

JOHNSON SELECTBOARD MEETING MINUTES
THE ELLSWORTH ROOM, WILLEY LIBRARY
VERMONT STATE UNIVERSITY – JOHNSON,
MONDAY, AUGUST 14, 2023

Present: Selectboard members: Beth Foy, Duncan Hastings, Eben Patch, Shayne Spence, Mark Woodward

Others: Carl Rogers, Paul Warden, Scott Meyer (remote)

Note: All votes taken are unanimous unless otherwise noted.

1. Call to Order

Beth called the meeting to order at 6:32.

2. Additions or Adjustments to the Agenda

It was agreed to add an update on debris removal, a potential offer of employment, and an item for general flood-related discussion.

3. Update on Library Recovery

Carl said the Masonic Temple is not looking to be named an additional insured for VLCT PACIF and PACIF reports that the town's liability coverage for the library moves with the library operation. We had previously reported to PACIF that the contents of the library had been relocated to the Masonic Temple. So there is no additional cost for insurance related to the library temporarily moving its operations to the Masonic Temple. *(Mark arrived at 6:38.)*

Carl said he and Krystal Woodward met and scoped out the work that needs to be done at the library. The furnace and heating system need to be checked out. Painting is needed upstairs. It was decided that it is probably best to have a heating repair service come in and check the ductwork. If water got in and there is flood silt inside it needs to be cleaned out. A plumber needs to check things like the sump pump and the hot water heater, as well as the plumbing in general. An electrician needs to come in and finish restoring electrical service. A general contractor can do everything else.

Beth asked if a general contractor could organize all the other work. Carl said since we have relationships with some of the other tradesmen we might be able to just call them ourselves and not get the markup a general contractor would add to the price.

Eben asked if we have to competitively bid each step. Carl said Ron Rodjenski feels if we have a documented relationship with a company, for instance the company that put in the heating system and has serviced it, that would be sufficient. He is not sure if we have a standing relationship with an electrician or plumber. But an RFP for an electrician could be simple, with just a few bullet points.

Eben said he would rather see the electrical panel installed upstairs than in the basement. Carl said that has been mentioned. The library board has to decide if there is room for it.

Shayne asked, we still have insurance on the library building, correct? Carl said yes.

Carl said he and Krystal will work together to draft RFPs. It was mentioned that Jasmine Yuris's husband might be interested in bidding, so Carl suggested that Jasmine not be involved to maintain no appearance of conflict of interest. Carl advised the library trustees that any RFP would need selectboard approval.

Beth said she thinks our FEMA case number should be on all RFPs. Carl said it will be on invoices. The instructions to the bidder will start with a background paragraph explaining that the work to be done is in response to the flooding. We will be able to show FEMA our bid specs, the advertising we do to get bids, a report on the bids opened and minutes showing the selectboard awarded the contract to a specific contractor. Beth said she wants to make sure everyone who will handle the paperwork understands all this. Duncan said it wouldn't hurt to reference the FEMA case number. Beth said the important thing is to make sure everyone in the office knows the filing system for this. Carl said he can ask Ron if he thinks it would make his job easier if the number was put on every supporting document.

Carl said the library plans to open its doors at the temporary location fairly soon.

4. *Update on Insurance Adjustor's Visits to Municipal Building and Skatepark*

Carl said we still have not received a response about when the insurance adjustor is coming, but that doesn't hold us up. We can still get prices and proceed with work that needs to be done. They don't expect us to wait for them to proceed. We just need to document everything.

Eben asked if Carl has talked to Jason about having the insurance adjustor check the salt storage. Duncan said he didn't make a claim on the salt shed. We might want to. Carl asked if there is damage or potential damage to the storage shed or just the salt. Duncan and Eben said just the salt. Beth said we probably should make a claim on the material.

5. *Discuss Municipal Building Repairs*

Beth said Erik Bailey asked for language for motions around the shared buildings. She sent the motion language that had been suggested for the lower storage building. She thinks it is on their agenda for tonight to give us authority to move forward with handling repairs to the municipal building.

Duncan said he thinks we need a short term plan and a long term plan. The short term plan would be geared toward getting the office back in a usable format and the long term plan could include flood prevention measures we should implement, which could include moving the offices to the second floor or looking for another location for the building. He is not advocating moving to another location but we probably shouldn't take anything off the table. Mark agreed that we shouldn't take it off the table.

