

JOHNSON SELECTBOARD/VILLAGE TRUSTEE BOARD MEETING MINUTES  
JOHNSON MUNICIPAL BUILDING  
WEDNESDAY, MAY 10, 2023

**Present:**

Selectboard Members: Beth Foy, Duncan Hastings, Eben Patch, Shayne Spence, Mark Woodward  
Village Trustees: GiGi Beach, Steve Hatfield, Lynda Hill, BJ Putvain, Ken Tourangeau  
Others: Brian Story, Erik Bailey, Rosemary Audibert, Eric Osgood, one other person

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

**1. Call to Order / Review of Agenda and Any Adjustments, Changes and Additions**

Ken called the trustees to order at 4:00. Beth called the selectboard to order at 4:00.

**2. Public Comment**

No members of the public were present.

**3. Discussion on Village Garage Improvement Project / Jointly Owned Property MOU / Funding Applications for Individually Managed Properties**

Erik said one concern he heard was whether the town and village could be counted as separate entities for MERP grant funding or whether if the village got the funding the town would be unable to use it. He asked the manager of the fund, who clarified that the village gets \$500,000 and the town gets \$500,000. (*A member of the public arrived at 4:02.*) Beth asked, regardless of the fact that the town and village are joint owners of a specific building? Erik said yes. Buildings and General Services wants to get the money out. As far as they are concerned we are separate.

Shayne asked if Erik got a sense of whether they will see one entity from Johnson already getting grant funds and be less likely to give to the other Johnson entity. Erik said no; this is a one-time shot and they have a lot of money. (*Eric Osgood arrived at 4:03.*) Erik read from the email he got stating that the town and village are both eligible. Shayne said he understands that we are both eligible but he is wondering when the decision is made about funding if it will affect us that the village has already gotten grant funds. Erik said other towns and villages in those towns are being treated as separate from each other for this funding. GiGi said she has been to a lot of those meetings. Five hundred thousand is the maximum that can be requested. Not all places will be asking for that much. Erik said we don't have to put it all toward one project.

Beth asked if we can apply for a grant more than once. Erik said we choose which buildings we want to have assessed, they do an assessment of those buildings and then we decide which ones to apply grant funds to. They suggest assessing one or two buildings each. We can assess more buildings and then decide which ones to work on. Beth said the selectboard also thought that, but when the board asked questions to Tori Hellwig, Tori said a municipality is guaranteed to have a single building assessed, but not multiple buildings, so we should prioritize.

Erik said the village doesn't need an assessment through BGS because the assessment that was done by VTC students was considered sufficient.

Mark asked if the village is thinking of putting solar on the garage. Erik said they are thinking about putting it on the roof over the diesel tank and also adding a bank in the same place the town has a bank, on Gould Hill. That was a suggestion from the VTC students.

Ken said he instructed Erik to give the selectboard a monthly update on the garage project from now on. He would appreciate it if from this point forward the selectboard could contact the trustees for questions rather than involving LCPC. Nothing at the meeting Duncan was involved in shed new light beyond what had been discussed at trustee meetings.

Beth said the grant aspect of the project was surprising to the selectboard. The point was not to go against what the village was doing, but the selectboard wanted to make sure liability for each entity was understood. They did not want to put the town in a poor position. They also did not know if there was anything that would prevent the village from moving forward if the town did not sign off on documents.

Ken said his understanding is that the village will easily be able to do a Phase 1 brownfield assessment because that would be confined to the footprint of the village garage. If it came to a Phase 2 assessment they would ask the town to sign on.

Duncan said he was asked to attend the meeting with LCPC. Ken said he felt the way Duncan spoke at that meeting was disrespectful.

Lynda suggested that the selectboard and the trustee board could meet jointly every other month. She feels that would look good to the community. The community is wondering why we are not moving forward on a merger.

Eben asked about plans to use BGS grant funds to put solar panels outside the footprint of the village garage. Erik said that may or may not be done with that grant. It may be done with other funding. They would not be digging in the ground, just putting panels on an existing roof. Eben said he is not saying the village should not do it, just that the village and town should discuss it. Beth said the selectboard will always have questions about anything that could put the town at liability. Erik said the village has qualified staff who can double check the experts putting in the solar panels.

Erik said another question he heard was about what the MOU says with regard to the village doing improvements. There was a question about a disagreement in wording between the definition of maintenance and the statement of agreement. He sent the question to the village's lawyer, who agreed that the more specific wording carries. The definition of maintenance and improvement as activities that don't alter use or reduce value makes the word "change" in the statement of agreement mean "reduction." He created an updated version of the MOU that just changes the "change in value" in the statement of agreement to "reduction in value," which he feels is in line with the intent, if the boards want to approve that update.

