaps be on a sandwich board outside so people coming in would get the message. Many people have commented positively to members of the Racial Justice and Social Equity Committee when they see the Progress Pride flag.

Mike said it is a slippery slope. If we allow one group to fly a flag we would be hard-pressed to say no to another. He imagines if a Trump 2024 flag were flying, half the town would go berserk. Beth said that would be illegal because it is political. Mike said some believe the Progress Pride flag is political because it has Black Lives Matter incorporated and Black Lives Matter is a political movement. Beth said that is not a correct statement. Margo said the Progress Pride flag is about hope, inclusion and welcome.

Jeff says he doesn't think it would be that hard to draft a policy stating that a request to fly a flag has to come from a town committee and has to be consistent with the statement the town has adopted. He offered to be involved in working on the policy. Beth said she will make sure he is invited to the meeting with the attorney.

Beth said she would like to know the attorney's thoughts first before making a decision on the request. She would specifically be interested in asking about whether there are any considerations related to requests that come from an equity group sponsored by the town.

Mark asked if the college or Laraway flies this flag. Jeff said as of a month ago a flag was flying at NVU at the request of students.

Margot asked for clarification on the resolution of this item. Beth said we will have follow-up on it. Brian will check in with the attorney and we will take this back up at a future meeting. *(Jeff and Margo left at 7:26.)*

10. Holcomb House Discussion

Brian said we had a certain amount of hours budgeted for cleanup at the Holcomb House and that has been completed. The garbage has been removed. There is more cleaning that needs to be done and there are repairs that need to be done.

Beth asked, we approved up to \$600? Brian said the board didn't approve it because it was less than \$1,000. He approved up to \$600. Beth asked, which is why the cleaning stopped? Brian said yes. Eric asked how much more expense there will be for cleaning. Brian said he thinks another couple of days' work will be needed at a cost of \$200-\$300.

Beth asked if we really need to do things like fix drywall, plaster or carpeting. Are we just using this for storage? Brian said we are now at the stage where we should decide. Eric asked if there are holes in the walls. Brian and Mark said yes. Mark said he would suggest turning the plumbing off up there so the pipes do not freeze.

Duncan said the Historical Society is supposed to come back to the selectboard with a proposal for occupying the property. If that involves fixing those holes that could be part of their proposal. Mark said he thinks we should just make it sanitary but hold off on major repairs and maintenance until we hear from the Historical Society what their plan is. Brian said he thinks it is cleaned to the point where the Historical Society can make an assessment. Beth asked, why get it really clean if there are going to be repairs later and dust will get everywhere? Brian said he thinks we are at a good spot to consider what the next couple of steps are.

Duncan said he thinks we should advise the building committee of the Historical Society that the apartment is cleaned. He thinks they have been authorized to go up and do an inspection anyway.

Mark said all the smoke detectors need to be replaced. We should make sure they get put back in. They may just need to have batteries put in and be connected.

Beth said Brian should look for a proposal from the Historical Society building committee and make sure smoke detectors are installed.

The board returned to consideration of the cleaning bill. Duncan asked if Brian is satisfied with what was done. Brian said yes. The cleaner did what was agreed upon. There is more to be done but decisions need to be made first. The cost was a little over the tenants' deposit amount. He informed them that the work was completed and no money is due back to them.

11. Economic Development Job Description

Brian said he made some updates to the economic development coordinator job description based on previous feedback. The board reviewed the latest draft. It was agreed that Lamoille North should be removed from the list of partners and replaced with Laraway, that "core partners" should be changed to "partners" and that another bullet should be added to the list of duties saying something to the effect of "and other requests of the selectboard."

Duncan said we don't specifically say the economic development coordinator will pursue funding for the light industrial / business park and he thinks we should. That could be included in the first bullet as an example. Beth said she thinks we intentionally left it out because we are not at a point where we are working on the industrial park specifically right now. Duncan said if we do not pursue funding options for it, we don't know what we don't know. It was the highest priority in our prioritization list.

Beth suggested changing “support approved projects” to “support prioritized projects of the board.”

Duncan asked where we are with putting out the request for services. Brian said there was a request to discuss the job description further but he was confused about what should be put on hold until after the conversation at this meeting so he has not posted the request for proposals yet. The board agreed that we should advertise the job as soon as possible.

12. Review Fuel Request for Proposals

Brian prepared an RFP for fuel. He included 3-year averages amounts used for different fuels at different locations in the town and village. Mark asked, we don't consolidate all the locations? Are we asking for proposals for each location? Brian said we are requesting one bid to provide fuel to all the locations, including delivery charges. That is why he separated it out by location – so they know they are delivering to more than one location.

Duncan said it is not clear if we are looking for one vendor to provide diesel, propane and oil or if we would accept bids from a vendor for just one of those fuels. Brian said he thinks we should accept partial bids. Duncan said he thinks so too. Mark asked if we own our own propane tanks. Rosemary said she thinks we do at the municipal building. Mark said that makes a difference. Some companies don't want to put propane in other dealers' tanks. Duncan said he doesn't think we own the tank at the Holcomb House but they can pull the tanks. Mark said he finds it amazing that we are not bulk buying with non-profits and other towns. Beth said that is a good point. Beth said she would think we would want to do whatever gives us the best bang for the buck, which means accepting any bids, including those for just one fuel type. There was some discussion about whether it would be a good idea to lock in a price.

