

JOHNSON SELECTBOARD MEETING MINUTES  
VERMONT STATE UNIVERSITY – JOHNSON  
THE ELLSWORTH ROOM, WILLEY LIBRARY  
MONDAY, AUGUST 21, 2023

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

Others: Carl Rogers, Jason Whitehill, Tami Sykes, Cheyenne Hatin, Mike Hatin

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

**1. Call to Order**

Beth called the meeting to order at 6:30.

**2. Additions or Adjustments to the Agenda**

It was agreed to add potential acceptance of an offer of employment, a potential offer of employment, floodplain zoning administrative officer appointment, potential approval of an expense for mold remediation on a land records book, and a possible decision on removing one of the public portalets.

**3. Review and Approve Minutes**

**Shayne moved to approve the minutes of August 7, 2023, Duncan seconded and the motion was passed.** It was agreed to postpone approval of the August 14 minutes as not everyone had had time to read them.

**4. Selectboard Issues/Concerns**

Beth said we should encourage attendance at the FEMA town hall Wednesday at the elementary school from 5:30 to 7:00. FEMA is available at McClelland Hall Monday through Saturday from 8:00 a.m. to 6:00 p.m. (*Eben arrived at 6:38.*)

**5. Public Works Supervisor/Highway Foreman Report**

Jason said a resident on Patch Road wants the intersection changed from a Y intersection to a T intersection. Jason has told him that it is on the public works project list but it is a lower priority item that will be done when there is no higher priority work to be done. The resident wants the change made because people turn around there at all hours of the night and poach deer. Jason had previously told him he would try to squeeze it in in August but the crew is still catching up due to the flood. He told the resident he might still get the work done but it is still lower priority. The resident said if it is not done soon he will do it himself.

Beth said he does not have authority to do work in the town right of way without a permit.

Jason said he claims the town adopted a policy to turn all Y intersections into T intersections. Jason has never heard of that. Beth said she hasn't either. Duncan said there is a VTrans standard that states that a T intersection is preferable over a Y or horseshoe. Jason said the resident said this was something the town adopted about 6 years ago. Beth said she feels there should be follow-up to check whether there is such a town policy but if there is it would not necessarily mean that we would change our work plans.

Duncan said this person approached him when he was still working for the town and asked for the change to be done and he was told by the road foreman at the time that it would be done. He

thinks the resident has a legitimate concern with the work not being done yet, but he understands Jason's position as well.

Beth said a complaint can't trump the other work the crew has planned, especially if there is not an urgent need. The board supports Jason's prioritization.

Shayne asked if it is possible for Jason to give the resident a rough time frame for when the work will be done. It is fair for him to be concerned. Jason said he told him that he would try to squeeze it in after grant work that is a priority because it has to be done by the end of September. But he can't promise that he will be able to do it then. Another emergency situation could arise.

Beth said she does not see any policy like that on our website but the list on the website may not be complete.

Jason said the work on Plot Road is almost finished. He is hoping to have it completed by Friday. He is hoping to start the grant project next Monday or soon after. The crew is still doing trash removal on Lower Main Street.

Jason said he met with the MSHA inspector, who verified that all the signage is okay. He wants handrails and chains in addition to what the previous inspector asked for. Jason learned that if we were to have an outside vendor process stone that would relieve of us of MSHA liability. When MSHA does the inspection they can inspect the place where the loader is kept. We have the spot for the loader marked out with paint and that is all they can inspect in the garage. The inspector said everything about that spot is in compliance.

Jason said he would like to look into getting quotes from outside vendors for processing stone. There is not a lot left. If we had it done that way we could get it over with and then we could stockpile it. He would also like to find out if we can have a crusher. Duncan said it is in the deed that it is not allowed. Jason said Bert Nadeau told him he didn't care if we had one. Duncan suggested we could get a signed statement from Bert that he agrees this codicil in the deed is no longer in effect. Beth suggested that we write one up and see if he will sign it. Jason said it would be beneficial to have stone crushed. He has talked to one vendor previously about it and he will reach out to another couple of vendors that do it. Beth agreed we should get quotes.