Beth said we told Rosemary she should feel free to spend money on organization of the temporary office space on the second floor. Carl said on Thursday 5 sets of shelves are going to be moved from the library basement – 2 to the temporary library location and 3 to the municipal building to get things off tables. We may look at opening the front door and letting people start coming up the main stores. Currently people come up the back steps and the first person they see is Rosemary so she has to deal with them. Eben said we could lock the back door. Duncan said he thinks we have to state that the office is closed because without access to the elevator it is not handicapped accessible. Beth said it is closed. She suggested discussing office access at the next meeting, when Rosemary is here. The town office is not open and people should not be

going in. She thinks there can be special accommodations for people who need to do title searches, as during COVID.

6. Consider Obtaining Evaluation of Railroad Street Bridge

Carl said Ron is asking if the board wants to have an inspection of the Railroad Street bridge done. The VTrans bridge inspectors completed their work and it is recommended that we have an engineer do a more detailed bridge substructure inspection. Does the board want to bring in a private engineering firm?

Eben said the town lodged a ticket through the State Emergency Operations Center to get that bridge and a bridge on River Road East inspected. He never heard back about that ticket. Beth said she thinks the state should help us with the inspection. Duncan said there is a whole team of state bridge inspectors. They inspect 50% of bridges on an annual basis. Paul Warden said the Railroad Street bridge was last inspected in September 2021, so it is due for inspection anyway. Beth said the SEOC said they were caught up on responding to all tickets. If we haven't gotten a response we should give them a call.

Carl said he wonders if the inspection that was done was the response to the SEOC ticket. They found that the sidewalk railing was bent and they didn't identify anything else. Beth said she thinks we should follow up and say we were asking for a structural integrity inspection. Carl said he doesn't know that the VTrans bridge and structures crew did the inspection that was done. The report came from Steve Stanley of District 8. It was only 3 sentences long.

Duncan said unless someone feels there is imminent danger he would suggest waiting to have the bridge division do their annual report, especially if it is due this year anyway. Do we have safety concerns about the River Road East bridge? Eben said there was such a washout there that Jason felt it would be good to get it inspected. The company that was working on the Railroad Street sewage pipe said the rack supporting the sewage pipe was very sturdy and if that was ripped apart maybe we should get the bridge looked at. Shayne said based on the noises he heard from things banging off that bridge in the flood, we should get it inspected but if the state is going to do it soon anyway we should wait for that. He is supportive of the state paying for it. Beth said we should follow up on the SEOC ticket and if there is not a good response we should issue a ticket for each bridge and request that state engineers do an inspection.

Duncan asked if it would be worth having Carl or Ron check with an engineering firm about capacity and cost. Beth said she would rather not. Duncan said if there is reason to believe there is a danger to the traveling public then we should spend the money. Beth said if there is thought to be a danger that should be a reason for the state to step in. The board agreed not to reach out to an engineer at this point.

7. Update on FEMA Public Assistance Process

Carl said Ron reached out to Casella to get information to help with documentation on the dumpsters. They were able to help with some locations for items on invoices. They did not have photos.

Ron talked to Rosemary more about the coding of invoices. She decided it was not necessary to get a stamp with the case number. She might do labels. An email was sent to anyone who might have invoices asking them to use that code on invoices. Rosemary and Ron refined the system to

keep track of flood expenses in NEMRC. Rosemary is setting up a new fund in the accounting system.

Ron is working on debris management documentation. He talked to Duncan and Jason. He is trying to get records of what happened in the first few days. Lydia is helping collect information about what volunteer time there was and for what purpose. Beth suggested that Lydia should reach out to her for more information. Eben said Nat Kinney would be a good person to talk to about debris removal.

Duncan said he gave Ron a spreadsheet of his volunteer hours. Beth asked if people on the emergency management team should be keeping track of hours. Carl said doesn't know if hours from town officials are included. He can ask Ron. Beth asked him to have Ron reach out to her and Eben.

Carl said Ron is also trying to document debris removal with photos people in the community might have. Duncan said he thinks it is worth a Front Porch Forum post asking for pictures. Beth said she is thinking about a method to get photos from people without filling up Ron's inbox. Eben suggested a hashtag people can use. Shayne she he thinks that is a good idea. Duncan asked how it would be used. Shayne explained that on social media sites we can get a feed of all pictures that use a particular hashtag. Beth said she thinks that is a wonderful idea. There was discussion about other ways to get pictures. Beth said she doesn't think we have any liability when people us a hashtag, but we need to be careful about any images that get sent to us. Maybe we should talk to our tech team about what technical restrictions we should have to reduce liability. She asked if Shayne could take that as an action item and he agreed.

Carl said last Tuesday Ron went with Jason to areas with road damage to get GPS coordinates of the damaged areas.

Beth said she is going to go through the history of website updates to find time stamps for postings about road closures and openings.

Carl said Hyde Park was told today who their FEMA manager is and Johnson should be getting notified very soon.

