

JOHNSON SELECTBOARD MEETING MINUTES
JOHNSON MUNICIPAL BUILDING
MONDAY, APRIL 1, 2024

Present: Selectboard members: Mike Dunham, Duncan Hastings, Eben Patch, Mark Woodward

Others: Tom Galinat, Rosemary Audibert, Randall Szott (remote), Jason Whitehill, Lois Frey, Beth Foy, Adrienne Stevson, Kyle Nuse, Sue Lovering, Scott Meyer, Pat Ripley – LEDC (remote), Melissa Manka – LCPC (remote), Tori Hellwig – LCPC (remote), Scott Griswold – NEMS, one other Beautification Committee member

Absent: Shayne Spence

Note: All votes taken are unanimous unless otherwise noted.

1. ***Call to Order***

Eben called the meeting to order at 6:30.

2. ***Consider Additions or Adjustments and Approving Agenda***

Tom said the grant application for Jenna's Promise was not approved by the state because the notice did not get into the News & Citizen in time. We have to re-notice the public hearing for May 6 before the selectboard meeting. The board agreed to that.

3. ***Consider Approving Minutes for March 18, 2024***

Mike moved to approve the minutes of March 18, 2024, Mark seconded and the motion was passed.

4. ***Selectboard Issues and Concerns***

Duncan moved to delegate to Jason and Tom the authority to decide on the end date for springtime road weight limit posting, Mark seconded and the motion was passed.

Eben moved to issue the following proclamation in recognition of Alice Whiting's 90th birthday:

Whereas, Alice served 50 years in early childhood and higher education in the community,

Whereas, Alice served on the Johnson Oread Club,

Whereas, Alice is an active member, and membership secretary in the Johnson Historical Society,

THEREFORE, WE, the Selectboard for the Town of Johnson, by virtue of the authority vested in us by the laws of Vermont, do hereby proclaim Saturday April 20th, 2024 as:

Alice Whiting Day

Mike seconded and the motion was passed.

It was agreed that Duncan will present the proclamation to Alice on April 20. (*Sue Lovering arrived at 6:37.*)

5. ***Planned Purchases for Consideration***

Tom said we have to define the 500-year floodplain elevation at the municipal building in order for FEMA to sign off on our mitigation efforts. We have to protect it to the 500-year mark. The cost of the surveying is 75% reimbursable by FEMA plus 12.5% from the state. It may be part of the 100% reimbursement just declared. The cost is \$1500. (*Scott Meyer arrived at 6:39.*)

The downstairs work at the municipal building will be done by next Wednesday. We will have new furniture ordered soon and it will take about 4-6 weeks to get it. Mike asked why it was not ordered before now. Tom said we didn't know the total loss until the downstairs was cleaned out. He is working to get the insurance payment. We have to itemize everything that was lost and give the replacement value. It is an extensive process. He is hoping to have the check April 12. We probably should have cleaned out the first floor sooner after the flood, but there was such disarray upstairs and it was daunting. The next phase of the work can't begin until FEMA signs off and they need a certificate of elevation.

Mike moved and Mark seconded to approve spending \$1500 for surveying for a certification of elevation at the municipal building. The motion was passed.

Mike moved to authorize Tom to sign the contract for surveying at the municipal building and the motion was seconded and passed.

Tom said we also need certification of elevation for Legion Field to know where the 500-year flood mark is. If the library is to be moved, we need that information to site it. There is no reimbursement for this \$2500 cost.

Duncan said Jeanne Engel's son Tayler is an engineer and he has agreed to do some pro bono work to establish the limits of the flood zone based on the new maps on our parcel GIS. He doesn't know if that would be satisfactory. Tom said it would at least help us narrow down the possible sites. Then we could pay a smaller amount to have just one site surveyed. If we get the Department of Libraries grant we may still have to hire a surveyor but Tayler's work would give us a better idea where the 500-year line is.

Duncan asked if it is Tom's understanding that we would need a surveyor's certificate of elevation. Tom said we don't need it for the Vermont Emergency Management funding option we may be able to use to supplement the DOL grant. But if we use FEMA money we will need a certificate of elevation. If Tayler uses lidar to map the line that will let us narrow in on the best location and then we would just need to pay \$1500 for the surveyor to survey one location. The \$2500 cost is to survey two sites.