#### **6. Review Planned Purchases**

Carl said the copier/printer/scanner that was in the office was flooded. The vendor checked it out and said it is not worth trying to repair or replace it and we should get a new one. Rosemary got a quote and asked if Carl could bring it to the board. The machine is the same as the one we have now except it is a newer model. This is the only quote Rosemary got.

Duncan asked if this is a reimbursable expense. Beth said if it is we need multiple quotes. Eben said a lot of FEMA regulations reference the town procurement policy, which calls for two quotes for something in this price range. Duncan said we should check with Ron to be sure whether not having multiple quotes will jeopardize FEMA or insurance reimbursement. Eben said he thinks we should return to this at the next meeting.

Carl said one land records book with deeds from the late 1800s was missed when the other land records were taken out of the vault just before the water came in. It already had mold on the outside when it was found and the pages were wet. Kofile directed Susan to put it in a plastic bag in the freezer for several weeks. We got a quote from Kofile of \$1,351.50 to restore it. Today staff had the initial meeting with the FEMA program delivery manager. Ron asked about this expense. The program delivery manager was not sure if it was reimbursable.

Beth said she wonders if we could get imaging of the pages. Carl said generally old records like this are saved even if they are digitized. Shayne said he wonders if we could get another quote that includes digitization. Mark asked, we are saying we will spend the money to restore this book because it is old, but if it were from 1990 we would photocopy it? Shayne said he thinks even if it were from 1990 we would save it. Carl said if it were from 1990 we might be able to take the pages out and run them through the copier but because this book is bound we don't have that option.

Eben suggested getting two more quotes if there will be no damage to the book from staying in the freezer a little longer. Carl said he did not hear that there would be any harm in keeping it in the freezer. Maybe Susan can try to find other companies that do this work. He thinks we might get an answer about whether this is reimbursable from FEMA when we have our site visit next week. Duncan said if it is not, it seems like it should be covered by insurance.

**7. *Appointment of Floodplain Zoning Administrative Officer***

Beth said Carl told her there have been no other interested parties besides Scott Meyer. Paul Warden told her that the planning commission met and also had not heard of other interested applicants. They are in support of Scott Meyer being appointed. **Duncan moved and Eben seconded to appoint Scott Meyer as floodplain zoning administrative officer.** Mark asked what the pay is. Beth said that has not been determined yet. Mark said we probably should know what we are paying him. **The motion was passed.**

Duncan said he thinks this should be a paid position. He thinks we should have Ron Rodjenski available for a consultation with Scott. The board agreed it would be good to get more information on what other towns pay for this position and that when the pay is decided on it can be retroactive to the time when Scott begins work. Duncan said it would be helpful if we could find out from Ron if there is any information on a reasonable hourly rate for FEMA reimbursement. Board members agreed they are comfortable with Ron working with Scott.

**8. *Presentation by Proposed Business THC Sisters***

Tami Sykes and Cheyenne Hatin said they are hoping to open a cannabis retail store on Lower Main Street. They have submitted all the required paperwork to the state cannabis control board for a license and are just waiting for an inspection. The state has not let them know when the inspection will be. Cheyenne said it probably would have been done by now but the store was flooded.

Shayne asked if they were able to take advantage of Small Business Administration loans. They said the property is leased so the building is not their concern. Only a few things were damaged that belong to them. They didn't feel they needed a loan. They donated toward restoration of the building and would be happy to donate \$10,000 to the town to cover things FEMA won't cover.

Duncan said there is not much of a role for this board in approving cannabis licenses. Beth said after a license is approved by the state it comes to the town for approval but without zoning or other regulations we don't have any ability or authority to deny the license or even ask for any conditions.

Mike Hatin said to get to this point they needed a letter from the town administrator stating that the town had approved cannabis retail and was aware of their intentions. Now they just need the town's blessing at the end of the process. Beth said we have been told that if we don't have zoning we have no authority to deny a permit or put conditions on it.