8. *Report on August 9 Substantial Damage Determination Meeting*

Beth said she thought the meeting went well. Mark said he can't imagine there will be many properties in town that will be determined to have substantial damage. Duncan said it will probably be hard for an average house to reach that threshold. Beth said if there is damage that doesn't reach the threshold of 50% of assessed value the property owner still has to get permit for doing repair work but they don't have to meet some of the floodplain regulation requirements like elevating the building, filling the basement or allowing water to flow through. One person at the meeting questioned why people would want to meet the substantial damage threshold if it means the government will tell them what to do, but some may want to because it opens the door to more help, such as a FEMA buyout or help paying for mitigation efforts.

Mark said his sense was that a FEMA buyout would take a couple of years. Duncan said if the owner is not intending to go back into the house anyway waiting that long might not be so bad.

Beth said people are allowed to do modifications so the house is livable while they are waiting for a buyout. Carl said if they do that they can still get the full assessed value of the property.

Mark asking if people are using SBA. Beth said if you don't qualify for a bank loan you get a lower interest rate from SBA. If you do qualify for a bank loan you get a higher interest rate which sounds comparable with bank rates, but you don't have interest for the first 12 months. Shayne said he can think of a few businesses that might be able to use SBA loans but he is not sure many individuals would want them.

Beth said whatever road people take, it will take a long time. That much was clear. Duncan said all we can do as a town is follow our floodplain zoning regulations. Beth said she thinks one thing we need to do is continue to support forums where people can get information. United Way is hosting one Wednesday at the elementary school. She thinks we are expected to be the distributor of information and she thinks we can and should facilitate information dissemination. The assistance programs are not ours, but we can get the word out about them.

Mark asked what is likely to happen to the lower mobile home park. Are the homes there all condemned? Duncan said no. It is under the purview of our flood zoning regulations whether the homes have to be elevated and how much if the park is rebuilt.

Beth asked if we know if this is considered a 100 year flood. Duncan said he thinks it is closer to a 500 year flood. Eben asked, aren't floodplain regulations concerned with 100 year floods? Duncan said design considerations in the regulations are based on the 100 year flood level. Carl said the regulations are based on FEMA floodplain maps. It doesn't matter if this water was higher than what those maps show. What we have to go through now is based on those maps.

Mark asked when the maps are due to be updated. Duncan said they have been due to be updated for the last 15 years. Shayne said people are not eligible for a buyout if they are not in FEMA's flood zone, which is unfair. Eben said whether someone is eligible for the national flood insurance program depends on whether they are in the FEMA mapped flood zone. Mark said if someone is mandated to have flood insurance the value of their property drops dramatically because the insurance costs tens of thousands of dollars a year. Duncan said no one is mandated to get it. Beth and Mark said those with mortgages are required to. Duncan said Ron told him there were roughly 200 homes within the flood area and 18 have national flood insurance. They can't all not have mortgages. Beth said we heard FEMA is doing the remapping this year. A UVM drone flyover is happening Wednesday. Her understanding is that if it is done in time it will be part of the consideration for the remapping.

9. *Discuss Appointing a Floodplain Ordinance Administrative Officer*

Duncan said he talked to Scott Meyer, who said he would consider being appointed as the floodplain ordinance administrative office if no one else is eager to do it. Ron Rodjenski also said he could conceivably do it, but he thinks it would be better to find someone local. Ron would be willing to work with and train that person. According to state statute, the planning commission is supposed to recommend an administrative officer.

Mark asked if this is a paid position. Do we have money set aside for it? Beth said we don't have money set aside. Duncan said his understanding is that the work to be done now is potentially reimbursable under FEMA. Carl said there is a 2018 law that says we can pay

someone for this. It will be a lot of work. Duncan said he thinks we should establish a rate of compensation for periods when the administrator has work to do.

Scott said he could be interested in the position. He would need to talk about it with Howard Romero and Rebecca Pfeiffer. His only concern is that he would be working with the FEMA flood maps, which are not very accurate. Carl said the floodplain maps are based on elevation. Rebecca Pfeiffer has used topo maps and elevations to refine the floodplain maps through Johnson and create an overlay on air photos so it can be seen if a structure is in the floodplain. Scott said if there is someone who is eager to be the administrator they should get the position, but if the board is not finding anyone else he would be happy to do it. Beth suggested that Scott first contact Rebecca Pfeiffer and also use Ron for support.

Scott asked if we have an idea how many houses will fall under the scrutiny of the floodplain regulations. He had heard that historical buildings might not have to go through the process. Carl said if a building is in a historic district and is contributing to that district or if it is listed by itself on the state register of historic places it is exempt. Rebecca estimates that Johnson might have 15 or 20 structures that have to go through a substantial damage determination. He thinks that includes mobile homes.