Mark moved to authorize Tom to spend up to \$1500 for surveying (if needed) at a single potential library site to be determined based on lidar information, Duncan seconded and the motion was passed.

Jason said the trucks need inspections and preventive maintenance. The inspection for each truck will cost just under \$1000. Is there a dollar amount the board is comfortable approving to spend in case a truck needs something to pass inspection? (*A Beautification Committee member arrived at 6:55.*) **Duncan moved to authorize Jason to spend money to do what needs to be done for the town trucks to pass state inspection, Mike seconded and the motion was passed.**

Jason said he would like to buy grader bits in bulk before they go up in price. He wants to buy 3 boxes of 50 at a cost of \$2700. **Duncan moved to authorize Jason to buy 3 boxes of 50 grader bits, Mark seconded and the motion was passed.**

6. Clerk & Treasurer's Report: Warrants, Licenses and Action Items

Rosemary said we got the bill today from Competitive Energy Services for the fuel bidding contract. **Duncan moved to authorize payment of the Competitive Energy Services LLC invoice in the amount of \$1,545.75, Mark seconded and the motion was passed.**

Mark moved to approve renewal of the outdoor cultivation Tier 3 cannabis license for New England Cannabis Partners, LLC dba MothaPlant, Duncan seconded and the motion was passed with Mike opposed.

7. Public Works Supervisor / Highway Foreman Report and Action Items

Jason said Truck 21 had a timing cover gasket failure. It wasn't covered under the warranty. An invoice will be coming for that. The highway crew has been doing both winter and spring maintenance. Chip Percy wants to move an excavator to our gravel pit so we can start hauling after the roads firm up. We will be cleaning the pit up in sections. He will dig down and get everything he can and the town crew will load and truck it. For every two loads we deliver we will be able to bring back a load of sand. There has been an uptick in sign graffiti. Jason will be ordering new reflective signs we can stick over the old signs, which should save some cost. *(Kyle Nuse arrived at 7:06.)*

Eben asked how the damaged salt is. Jason said it has been working well because it hasn't been a very cold winter. We will have new salt delivered soon.

8. Tree Grates and Arboretum Grant within State ROW

Sue Lovering said the Tree Board wants to remove grates and cages from 12 of the 13 pits where trees are planted on Main St. They want to use Jason's idea of bollards and chains around the pits. (They will not do this with one pit because it wouldn't leave room for a skid steer to get by.) The grates are impacting tree roots and they make it too hard to pull weeds. The cages around some trees are too small. They got grant money to build a new system with chains between bollards. It is fully funded.

Duncan said the trees and grates belong to the village and are subject to a right of way permit that was issued to the village for the care and maintenance of the trees. He thinks the village needs to contact the state, since the village has the permit. Why would the town work on this project when it involves village property? Sue said because the approach they are using was the town road crew foreman's idea, he gave a bid to do the work in overtime and the Tree Board got full funding for it.

Duncan said the town has no legal authority to do work in the state highway right of way. Sue said the Tree Board has been doing work there. Duncan said the town highway crew hasn't. Sue asked if it matters whether it is the town highway crew doing the work vs. anyone else who gets paid for the job. Duncan said it matters for the town's insurance coverage. Our insurer, VLCT PACIF, relies on the principal of sovereign immunity. That basically means the town can't be sued. Courts have interpreted that to mean towns can't be sued as long as they are doing what they are legally authorized and supposed to be doing. The village has the right of way permit. They would be covered under their insurance. If something happens, like a pedestrian gets hurt or a village water line gets damaged, the town is not covered.

Duncan said he thinks the village should do the work, not the town. Sue said they have no intention of doing it. They didn't offer. Jason said his understanding was that they didn't have time to do it.

Kyle said the rail trail committee went through the town to get a grant to replace infrastructure on Main St. but they had to go to the village to get their blessing and ask them to do the in-kind labor because it is actually their property. And they had to get the state's blessing because the infrastructure is in the state right of way. There is an MOU with the village saying the village has to maintain the infrastructure. Duncan said it is actually not an MOU but a section of a 1111 right of way permit that authorizes all the improvements for the Main St. project, including the trees and their ongoing maintenance.