Cheyenne said they will be very discreet. Their sign does not have any pot leaves on it. There is nothing kids will be able to look in and see. They have spoken to people at the coffee shop. If the coffee shop really did not want them there they would not have opened at that location.

Mark asked if they acquire locally grown products. Cheyenne said yes, they can only purchase cannabis from Vermont. They have hired four people to work at the store. Two are from Johnson and two are relocating to Johnson and will be renting apartments in the building where the store is located.

Mike Hatin said this is just a business. He and his wife don't even use cannabis but they see benefits in it for people. It is safe because the products are tested and registered with the state. In Derby the overdose percentage is way down and crime is down a little as well and they say it is due to retail cannabis. It is a good thing for the community. Tami said she is open to buying from local growers. She has talked with a few people who will come to see her after the store opens. That would help the town as well.

Shayne asked if they have put any thought into parking. It is a busy area with a shortage of parking. Tami said there is parking in the back of the building and across the street. They only have one handicapped parking space in front of the store but people could pull up in front of the store without being on the sidewalk. Cheyenne said people usually don't take long inside the store. They usually know what they want. Shayne asked if there is any restriction on the number of people in the store. Cheyenne said they will only allow so many people at a time. They have not heard of restrictions from the state other than the fire marshal's occupancy restrictions. The process to determine who can get in is thorough and it will not be possible for underage kids to get in. Shayne said he is a little worried about parking and traffic. He suggested talking to nearby property owners to see if people might be able to park on their property. Tami said there is parking in the rear and they can let repeat customers know about that. Mike said he is friendly with the landlord who just purchased the buildings across the street. He is sure he would not have a problem with people parking there. Tami and Cheyenne said they want to have online ordering, which will allow people to come and pick up their products quickly.

Beth said when the permit comes to the selectboard for approval it is up to Tami and Cheyenne whether they want to come to the meeting. *(Tami, Cheyenne and Mike left at 7:31.)*

9. ***Consider Approving Tractor Parade***

**Eben moved to approve the tractor parade on September 16 starting at 10:00 a.m. with a route starting at the Manchester property on River Road East and proceeding down Railroad Street, Lower Main West and Pearl Street to Legion Field and the motion was**

**seconded.** Duncan said we don't have jurisdiction over Route 15. Technically they are supposed to get a parade permit from VTrans to use Route 15. There should be some sort of traffic control. Carl said the organizer said there will be three LCSD deputies there. **The motion was passed.**

***10. Consider Accepting Oven Committee Resignation***

**Eben moved to accept Jen Burton's resignation from the oven committee and to send her a thank you card and the motion was seconded and passed.** It was agreed to ask the oven committee if they want to advertise for additional members.

***11. Consider Johnson Elementary School Cooler in Road Right of Way***

Beth said she thinks we should get something in writing from the school saying they remove the town from responsibility if the cooler sustains any damage due to snow removal, salt etc. The other board members agreed. Duncan said he is unclear how much it will protrude into the right of way. Jason said about a foot and a half. He said JES applied for a work in the right of way permit.

**Eben moved to authorize a road right of way access permit for the Lamoille North Modified Unified Union School District to construct a cooler partially occupying the town road right of way with a stated condition that the town will not be responsible for damage to or corrosion of the cooler, Shayne seconded and the motion was passed.**

***12. Consider Approving Name for New Private Road***

Harvey's plans to put in a new private road and they would like to name it North Highland Drive. Eben said this is not a town highway right of way, so does the Historical Society need to weigh in? Duncan said he doesn't have a copy of the street naming policy in front of him. We are also supposed to check with the post office and emergency providers to make sure there is not a similar road name.

**Beth moved to approve the name North Highland Drive contingent on finding no conflicts with postal system or E911 addresses and no requirement in town policy for Historical Society review, Eben seconded and the motion was passed.**

***13. Consider Affirming Building Priority List for Energy Assessments***

Carl said Victoria Hellwig had asked if we want to change the priority order for energy assessments because of the flooding. After some discussion the board decided to keep the priority list the same.