Ken said at the joint meeting when the MOU was passed, Beth and Eben said the village would only need to inform the town about an increase in value for insurance purposes. They would have informed the town about that.

Eben said he doesn't necessarily agree with the village lawyer's take. The brownfield issue concerns him but he doesn't want to hold up the work the village is doing. He is not interested in changing the MOU now. There are plenty of other contradictions in it. Duncan agreed. He is not sure that an MOU trumps ownership of property with regard to assignment of liability. The attorney's opinion does not really address that. He thinks the selectboard should get an opinion on

that. Mark said he doesn't think we should change the MOU tonight. Shayne said he likes the clarification but he agrees with Eben that there are probably other things we could look at in the MOU. Eben said if we are going to spend time on revising the MOU he thinks we would have to rewrite the whole thing. Maybe the selectboard could see if our attorney thinks the MOU trumps ownership with regard to liability. Beth said she supports that.

Duncan asked if there is interest in physically separating ownership. Erik said he thinks subdivision would be the simplest solution. Eben said if there is a subdivision and part of the property is sold to the electric department then there would be a transition of ownership, which could make brownfields funds available. Duncan said that could possibly be the case.

BJ said he thinks it might be a good idea to change these few words as suggested by Erik because there is a major conflict that has already become an issue. We could at least make those two items match and not conflict. Steve agreed. Lynda said she doesn't want to get stuck and not be able to move forward with the village project. Does not changing those words stop us from moving forward? Beth said no, because the selectboard already supports the project.

Duncan said one possibility is for the town to sign onto the applications for brownfields funding, congressionally directed funding or the MERP grant as co-owner. Ken said the village has already moved forward with the grants. Duncan asked, what if Welch's office asks the village to certify that it is the proper owner of the project? Ken said the village will take that as it comes. Erik said he would prefer not to throw a wrench in the works until something comes up.

GiGi said she was wondering how the MOU was created. She agrees that the wording probably should be changed. Ken said it was not written by the trustee board. It was presented to the trustee board by the town. Brian said that is not correct. It was created on behalf of the trustees by Meredith Dolan and was presented first by the trustees.

Eben suggested it might be safer for the village to be proactive and find out now whether it is necessary for a representative of the town to sign rather than being reactive and waiting until it becomes an issue.

Lynda asked, when we applied did we say the building was jointly owned? Erik said it wasn't a question on the application. GiGi said the village applied with its own EIN. The town also can apply with its own EIN. Her understanding is that if town and village applied jointly they could only apply once. Erik said that would be the case with the MERP grant.

Ken said Erik will get clarification on whether the town needs to sign on for the grant. The village would be happy if the town would sign on for brownfields funding. They will get clarification from Senator Welch's office on whether a town signature is needed for that funding. Would the selectboard allow the chair to sign if needed?

Beth said the selectboard would be interested in writing a letter of support and signing anything that requires ownership verification. She feels there is a difference between applying for a grant and showing that we support the application as a property owner.

Ken asked if the selectboard is willing to sign on for the Phase 1 brownfield study. Eben said he is supportive of it but he would like to get clarification on the liability question because the town is half owner.

Erik said he thinks we should look into Duncan's idea to make it very simple – split the property off and have the town garage belong to the town and the village garage belong to the village. Maybe selling the village garage property to the electric department would reduce liability to the town and open up brownfields funding.

Eben asked, if the town sells property it needs to go to a vote, right? He doesn't know if the same is true for the village. Erik said he is not saying the board should agree tonight to do it. He thinks it is something to look into.

GiGi said her concern is the health of the employees. She would consider that a greater potential liability than what has been talked about. Eben said he doesn't know any selectboard member that doesn't care about the health of employees. Duncan said he thinks GiGi's point is that if an employee contracted something and sued they would sue the property owner and the town would have liability as much as the village.

Eric Osgood said the town and village voters had to agree to purchase the property and he thinks they would have to agree on splitting it. Duncan said he thinks we would need to provide public notification of our intent to sell the land and then voters could petition for a meeting to prevent the sale or have a discussion on it.

Ken said the village is looking for the selectboard to sign on to Phase 1 and phase 2 brownfield studies.

