

TOWN OF LOWELL

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LOWELL, VT 05847

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Notice of Site Visit and Hearing
Reclassification of Road

Notice is hereby given pursuant to Title 19 Vermont Statutes Annotated Chapter 7, as amended, that the Lowell Selectboard will reclassify the following road from Class 3 Town Highway to a Legal Trail.

The proposed reclassification from a Class 3 Town Highway to a Legal Trail is described as follows:

Town Highway # 15 also known as Kempton Hill Road from the westerly side of the Bridge # 16 to the Valley Road. See attached map.

The road proposed to be reclassified by the Lowell Selectboard will be outlined and highlighted on a map to be posted at the Town Office, 2170 Vermont Route 100, Lowell, Vermont. All abutters and interested persons will be notified in accordance with Title 19V.S.A. Chapter 7.

THEREFORE, the Selectboard will meet at Kempton Hill Road, Lowell, Vermont, on June 23, 2019 at 9:00 a.m. to conduct a site inspection of the above road, then reconvene immediately following this site inspection at the Lowell Town Clerk's Office, to conduct a hearing on the question of reclassifying the above described road. The Selectboard will then determine whether the public good, necessity and convenience of the inhabitants of Lowell require these changes.

The purpose of the hearing shall be to hear all persons interested in said public highway laying out, reclassification, and/or alteration.

Dated at Lowell, Vermont this 23rd day of May, 2018.

SELECTBOARD, TOWN OF LOWELL
Richard Pion, Chairman
Alden Warner
Dwight Richardson

MINUTES
OF SITE VISIT AND HEARING FOR
TOWN OF LOWELL

Meeting held on June 23, 2018 at 9:00 a.m.

Board members present:

Richard Pion/Chair, Alden Warner, Dwight Richardson

Christy Pion/Select Board Clerk

Calvin Allen/Road Commissioner

Sandy LaDeau/Town Clerk & Treasurer

Meeting was called to order at 9:00 a.m.

GUEST:

Arlon Warner
Scott Tallman
George Swanson
Asa Searles
Andre Tetreault Sr.
Charles Boulmetis-Zoning Board Member
Sam Thurston-Zoning Board Member
Marjorie Kramer
Mark Higley-Lister
Lerry Chase-Lister
Chris Hager-Lister

Senator Bobby Starr
Albert Warner
Loren Warner
Tena Starr-Barton Chronicle
Ron Shems-Town Lawyer
David Robitille
Laurent Jalbert
M. Jaye Young- CSR-Court Reporter
Priscilla Matten- Town Auditor

Site visit:

- Richard Pion the Board Chair called the Site Visit meeting to order at 9:00 a.m.
- Ron Shems, Town Lawyer, stated the purpose of this visit is to give people the opportunity to point out things you would like the Selectboard to look at and to suggest things that we can put into consideration at the hearing to take place after the site visit.
- George asked why it wasn't properly maintained through the years? The Town Lawyer responded with that "is a question for the hearing".
- Laurent Jalbert noted the steepness of the hill going towards the Mines Road, and how difficult it must be to travel it, especially after a storm. Arlon Warner stated that the area, at the top of the hill, is a 16.75% grade and the area, just a little beyond that point, is a 14.25% grade. With the bridge closed there are times travel is impossible during the winter months. He added that everyone knows how Vermont winters can be and, even with as little as a half inch of snow, there may be no way out from his residence. Arlon also stated that the bridge was the only safe way out all of the time.
- Richard asked if anyone else had a comment?
- George Swanson noted a concern regarding how emergency services at Arlon Warner's residence could be addressed. Calvin Allen, Fire Chief, explained the Fire Department had established a protocol to transport water across the bridge via a hose. He said the bridge could be used for walking access only and that would be sufficient for their needs. He explained there was adequate space plowed, on the other side of the bridge, to allow for this plan. He also added that the Fire Dept. had been unable to drive Fire Dept. vehicles across the bridge for many years. George expressed concern over liability issues for crossing the bridge on foot if someone were to get hurt. Arlon noted he had handouts, with pictures, to justify his concerns of 10 ft. high and 20 ft. depth snow banks and snow over the bridge, which would hinder, or make it impossible, to cross the bridge with water hoses and/or ambulance structures to his home.
- Richard Pion, Board Chair, stated the bridge was never built to specifications for heavy weight for there were only four I-Beams and none of them under the wheel track, and the bridge has been posted for a minimum of over thirty years. There was further discussion of the placement of the I-Beams.
- Alden Warner, Selectman, stated concern for future use of the bridge due to rot and rust for even travel on foot. There was discussion regarding present rust on the I-Beams.
- Marjorie Kramer asked, "So if this road were to become a trail, and the town then would have no liability, could a bridge be built for emergencies?" There was discussion re liability issues. Alden Warner clarified that anything the town creates the town also has to be liable for it. Richard Pion answered that if the State would assist with 80%, as it does for some projects, it would be not such an issue, but the State has said there is no money for this project. He also said the State will not help with a temporary bridge because there is only one occupancy involved and there is another way out. Arlon Warner said he had spoken to Representative Bobby Starr about a State grant process and there was discussion regarding a grant the town needed to complete to be eligible for it. He said the application had been sent to Lowell, but the Town Officials said it was never received. Richard Pion and Sandy LaDeau, Town Clerk/Treasurer, confirmed that correspondence was received by the town from the State that said the bridge was the responsibility of the Town.
- Laurent Jalbert asked how the decision will be made regarding whether we have a bridge or not. Richard Pion stated the Selectman were not opposed to calling a special town meeting last fall and were discussing selling property and cutting lumber to help pay for the project, but Arlon wanted immediate response. Richard does not feel comfortable spending a half-million dollars without a town vote.
- George Swanson asked if a town vote was needed for the mines road bridge and Richard explained that the State paid 80% of the costs for that and no town vote was needed. Richard reiterated he felt the need for a town vote for a large town expense.
- Ron Shems, Town Lawyer, explained that the reclassification is a process that would allow the town time to research and find money. Then that road could be reclassified again to Class 3 from Class 4. Ron indicated that Arlon is uncomfortable with that process and wants immediate action taken instead.
- There was discussion re the process of road reclassification. It was noted road reclassification process is the same every time regardless of whether it is to go from 3 to 4 or reverse.
- Marjorie Kramer noted she had contacted NVDA (Northeastern Vermont Development Association) and they informed her the cost of a new bridge could be between one and two million dollars. Arlon responded that he had gotten quotes for much less and would share the results at the meeting.