Carl said Victoria also asked if the board just wants Level 1 assessments done. She and Carl think that is the best option. The Level 2 assessment requires more pre-assessment work by the town and the testing has more impact on town operations. Shayne read some information about Level 1 vs. Level 2 applications. For Level 2 evaluation we need to provide 5 years of electrical and heating fuel use as well as building drawings. The board agreed to just have Level 1 assessments done.

***14. Discuss Flood Debris Pickup and Possible Collection***

Beth said the state asked what level of support we needed for debris pickup and suggested that they would prefer to do one big run-through and be done. Eben said today Steven Young from the state emailed to ask if Johnson still requires debris removal assistance. They have two addresses on East and West Highland Drive listed as properties that still have debris and they are asking if there are others. Carl said those are private roads but it sounded like they were okay with picking up on private roads. They indicated that if there is not a lot of debris they

might send AOT trucks instead of having a contractor come. The town may have to provide a front end loader.

Mark asked if there is still a lot to be picked up. Carl said after the town picked up debris last Tuesday someone doing work on Railroad Street asked if the town would be doing more pickup. And somehow Mr. Young has found out about a need on East and West Highland. Jason said as of last Wednesday or Thursday there was not a need on Highland Drive. There are only a few places he knows of that are still actively gutting. Beth said she thinks there are properties we are not connected with that are still being cleaned out. She found out about someone through a personal connection who is currently cleaning their place by themselves. There are people who are still cleaning. Today she was driving through Cambridge and they had a sign up saying that as of August 5 flood debris is no longer being picked up. She thinks if debris is in our right of way we have an ongoing responsibility to pick it up. Eben asked when the end date for that responsibility is.

Eben said supplying a loader at the state's convenience is a hurdle for him but we do save on disposal costs if we have the state pick up. Duncan asked if we will receive a bill even if the state picks up the debris. Are they picking up the cost? Carl said his understanding is that the state is paying the bill and seeking FEMA reimbursement.

Jason said some people who don't live in flooded areas take advantage of the dumpsters. He suggests getting rid of the dumpsters and announcing that we will do pickup once a week until some end date like October 1. People put things in the dumpster at random but when we pick up debris we sort it. He feels it would be preferable for us to do it in house. Then we would not have to coordinate with the state on traffic control, etc.

Beth said she is okay with a weekly pickup. Shayne said he likes that and he likes having an end date. Beth suggested an end date of October 1. Duncan said he doesn't think it is fair to the rest of the taxpayers in town to pick up the cost for flood damaged debris. We have spent a lot of money and he doesn't want it to go on forever. He suggested a deadline of September 15. Eben said if the state is willing to send trucks there is no burden on our taxpayers.

The board discussed asking the state to provide debris pickup twice in September. Duncan suggested authorizing Carl and Jason to work out a schedule with the state. Carl asked, if the state is willing to commit to weekly pickup until a certain date, why not continue as long as they are willing to do it? The board agreed to have Carl or Eben contact the state and see how long they are willing to continue debris pickup. The board can decide next week what our last date for pickup will be.

The board agreed to pull the dumpsters as suggested by Jason.

**15. Assessing Services Interlocal Agreement with Towns of Hyde Park and St. George**

Duncan said he does not have much sympathy for St George's concern that a \$25 per pay period payroll admin fee is excessive. Carl said Justin would agree to be paid every other week, which cuts the payroll administrative fee to St George in half. We don't know if St George is okay with that. Ron, representing Hyde Park, doesn't think anything needs to change in the interlocal agreement if the pay period changes. **Duncan moved to authorize Beth to sign the Interlocal Agreement for Shared Assessor Services with the Towns of Hyde Park and St. George,**

**contingent on St George being amenable to the concept of two-week pay periods, Shayne seconded and the motion was passed.**

***16. Memorandum of Understanding for Joint Ownership of Wide Format Printer/Scanner/Copier***

Carl said the board previously approved buying a wide format printer in conjunction with the Town of Hyde Park. The best price for the entire life cycle is from the same vendor Hyde Park already approved using, Usherwood. Ron and Carl came up with an agreement on jointly paying for and owning the machine. Justin learned that the machine could be moved. The cost would be \$225 per hour. Usherwood thought it would take about an hour to move it but Carl thinks it would take longer. Ron and Carl agree that it only makes sense to move it if there is a lot of work that needs to be done in one location over an extended period of time. Right now Hyde Park does not foresee that.