Tom asked if there is an agreement between the town and village about paying for labor. Eben said not that he knows of.

Mike said he thinks the town crew probably has more than enough work to do for the town. Jason said when this project was brought forth the discussion was that this would be something the crew could work on when time was available. They said the cost would be \$100 per hour for 2 people, to cover their worker's comp insurance. He believes the total was \$9600. It would be fully covered by the grant so there would be no cost to the town. He had the impression that the village didn't have time or resources to devote to the project.

Tom asked, the money for the grant will come to the town, right? Jason said yes.

Eben asked how the bollards will be installed. Jason said the holes will be hand dug with a post hole digger. Eben asked if it would be possible for the town crew to purchase the material and do the welding and see if a contractor could be hired to do the work. Beth Foy said the village would have to hire the contractor. Eben said it could be done with the grant money. We could write a check to the village. Jason asked if he could work with the contractor to brief them on the plan.

Duncan said he thinks the first thing to happen is that VTrans needs to be contacted. They will need to see a sketch or plan of what is proposed and they will have to authorize that in lieu of the grates. The village needs to get approval from VTrans because it is the village that has the right of way permit.

Tom suggested that the village could motion that the town highway crew can do the welding. Or would the subcontractor do it? Beth said we shouldn't hire the contractor. It should be done by the village. (*Howard Romero arrived at 7:23.*)

Duncan said he appreciates everything the Tree Board does. The village is getting a great deal. The Tree Board is taking care of something that is their responsibility. The village should be very grateful.

The board agreed Tom should let Erik Bailey know that the village needs authorization from VTrans for the grant-funded work to take place and that if they get authorization and it works with the grantor we are offering to pass through the grant funds to the village.

9. Industrial Park Update

Randall said in February the Lamoille County Planning Commission identified concerns about additional costs that hadn't been accounted for in the proposal from Mumley for an environmental review, so we requested a revised proposal. Pat Ripley of the Lamoille Economic Development Corporation said LEDC is serving as the local development district for the project – overseeing, reporting and keeping things moving. It has been 6 months since the Northern Border funds were

granted. The grant typically has a 3-year timeline. So far we haven't moved any funds or moved anything forward. He reviewed a spreadsheet of estimated costs for the project. We won't know our permitting costs until the NEPA evaluation is completed. If there are a lot of wetlands or it is an archeological site or there is sensitive wildlife habitat, our permit costs will be higher. If we don't run into many permitting problems the current estimate of \$290,600 for NEPA evaluation and permitting may go down considerably.

Duncan said we had an initial assessment of the property. His recollection is that there were no wetlands and likely little archeological significance. Pat said he suspects the permitting and NEPA cost will be much lower than the current estimate, which is the worst case scenario. He is trying to prepare the board for the highest potential cost. The total Northern Border Regional Commission grant amount is \$1.723 million. The town has committed to provide a 50% match. Our obligation is \$861K. After available ARPA funds are applied that leaves \$323K we still need to come up with. In addition, the NBRC grant is \$354K less than our total estimated cost. Some of the estimated costs can go down and he suspects they will. But currently the total shortfall is \$677K.

Duncan asked Pat to explain what the \$290,600 estimate for NEPA review and permitting includes. Pat said the NEPA review cost could be as low as \$15,600 or as high as \$40,600. Total costs for everything required to get permits could be as high as \$290,600 if we have to deal with archaeological findings, wetlands, deer wintering areas, etc. He doesn't think it will go that high.

Board members said \$46,500 in costs for design and permitting can be removed from the \$677K shortfall amount because ARPA funds have already been committed in that amount. (*Scott Griswold arrived at 7:45.*)

Pat said we haven't moved forward with the NEPA review because the town has not committed to a way of providing the necessary \$323K match. He doesn't know if the board wants to go for the full shortfall amount in a bond or proceed with the NEPA review and see where it goes.

Randall said he walked the property with a natural resource specialist. Her initial impression was that she didn't see any immediate concern for archeological significance.

Mike asked if we are going to be repeating work that was already done in the previous study. Duncan said since that study was done things like the formula for agricultural land mitigation may have changed. The previous study indicated wetlands and traffic weren't going to be issues. It appears archeological resources may not be an issue and we can use offsite property to mitigate deer wintering issues. He thinks agricultural land mitigation is the one thing we can't get away from. Mike said it bothers him to pay twice for the same thing. Duncan said the NEPA review has to be done. That was not done as part of the initial assessment.