Site visit was adjourned at 9:23 a.m.

Hearing:

- Meeting was called to order at 9:39 a.m.
- Richard Pion, Selectboard Chair started the meeting with a written statement. (see attachment A)
- After the statement was read Richard opened the meeting for discussion.
- Alden Warner, Selectboard, has recused himself from any decision-making process due to Arlon Warner being his brother, but will be sharing comments and opinions throughout the meeting with the other Board members.
- Richard noted they were ready for comments.
- Arlon Warner had a question for the Town. He asked what has the Town done since May 29, 2018 to obtain expert evaluation regarding the engineering of the bridge and cost of repairs? Richard stated we have done nothing, we have left it to this court case.
- Arlon Warner reintroduced himself and Scott Tallman as residents living at the foot of Kempton Hill near the bridge. They each read a portion of the statement they had prepared. (see attachment B) In this statement there were several Tab references and picture references that will be included with attachment B. This information was handed out to the Selectboard and the Board Clerk as packets to be included in the recording of the minutes for this Site Visit and Hearing.
- Arlon stated he was also submitting statements from Reginald Pion, former Road Commissioner, and Lorin Warner, Town Resident. (see attachments C and D) Arlon also included points of interest from Selectboard meetings held on October 17, 2017 and October 31, 2017, (see attachments E and F) and a copy of the tape recordings on a thumb drive from both meetings, which are available in the Town Clerk's Office.
- Lorin asked if Arlon was going to read Reginald Pion's statement, he answered yes. (again, see attachment C) After Arlon read Reginald's statement he asked if there were any questions for them.
- Richard noted there were discussions at prior Selectboard meetings regarding the Kempton Bridge and also noted Priscilla Matten, Town Auditor, could verify this, as she was at those meetings. There was discussion regarding the possibility of utilizing saved Wind Tower Funds, to sell land owned by the town, and/or to sell timber to help cover costs of the bridge replacement. It was also recognized that using Wind Tower Funds and/or selling land would require a special town meeting. Richard noted such actions require time and Arlon was unwilling to wait and wanted immediate resolution. He also noted that Priscilla had discussion with Arlon and Scott, hoping to convince them to hold off on legal action to give the town some needed time. Richard added that Arlon talked about statutes in the submitted statement and said there is also a statute covering reclassification of roads. Richard also noted that Bridge replacement estimates could not be considered until they had been approved by the state. The CCS estimate, per the statement from Arlon and Scott, was much less than the half-million-dollar estimate received by the town from an engineer. He also said that State Water Resources may be involved.
- Scott Tallman, asked how much money does the Town have put aside for projects like this? Richard stated that we put away about \$10 or \$15,000 a year for bridges, Sandy LaDeau, Town Clerk/Treasurer confirmed this. There was also discussion of what would happen if a state highway bridge in the Town got flooded out or needed to be replaced, how would people or buses get around. Richard Stated that people would simply have to go around until the bridge has been taken care of and replaced, just like we've done in the past when we had a flood and a bridge was taken out. There was discussion regarding mileage that would be involved. Ron Shems reiterated to clarify that what's before the Selectboard is to reclassify a stretch of road from a class 3 to a town trail, there's nothing permanent of closing a road or a bridge, just to be clear on why we are here.
- Andre Tetreault Sr., long time town resident, says he understands what the situation is, but he feels there is a situation in town where all our bridges are going bad, and feels that we need a plan, and addressed that we had someone here from the State who should be able to answer our questions on what we need to do and can do to fix this. He stated he doesn't understand, and its not just Lowell, it's the whole country. We are just all standing around waiting for all of our infrastructure to collapse. We would all like bigger houses and cars, we want bigger schools, we want everybody to go to college, but what about the future. What is going to happen 10 or more years from now, where are we going to be, he thinks people should start thinking about it and that we are better than that. He feels the only answer to this (just his opinion) either these gentlemen get bought out at what they were valued plus 10% or we need to do something now. He thinks closing the road is just taking everything they have away from them, and he's not for that.
- Mark Higley, Lister, and State Representative, asked if this reclassification happens, how does that effect the 80/20 split for the State, and also discussed all the process involved in doing this. Richard stated he really doesn't know, when you apply for a grant to replace a bridge you could be put on the list