Mark asked if the Village of Johnson would use this printer. Carl said he thinks they would have a use for it.

**Shayne moved to authorize Beth to sign the memorandum of understanding with Hyde Park to purchase the Usherwood wide format printer/scanner/copier pending Hyde Park's approval, Duncan seconded and motion was passed.**

Shayne said once we have the machine he thinks it would be worth our time to discuss fees for its use by other entities. Duncan agreed that there definitely should be a fee schedule. As a municipal entity we can only charge what is considered a fair and reasonable rate. The copier company could probably tell us what is reasonable.

***17. Consider Designating Location for Posting Agendas and Public Notices***

**Duncan moved to approve posting public notices at the town clerk's office, the temporary library location and the post office, Shayne seconded and the motion was passed.**

***18. Consider Designating Voting Delegate to Annual VT League of Cities and Towns Meetings***

The board agreed to defer discussion of this until after the executive session.

***19. Consider Cancelling September 4 Selectboard Meeting***

Beth said Carl will be traveling on and around Labor Day and the selectboard has not had a break in a while. She proposes canceling the Labor Day meeting. The board would meet on August 28 and September 11. **Eben moved to cancel the regularly scheduled selectboard meeting on September 4, 2003, Duncan seconded and the motion was passed.**

***20. Consider Removing Public Portalets***

There have been issues with one portalet being tipped over. The board agreed to have both public portalets that were brought in after the flooding removed.

***21. Other Business***

Duncan said regarding the question of whether planning commission members can be DRB members, the Municipal Assistance Center attorney said they can. What Duncan is less clear about is whether we can have a DRB and a board of adjustment at the same time. Carl said when the option of creating a DRB became available, if a municipality already had a zoning board of adjustment and then created a DRB to take over those duties, the board of adjustment could not continue to exist. But in Johnson we have a floodplain bylaw and we have form based code. For form based code, we chose to call the appeal board a DRB. For the floodplain regulation it is called a board of adjustment. Is that board of adjustment considered a DRB equivalent? We don't know the answer. Carl spoke to someone at LCPC who said he believes

Cambridge answered the same question several years ago. Carl will check with Cambridge. Duncan said he thinks it is worth a phone call to Stitzel Page & Fletcher. To him the statute is clear that we can't have both at the same time but the question is whether that is applicable to our situation. He doesn't want to have our board make a ruling only to have it challenged and thrown out.

**22. Executive Session for Personnel**

**Eben moved to go into executive session under 1 V.S.A. Section 313(a)(3) for the appointment or employment or evaluation of a public officer or employee in order to consider acceptance of a previous offer of employment and discuss another potential offer of employment, inviting Carl to remain, Duncan seconded and the motion was passed at 8:50.**

The board consented out of executive session at 9:23.

**Shayne moved to authorize Beth to execute an offer of employment to a town administrator candidate, Duncan seconded and the motion was passed.**

**Shayne moved to authorize Duncan to negotiate an offer of employment for a Community and Economic Development Coordinator and the motion was seconded and passed.**

**23. Executive Session for Employee Review**

Eben moved to go into executive session **under 1 V.S.A. Section 313(a)(3)** for an employee review, inviting Carl and Jason to remain, Duncan seconded, the motion was passed and the board entered executive session at 9:27.

The board consented out of executive session at 9:35.

**Eben moved to remove David Tanner from his probation period and recognize him for two additional skill levels, Shayne seconded and the motion was passed.**

**24. Adjourn**

The meeting was adjourned at 9:37.

*Minutes submitted by Donna Griffiths*