**Eben moved to authorize the selectboard chair to sign documents necessary for a Phase 1 brownfield study at the village garage site, Shayne seconded and the motion was passed.**

Eben said if the village has a projection of when the Phase 2 is going to happen the selectboard can discuss it. Erik said if there is anything significant he will send out information to both boards.

BJ asked if there is interest in separating off any properties other than the garages. Shayne said we are talking about going in the opposite direction of a merger. A lot of this would be easier to deal with if Johnson was a merged entity. Erik said that will take a minimum of 3 to 5 years. Shayne said we are talking about splitting out properties and that is going in the opposite direction of merging. BJ said if town and village merge both town and village will be giving up the property they own now. One is not blending into the other. So it doesn't matter if we split out part of the property now. This is just short-term management.

**4. *Discussion of Maintenance Projects in the Town Clerk's Office Building***

Beth said she thinks it is worth talking about whether to pursue some maintenance updates inside and outside the municipal building. Erik said last fall we agreed we should get a blended crew together to power wash the building. Eben said he is supportive of that. Mark said he is frustrated with the quality of internet access in this building. He thinks we ought to ramp that up. Beth brought up cracking issues. Rosemary said the tower needs to be finished. Brian said it was partially re-sided and then COVID came and we haven't returned to that work. He believes the contractor we were using has passed away. Eben suggested HVAC updates. Duncan and Rosemary

suggested carpet replacement. Duncan said the floor needs to be sanded and inside walls need to be painted. Mark asked if the lights are energy efficient. Erik said some are. Eben said he thinks all of them need to be updated. Eben said eventually the roof and parking lot will need replacement. Parking lot work will probably be complicated because he believes the village owns the entrance and the exit. Brian and Erik agreed that the carpet could use replacement. Brian said cleaning would be nice and replacement would be better. Eben said network infrastructure probably needs to be replaced. He also suggested we might want a sprinkler system. Rosemary said at one time the distribution system was not able to handle a sprinkler system. Duncan said he thinks now it could.

Beth asked if the trustees would be interested in reaching out to a contractor to do an assessment of all building needs inside and out. Perhaps HVAC, a sprinkler system and the network would be evaluated separately. We could get estimates and make decisions on what we want to proceed with and look for grant opportunities.

Eben asked if the trustees have money to spend on the municipal building. Ken said nothing was budgeted for this year. But that doesn't mean the village doesn't have money. He thinks the best thing would be to get a contractor to give us a priority list. The village has a small amount of money but all funds are going to be dedicated to the garage this year.

Eben suggested tackling a small project initially to start moving forward. If the selectboard tries to get some MERP money for this building, do the trustees give permission for the selectboard to do whatever it decides on?

Ken said the village crew can handle power washing the building whether or not the town crew is available to help. The selectboard can do a different project with town money. He thinks repair of sheetrock and cracks and possibly painting could happen this year.

Erik said he understands from Nate that the first priority would be the tower because there is water damage.

**BJ moved that the village agrees to anything the selectboard does to improve the municipal building that does not use village money. The motion was seconded.** GiGi said she would do interior painting at cost. **The motion was passed.**

Ken said the village is willing to be a partner as long as they can find funding.

##### **5. *Status of River Road East***

Eben said the village's attorney suggests that the village and town should see if they can find common ground. Is the village interested in that?

Ken said if the town wants to install catch basins the village will take them over. The existing catch basins are not catch basins, they are rims in the ground. Eben said not the one that was replaced after it failed. After one failed the trustee board and selectboard asked their foremen to survey the area and they created a map showing three other potentially problematic catch basins. Erik said there are no new catch basins. Eben asked, just the culvert was replaced? Erik and Ken said yes. Ken said after the town finished work there was standing water in the rim with no water exiting. Eben asked if that is in the highway right of way. Ken said according to the village foreman it is on Manchester property and a right of way big enough to access it would go through Manchester's office.

Ken said there has been a long-standing agreement that if a structure went from DI to open it was the town's responsibility and if it went from DI to DI it was the village's responsibility. Eric Osgood said that long-standing agreement was pretty black and white. If something went from daylight to daylight, like a culvert, it was the town's responsibility. If it was a storm drain it was the village's responsibility. But there are a lot of gray areas in the community – culverts going into storm drain systems, storm drains coming out of culverts – and in the gray situations in the past the village and town crews would work together. What is on the Manchester property is a gray area. It was not installed by the town or village. It was a cluster of rims put together. Where the miscommunication might be is that the failed one was the one between the Manchester office and the sawmill, where there is a little parking lot. The town installed a new catch basin there with a culvert underneath. He is not sure if the Manchesters have hooked it up to their piping. There is a rim in the first parking lot between the old Parker and Stearns building and Manchester. The second one is the one that failed and was replaced. The third is in the parking lot of Manchester just beyond the sawmill and the fourth is further down the road. It may or may not be in the village. Ken said the last two are not in the village. Eric said he believes the third is right on the line and we probably would have to survey to find out. Ken said according to the map downstairs it is not in the village.