Duncan asked if Pat has a recommended bond vote amount. Pat said the town has \$1.723 million guaranteed if we can come up with the match. It would be a shame to leave that money on the table. At a minimum he would want a bond to cover the NBRC match. If the board only bonds for that amount then the project will be kept at the \$1.723 million grant amount. Everything on the list may not get done. If the town is looking to shave down the bond amount he would not want to shave off more than \$250K from the total estimated cost.

Duncan said in our annual budget process we proposed taking \$75K from the surplus to apply toward the grant match reserve fund. Eben said there is already \$90K in that fund. Eben asked how much of the \$861K is in-kind services. Pat said there is no in-kind contribution for NBRC grants. Eben said the worst case scenario is that we need \$633K more.

Mark said we will be spending the remaining ARPA money on this. That is money we could do something else with if we don't go forward with this project.

Duncan said one of the calculations he thinks about is what we can sell the developed lots for. He would like to think we could basically recoup the town's investment (not the total project cost.) Pat said what the town gets for the lots is not the only consideration. We will be putting properties on the tax rolls and doing economic development in town. We can see this as the town getting a \$323K bond and turning it into \$1.72 million.

Pat said he wants to know if the board wants to proceed with the NEPA review, knowing that if the town abandons the project it will have to be paid for in full by the town.

Mike moved to authorize spending up to \$40,600 on the proposed NEPA assessment at the light industrial park site, Duncan seconded and the motion was passed with Mark opposed.

Eben suggested discussing a possible bond vote at the next meeting. Duncan said borrowing from the town's revolving loan fund could be part of the discussion. Pat said the sooner the bond discussion can happen the better. He thinks a bond will require a vote of the townspeople. Rosemary and the board agreed that is the case.

Duncan said we have been trying to secure EDA funding. That has prevented much forward momentum. Mike asked why the town didn't start with the NEPA assessment 6 months ago. Duncan said he thinks the honest answer is that we were hoping the EDA grant would come through and we would only have an 80% match. Mike said the impression people had was that there would be no cost to taxpayers for the light industrial park. Duncan said he thinks some had that impression. Mike said he thinks quite a few did. Randall said there has been a lot going on with this project even though there has been no drawdown of funds and nothing reportable to the NBRC.

10. Update on the Grocery Store / Funding Possibilities

Randall said he has been in contact with Pomerleau since October. He met with them and the Lamoille County Planning Commission to discuss various funding options that have been eliminated from contention. At the end of January he had a conversation with the USDA about a low interest loan program for municipal utilities. It provides money the utility can loan out for economic development. He made the village aware of it. In early February he checked with them and they had not pursued it. He continued to check with them about the USDA program.

Some selectboard members and the town administrator were contacted by state hazard mitigation about a funding opportunity they thought the grocery store would qualify for – FEMA Swift Current funding. Randall let Pomerleau know about that. He suggested setting up a meeting with them and that the town or village could apply on behalf of Pomerleau. They have not replied about whether they have interest in setting up a meeting. Today he found out that the village did discuss the USDA loan program with LCPC, USDA and VPPSA. They had questions and are waiting for answers from USDA. The last he heard the cost of building the proposed flood wall for the grocery

store had grown to \$1.1 million. The USDA loan program can be for up to \$2 million and it could be a no interest loan. The money could be passed from the village to Pomerleau.

11. *Congressionally Directed Funding*

Eben said he thinks the timeline for congressionally directed spending is pretty short and we don't have shovel-ready projects. Randall said he attended a webinar from Senator Sanders' office that explained the process as it pertains to his office. The shovel-ready piece is important but the real challenge is the timeline for disbursement of money. It works much better when you already have cash on hand because it can take 2 years to get the money. Tom said the awards are highly competitive. There is a focus on communities impacted by the flood. We can only request funding for projects that have not been started and that do not already have federal funding. The deadline is April 9. He asked if there was assistance for writing the application. There are programs through the USDA but we would have to be pretty far along. We would find out October 1 at the earliest if our project was accepted but typically we wouldn't find out for sure if funding was available until January or February. The project would have to be fully funded by us and then we would be reimbursed. This money is allocated annually and there is a risk that future federal budget failures would mean the money would not come through even if it had already been approved. The grant administration is burdensome. We might be able to apply for funding for the industrial park because congressionally directed funding doesn't have the same limits as the NBRC grant. We could potentially get the full \$2 million we need with only a 20% match. But we would have to put the application together in a week. That is the only project he could think of. And there is the question of whether we could put the industrial park project on hold until we hear about this funding and then say no to NBRC. He thinks he and Randall could put together an application for April 9. Would the board like to risk the NBRC funding and put the project on hold to try for congressionally directed funding?