Scott asked how close the town's regulations are to FEMA's requirements for a rebuild. Carl said he believes the requirements are different.

Beth asked Carl to post the notice for the available floodplain ordinance administrative officer position. Duncan said he thinks the deadline to express interest should be no later than next Monday and an appointment should be an action item on next Monday's agenda. According to state statute, the appointment should be the recommendation of the planning commission. Carl said the planning commission could have an emergency meeting to authorize the selectboard to make an appointment.

There was discussion about where to post the notice about the open position, leading to discussion about where agendas and other official notices are currently being posted. They are supposed to be posted in 2 physical locations other than the municipal building. Board members suggested some possible locations.

10. Discuss Establishing a Board of Adjustment for Floodplain Ordinance Permits and Appeals

Beth said Duncan found a statute stating that the board of adjustment for floodplain appeals is overtaken by the development review board if one exists. Duncan said he thinks it would be worth getting an opinion on this from VLCT but to him the statute is pretty clear. He read the applicable language, which says the board of adjustment terminates if there is a DRB.

Duncan said he researched the town's adoption of floodplain regulations and he thinks what was done is okay. He found minutes where it was stated that the planning commission had their required public hearings. The town voted on adopting the regulations in 1998. The selectboard was supposed to have a public hearing and he did not find any minutes stating that they had such a meeting. He doesn't want to have the DRB or zoning administrator make a determination and have someone appeal it on the basis that our ordinance is invalid. We should find out if there are any issues and, if there are, if there is something we should be doing to fix the situation.

Shayne said he thinks we need to advertise that we have open spots on the DRB. Beth said there are 2 vacancies.

Mark asked, if the selectboard didn't have a public hearing, could the town vote be invalid? Duncan said he thinks it could be challenged.

Duncan asked if we should contact the DRB and advise them that they might need to serve as the board of adjustment for the floodplain regulations. Beth said yes.

Duncan said he would encourage some sort of training for the DRB that the town would pay for. We want to make sure we do the conditional use review right. It has to be uniform in its application and done according to statute.

11. Update on Sterling Market Contacts

Duncan said he contacted Ernie Pomerleau, who was very interested in continuing a dialog with the town. Pomerleau Real Estate and Associated Grocers of New England are each separately conducting their own evaluations of what to do regarding rebuilding the grocery store and where and how to do it. Ernie made it clear that Associated Grocers is not willing to move back into the current facility without some significant flood mitigation measures. Ernie is looking at what could be done to floodproof the current building. He would be happy to have continuing discussions with the town.

Duncan also spoke to Jon Gregg, who has been talking to Ernie. According to Jon Gregg, the per square foot rental rate Ernie has been charging is well below the market price. Building a new structure either at a different location or next to the sidewalk becomes more problematic in terms of finding a tenant that can pay that rent. After the 2011 flooding, Pomerleau kept that building vacant for 2 years to allow the town to try to find a tenant and secure funding. Duncan thinks the Pomerleau family is committed to doing something that is good for the community in terms of keeping a market in the village.

Mark said an advantage of continuing to use the existing building is that he assumes it doesn't have to go through Act 250, but if the location changes he assumes Act 250 kicks in. Duncan agreed.

Mark and Duncan both agreed that the decision is probably most dependent on what Associated Grocers wants.

Mark asked if we should do anything as a selectboard to encourage Associated Grocers. Duncan said he wouldn't want to do anything to the detriment of our good professional relationship with Ernie Pomerleau.

Shayne said he is worried about being tied to the current location, which has been flooded over and over again. Given that doing mitigation work would increase what Pomerleau needs to charge for rent, he questions whether having a market in the village is feasible without leaving the building as it is.

Paul said he thinks it makes sense to talk to Associated Grocers.

Shayne said we have a lot of developable land we are making strides toward developing. We might need to start getting creative with how things look in the future.

Duncan said he doesn't have an issue with reaching out to Associated Grocers but he thinks it would be a courtesy to let Ernie know we are doing that. Beth asked if he has the same concern about her reaching out to the Preservation Trust. Duncan said he doesn't think so. They were heavily involved last time.

Duncan agreed to let Ernie Pomerleau know we want to make our desire for a grocery store in town known to Associated Grocers. He can ask Ernie for a contact.