Brian said he approached the chair of the village trustees to ask if the village would be interested in at least seeing the request for proposals we came up with. They are. He would like to give it to them for their meeting on Monday after incorporating suggestions from tonight.

13. Discuss Communications from Town's Attorney

Mark moved to find that it would put the board at a substantial disadvantage if the attorney-client communications to be discussed were publicly disclosed, Duncan seconded and the motion was passed.

Mark moved to go into executive session under 1 V.S.A. § 313(a)(1) for attorney client communications, inviting Brian, Rosemary and the attorney, Eric seconded and the motion was passed at 7:59. The board consented out of executive session at 8:25.

Duncan moved to accept the offer as discussed in executive session subject to the Property Valuation and Review hearing officer endorsing the settlement offer, Eric seconded and the motion was passed.

14. Review Fuel Request for Proposals (continued)

Brian said he will clarify in the request for proposals that we will take offers that provide only one type of fuel or less than the whole amount and he will share the RFP with the

village for their August 8 meeting. He doesn't think the fuel amount he listed included the fire department, or the sewer and water plants, but he may have overlooked that. He will check.

15. Update on Grader

Brian said the new grader is still back ordered. Duncan said if we wait until we get notification that it is coming, it could be December and that is not a good time to get bids on the old grader. We could put out a request for bids stating that the high bidder will not get it until we get our new grader. If we put out a request for bids in November or December we won't get good responses and our hope was to maximize the amount of money we could get. It is not unusual to put out a request for bids with a caveat that the high bidder will not take delivery until the seller takes delivery of the new one. Beth asked, if we don't put out the request for bids until next spring will that hurt us in terms of what we sell the grader for? Duncan said he thinks the issue is uncertainty over the budget. Beth asked, so Duncan's logic is that we will have a better idea what to account for in the budget if we know how much we got for the grader? Duncan said he thinks it is reasonable to ask for bids now if we think we will get the new one by December. Eric said as far as the budget, it is money in and money out. It will be paid for from the reserve fund. Beth said it will impact the low point in the reserve fund in a few years. Beth suggested having an update on the grader status at a future meeting, maybe the second one in September. If there is an update the board can discuss this further then.

Mark asked, if another town is looking to buy a grader and build it into their budget, when is the best time for them to know about ours? Eric said it probably depends on whether they are on a fiscal or calendar year. Duncan said most smaller towns are probably still on a calendar year. Beth said everyone has town meeting at the same time and she would think everyone would be thinking about equipment purchases in the fall. Duncan said everyone will be thinking about purchases by December or January at the latest. Eric said they probably won't make a purchase until after town meeting. If we don't sell the grader in late fall, probably early spring is the best time. Beth asked, can we just agree that we will have a request for bids ready to put out immediately after town meeting day? That seems like the best time. Brian said he thinks pretty much any time we put out the request for bids might be the right time for someone.

16. Appoint Voting Delegate for Town Fair

Brian said we need a voting delegate for the annual meeting of VLCT, which happens during Town Fair. Some board members indicated they might be able to go but need to check their schedules.

17. Topics and Date for Joint Meeting

Brian said some topics for a joint meeting with the trustees have been discussed over the last couple of months. Do we want to try to schedule one? We will need one near the end of the year to discuss insurance and compensation for our remaining joint employee, Rosemary. He thinks it would be good to have a meeting before then. Beth said she has a list with about six topics for a joint meeting. She thinks we should have a joint meeting soon, separate from the one to discuss insurance and compensation. Brian said the agenda can be discussed over email. He would like to provide suggested dates to the trustees. It was agreed to suggest August 30, August 31 and September 7 as possible dates. Beth said suggested topics for a joint meeting should be sent to her. Mark asked how merger discussions are going. Beth said

that has not been discussed in a while. That is one of the bullets on her list. (*Dean Locke left at 8:53.*)

18. Other Business

Brian said there is a community leadership conference being put on by the Vermont Council on Rural Development. Kyle Nuse is interested in attending an all-day workshop and she is wondering if the town would be willing to sponsor her \$50 ticket. Eric said he would not want to sponsor anyone who is not affiliated with the town but she is chair of the Beautification Committee. **Mark moved to pay \$50 for Kyle Nuse's attendance at the Vermont Community Leadership Summit, Eric seconded and the motion was passed.**

19. Executive Session – Legal Matter

Duncan moved to find that executive session is necessary to discuss an item the premature disclosure of which might put the town at a substantial disadvantage, Eric seconded and the motion was passed.

Duncan moved to enter executive session to discuss a legal matter pursuant to 1 V.S.A. § 313(a)(1), Mark seconded and the motion was passed at 8:59. The board consented out of executive session at 9:25.

20. Discuss Employee Review

Mark moved that the board go into executive session for an employee evaluation per 1 V.S.A. § 313(a)(3), Eric seconded, the motion was passed and the board went into executive session at 9:28. The board came out of executive session at 9:47.

Eric motioned to recess the meeting until 8:00 p.m. Thursday, August 4 at the Johnson Municipal Building, Duncan seconded, the motion was passed and the meeting was recessed at 9:48.

The board reconvened on August 4, 2022 and the meeting was called to order at 8:00 p.m.

Eben moved to enter executive session for employee evaluation as allowed by 1 V.S.A. § 313(a)(3), Duncan seconded, the motion was passed and the board entered executive session at 8:01. The board consented out of executive session at 9:58 with no action taken.

21. Adjourn

The meeting was adjourned at 9:58 p.m. on August 4, 2022.

Minutes submitted by Donna Griffiths