Scott Meyer said if the town is looking for another project that is not quite shovel-ready, our talc mill land is a beautiful hillside. Walter Pomroy had suggested mountain bike trails there. There could also be cross country ski trails. Trails would draw people to town.

Eben said Doug Molde had a comprehensive plan that included multiple trails. He supports the trails idea. At this point he would like to ask the Planning Commission to come up with a long-term vision for Legion Field and the former talc mill property. He doesn't know if he would want to put that forward for congressionally directed spending without more discussion.

Lois said the Conservation Commission has a long-term use plan for that property but it is old and hasn't been updated.

Scott said mountain bike and backcountry ski trails in other places are swamped with people. They draw in a lot of people.

Eben said the application is due next Friday. We couldn't even get permission from the village until next Wednesday. He thinks we should talk about trails in our annual planning meeting. He would like to see developing a plan for congressionally directed spending on our annual calendar around September-October. Tom said he thinks we need to do more planning for projects before we know about specific grants. If we have plans then grants that could fund them will fall into place.

Adrienne Stevson said she thinks it would be nice if town committees could provide lists of all the things they would like grants for. Then the Planning Commission and selectboard could prioritize them and give them to Randall. Tom said he thinks that is a great idea but the Planning Commission and Conservation Commission have powers outside selectboard authority and in some cases they should be directing the selectboard.

Randall said to him it is not realistic to meet the deadline for congressionally directed spending but now we can begin planning for the next time it comes around. The Johnson Main Street Project is good example of prior planning. It started out with a municipal planning grant and eventually Sen. Jeffords got an earmark for the project. We never would have gotten the earmark if we hadn't had the plan.

The board agreed not to seek congressionally directed funding this year.

12. *Purchasing Policy Review*

Tom asked if we can look at possible changes to the purchasing policy. He would like to increase the limit for spending without selectboard authorization to \$2500. He would like to revamp the whole policy, maybe changing to a purchase order policy or a two signature policy.

Duncan moved to increase the minimum spending limit under the current purchasing policy to \$3000. He said next we can begin to come up with a process to revamp the policy. He would love a purchase order system. Mark seconded. The motion failed with Duncan and Mark in favor and Mike and Eben opposed.

13. *Review and Approve Buyout Applications*

Tom said some additional documents and signatures are needed for the buyouts previously approved. **Mark moved to authorize the town administrator to sign documents for approved buyouts, Duncan seconded and the motion was passed.**

The town has received buyout applications for 325 and 384 Lower Main West, both owned by Darrell and Jane Draper. Duncan asked Scott Meyer if he sees any issues with these buyouts. Scott said no. **Mark moved to approve the buyout applications submitted for 325 and 384 Lower Main West, Duncan seconded and the motion was passed.**

14. *Beautification Mini Grants*

Kyle Nuse said the Beautification Committee is giving out beautification mini grants for the third year. They didn't get many applications. One of the applications was from Diane Lehouillier. She requested \$100 for flowers at the bread oven. Another was from Howard Romero. He wants to do maintenance to the trailhead at Old Mill Park. The committee usually grants up to \$200 and Howard is asking for \$500 but they received few applications so they have the funds to give him \$500.

Duncan moved and Mark seconded to approve the \$600 in mini grants the Beautification Committee would like to award.

Kyle said both people are willing to pay up front and get reimbursed. Tom asked if both are willing to use vendors who already work with the town. Howard said yes. Kyle said she doesn't know if that will be possible for the flowers. The selection at Johnson Farm and Garden may be limited. Duncan said the grantees can work with Rosemary to get a one-time tax exemption.