Paul asked about the selectboard's position. Beth said we haven't discussed the location specifically but selectboard members all agree it is important to the community to have a market here. Paul asked if the board has a preference for the same location or a different location. Beth said the board has not come to consensus. It feels like it is not in our control. The industrial park location is often thrown out in conversation but her reaction is that we don't have funding to build infrastructure for an industrial park at this point. Unless we are going to substantially increase our tax rate for that purpose we need to be well positioned to get significant grant money. We just aren't there yet.

Shayne said he thinks this situation probably increases the different funding streams we can access.

Duncan said he is not willing to close the door to any possible alternatives. He would be in favor of moving the building next to the sidewalk, elevating it and having residential space on the second floor. He thinks having a core anchor business in the village will help us foster long term development of the village and if we take it out of the center of village in his opinion the rest of the village will die.

12. Planning Commission Involvement

Beth said she and Paul agreed there should be discussion with the selectboard about what the planning commission's role should be. Paul said the planning commission discussed what they should focus on. There was not consensus but flood resiliency was high on the list.

Duncan said one thing to consider is whether at some point there should be regional conversations about coordinated efforts throughout the watershed to reduce the impact of flooding. Maybe the regional planning commission is a better group to address that.

Beth said she would like to hear suggestions of places other than Holmes Meadow where we could lower the floodplain. Eben and Shayne said LCPC has identified some other locations. Eben said they are privately owned.

Shayne said Seth Jensen would say that this flood was less damaging to Jeffersonville because of work they have done in the past.

Beth said she agrees that LCPC is the right place to discuss region-wide efforts. Is it beneficial to have the Johnson planning commission discuss floodplain mitigation with a Johnson focus, or are there other aspects of flood resiliency they should focus on?

Shayne suggested the planning commission could work to identify locations where housing could be built out of the floodplain and partner with Lamoille Housing Partnership to find buildings and funding. Regarding floodplain mitigation, LCPC has identified potential project locations. Maybe the next step is for the planning commission to identify the best spot and what we want to do. Duncan said if we identify potential project areas in Johnson we might be in line for mitigation funding when it becomes available.

Duncan said the planning commission is going to be going through the municipal planning process and that is a good time to build flood resilience into our planning.

Duncan said he would be interested in hearing any ideas the planning commission has for what they would like to be involved in. Beth said she would too. She thinks we should be taking some planning steps now, even while we are still in the recovery phase. If the planning commission could be two steps ahead with regard to flood planning, that would put her at ease. Any planning commission members are encouraged to attend the selectboard's flood-focused meetings.

Eben questioned whether a member of the planning commission can serve on the DRB. Duncan found state statute that says a DRB can include one or more members of the planning commission.

There was discussion about some type of report or meeting on flooding response so far or meeting on flood planning. Beth said she likes both ideas but thinks it is too early for either. She is working on writing up the events of the flood.

13. Discuss Agenda Items for a Joint Town/Village Meeting

Beth said she will talk to Ken about this soon. Duncan said he has an idea he will share with her later.

14. SEOC Debris Removal Guidance

Eben said he got a call today from our regional SEOC contact who said state contracted debris hauling or state dump trucks could be available to assist with debris removal. Beth asked if it would be a one-time thing or more. Eben said he thinks it depends on what the town wants.

Beth said she sees that people are still removing debris in affected neighborhoods. There are big piles in the Highland Drive area. She assumes the debris would need to be in the town right of way. Eben agreed that it would.

Beth said if the state could send a truck weekly until there is nothing left to pick up, that would be helpful. Eben asked if she wants him to get more information on what the state can do. She said yes. Mark suggested finding out if we would need to provide a bucket loader.

Carl asked if the selectboard approves of Jason going onto two private roads – East and West Highland – to pick up debris. We are not able to get reimbursement for pickup outside the town right of way. Eben suggested that debris could be transported to the town right of way with a bucket loader. We could not be reimbursed for the time spent using the bucket loader, but he

feels we could then be reimbursed for hauling and disposing of the material. Duncan agreed. He said if we are not able to get reimbursement we can use the Vermont Community Foundation money. There is the question of how much the park owner is responsible for. Eben said that is a good point. Maybe the park owner can provide the bucket loader labor. The board agreed that Jason can pick up the debris from the private roads.

15. Executive Session to Discuss Personnel

Eben moved to go into executive session to discuss personnel as allowed by 1 V.S.A. § 313(a)(3), inviting Carl to remain, Duncan seconded and the motion was passed at 9:24.

The board consented out of executive session at 9:43.

Mark moved for Duncan to offer an applicant up to \$37.50 per hour, with a potential increase to \$40 per hour upon a positive 6-month review and the offer of employment contingent on a successful background and reference check, Shayne seconded and the motion was passed.

16. Adjourn

The meeting was adjourned at 9:44.

Minutes submitted by Donna Griffiths