Eben asked, if historically the two road crews would work together, how was funding split? Ken asked how it would have been determined whether it was the responsibility of either party if neither the town nor the village installed it. Eric Osgood said the two foremen would look at the situation and determine that it was the responsibility of one or the other or that they were going to work together because they couldn't figure it out. In situations like this, what has to be done is what the selectboard and trustees are doing now. If the town and village can't come to some agreement the only other recourse is going to Superior Court.

Erik Bailey said he has heard that a developer is interested in trying to put housing on the Manchester property. That developer will have to have sewer expanded down that road at their expense. Could dealing with the drainage structures be a condition of that project? Duncan said he would have a hard time believing sewer line extension could be conditioned on fixing existing drainage. Ken said it would be easier to fix the drainage at the time the sewer line was being extended.

Eric Osgood said in the past if there was a gray area the town and village would split the cost, but the cost usually wasn't significant. Erik Bailey suggested that the town and village could each try to get grant funds to help with the cost.

Duncan asked, didn't see C.J. Manchester agree that he would put in a catch basin and culvert? Eben said he purchased a catch basin and culvert from the town and put them on his property. He doesn't think that is any of the catch basins being discussed tonight.

Eben suggested that the village should reimburse half the money for the catch basin that was replaced and that the rest should be discussed at the next joint meeting.

BJ said he likes the idea of looking for grant money as Erik suggested.

Ken said we need to start by touching base with the Manchesters to see if they are willing to give us a right of way to install new structures.

Eben said he is just talking about the expense for the emergency replacement the town already did to get the road opened back up.

Duncan said the water currently discharges into the river. If the Manchesters are not willing to negotiate an easement, the town has the option of digging a ditch instead. Erik said that would be the most cost effective

Eben said he is not saying that the village needs to cut a check tomorrow. The cost could be put in next year's budget.

Erik said this brings up a larger question. When the town and village share costs 50/50, when you consider that village residents are also paying town taxes the split really comes out to be more like 63/37. Beth said the town gives the village money though. Eben said the 10 cents on the grand list the town gives the village is about \$61,000.

Ken said the trustees will discuss this at their next meeting and get back to the selectboard.

Mark and Beth said they support what Eben suggested. Eben said the town did 100% of the work for the catch basin replacement. The total cost was a little over \$20,000. If this went to the Supreme Court he thinks it would be a worse deal for the trustees. The village could end up owning all the culverts in the village.

Ken said his only concern is that he hates to contribute to the repair and still not have a right of way for future repairs. Eben said if the village wants future ownership he would be willing to waive the fee for the highway right of way access permit.

BJ asked what the costs are for the different options – fixing the catch basins, putting in a ditch or filling the existing structures with concrete. Eben said he thinks that is a good thing to talk about at the next meeting. He doesn't know.

Steve asked, shouldn't someone approach the Manchesters? We could find out if they are thinking of selling the property and we could be talking to the person potentially interested in buying. Ken said his concern is that the town sold the Manchesters the materials to do the work and there is still no right of way for either party. Beth suggested inviting CJ Manchester to the next joint meeting.

Eric Osgood said he recommends taking this up again and not kicking the can down the road. The structures were probably all installed about the same time and one has failed already.

Lynda said she is confused. Culverts and storm drains are the responsibility of the village. Are those storm drains we are talking about? Eric Osgood said it is a gray area.

Duncan said he thinks it may make sense to have Nate and Jason meet on the site. Maybe a couple of these drainage structures are not even necessary for the town or village. They may be more for Manchester's convenience.

Beth asked if Erik can invite CJ Manchester to the next joint meeting.

**6. *Setting Date for Next Joint Meeting***

The board agreed to schedule another joint meeting on June 14 at 6:00 p.m.

Ken said the trustees will come up with a list of potential topics at their next meeting. Eben said the town had previously submitted a list of potential topics. He would like River Road East to be on the agenda again.

Ken suggested that the trustees schedule a special meeting on May 24.

**7. *Adjourn***

The meeting was adjourned at 5:25.

*Minutes submitted by Donna Griffiths*