The motion was passed.

Eben said in the future if the Beautification Committee wants publicity on the town Facebook page or web page they can reach out to the selectboard. (*The Beautification Committee members left at 8:47.*)

15. NEMS Contract Review and Approve

Duncan moved to authorize Eben to sign the contract with NEMS, Mike seconded and the motion was passed.

Scott Griswold of NEMS said the first 6 months of this fiscal year were on track compared to the budget but for the quarter that just ended revenue has been down, mostly due to a decrease in 911 calls. Another factor is that insurance companies are getting more difficult to work with. (*Lois Frey, Scott Meyer and Sue Lovering left.*)

16. Revolving Loan Fund Ratification by Current Board

Eben said the board agreed to make some amendments to the revolving loan fund guidance document in 2018. This is supported by meeting minutes but a signed copy of the document with the changes has not been found.

Duncan moved to ratify the copy of the revolving loan fund guidance document approved on October 15, 2018 by the selectboard members at the time (Eric Osgood, Nat Kinney, Doug Molde, Kyle Nuse and Mike Dunham), Mike seconded and the motion was passed.

17. Municipal Building Options

Tom said the idea sometimes comes up of moving the municipal building out of the floodplain. That may be discussed as part of general planning on recovering from the flood. We will find out next week if we have a certificate of elevation that allows mitigation work at the municipal building to move forward. The village will be looking at options for relocation of the wastewater treatment facility. One of those options may be in the backyard of the municipal building. The cost estimate to put a second story on the new addition to the library is \$560K. There is potential FEMA funding for us to get out of the floodplain. If mitigation is refused we may be discussing that.

Mike said if we do move he thinks we should talk to the village about having the municipal building fully owned by town with the village paying rent. Tom said an agreement to clarify ownership would be welcome to him. Mike suggested we could discuss that at the next joint meeting with the village trustees. Tom said a problem now is the deferred maintenance of the municipal building clock tower because of an inability to find shared town and village funding. Mike said we should include ownership of the mill house too. Tom said we should also include the lower storage building and the village and town garages.

Scott asked what would happen to the municipal building if the town and village were to vacate it. Tom said right now it is assessed at \$1.5 million. If we sold it and built something else for 50% of that we would be cash positive. That decision might be forced by relocation of the wastewater treatment facility or not being able to do mitigation effort because FEMA will not pay for it. Scott said the wastewater treatment facility is a key part of the community. It serves the college and the future industrial park, as well as both town and village residents. The selectboard should probably not treat it just as a village issue. Mark asked if Scott thinks the village would agree with that statement. Scott said yes. Mark said he is not sure. Duncan said he thinks if the college closed, the wastewater treatment facility could not survive on just revenue from residents. The college is responsible for 25 to 30% of village revenue for electric, water and sewer. He thinks the wastewater treatment facility could least afford the loss of revenue.

18. Other Business

Duncan said the meeting that was originally planned for April 4 to discuss FEMA mitigation has been rescheduled to April 9. It will include our FEMA rep, Ron Rodjenski, Jeanne Engel and Kelly Vandorn. It would be great if a selectboard member could be there.

The board agreed to have a special meeting April 4 for employee reviews.

19. Executive Session for Negotiating or Securing of Real Estate Purchase or Lease Options

Duncan moved to go into executive session for negotiating or securing of real estate purchase or lease options under V.S.A. § 313(a)(2), inviting Tom and Rosemary to remain, Mark seconded and the motion was passed at 9:11. The board came out of executive session at 9:27.

20. Executive Session for Attorney Client Communications

The board entered executive session for attorney client communications under 1 V.S.A. § 313(a)(1)(F) at 9:28. The board came out of executive session at 9:34.

21. Continuation of Deliberative Session for the Public Hearing Dated 2-21-24 to Address the Dilapidated Building on Route 100C

The board entered the continued deliberative session for the public hearing dated 2-21-24 to address the dilapidated building on Route 100C at 9:34. The board came out of deliberation at 9:55.

Duncan moved to accept the written decision and finding of facts letter as drafted and to authorize Eben Patch, as chair, to sign it, Mike seconded and the motion was passed.

22. Adjourn

The meeting was adjourned at 9:59.

Minutes submitted by Donna Griffiths