for funding for up to ten years. Some of our bridges have been on the list for at least 10 years or more now.

- Bobby Starr, State Senator, discussed his thoughts on the bridge situation. He stated that he was neither for or against either party. He felt that we may have a harder time putting the bridge from a trail back to a class 3 bridge after it has been reclassified. He had stated that he had spoken to Shane Morin from VTRANS and discussed the process of getting a grant for the bridge replacement, which was mentioned by Arlon Warner earlier at the site visit. (Full discussion is recorded on a voice recorder) He came to see if there was anything he could do to help with this situation and will be doing what he can to get more information on anything that may help the town out. Richard reiterated that VTRANS had already been contacted and we were told there was no money to help with this project, that is where we got the price of half a million dollars.
- There was further discussion about the estimates that Arlon has presented in the meeting. (please see attachments for further details).
- Calvin Allen, Road commissioner also confirmed options were discussed by the Selectboard regarding the Kempton Bridge at meetings he attended. He also noted that Arlon and Scott had opted to move forward with legal action rather than to give the Selectboard adequate time for research and to wait for a town vote. Calvin also stated he feels the Selectboard has a commitment to protect the town's assets and that they are doing as much as possible. Calvin stated other roads in Lowell have a higher grade than the Kempton Hill and they are maintained to the best of his ability. He added that when he received a call from Arlon or Scott noting a need for good access, such as for fuel truck delivery, etc., he responded appropriately. He also noted this is not a unique situation, that the town has two other roads providing the only access. He reviewed the process for closing the bridge and noted it had to be done to relieve the town from a huge liability.
- Scott stated that a lot of time was spent by Calvin measuring town road inclines and prepared a nice paper noting all grade percentages to show the Kempton Hill isn't as steep as other hills. He added that Arlon bought the property with the knowledge there were two access roads. Other people purchased property knowing there was only one access so were aware of what they were getting into up front. He proceeded to explain access was never a problem over the bridge. Calvin noted Arlon goes to the top of the Kempton Hill each morning to his power dam and he, Calvin, made sure the road was accessible for that.
- Arlon stated that, according to VLCT, a town vote would be meaningless in this case. He said that Richard had said he wanted to bring this to a town vote and if the town voted it down, the process of reclassifying the road to a trail would be on the agenda. This is why he had decided to move ahead with the lawsuit. Richard responded that he had a problem moving forward with such an expensive endeavor without town approval.
- Lorin had asked to speak and read his statement (see attachment D)
- Laurent Jalbert stated that he owned land along Kempton Hill and Mines Roads and expressed concern regarding the need for research regarding costs involved. Ron clarified estimates had been received by CCS and an engineer, after a site visit, and an estimate came in at over one-half million dollars. He noted these are just estimates and final costs could exceed this. He also stated the bridge has been posted for over 30 years and so it has been a long time since emergency vehicles have been able to cross it. Sometime prior to closing the bridge, the State had mandated the weight limit of 6,000 lbs.
- Priscilla asked if a temporary bridge would satisfy all the needs. The discussion turned to different bridge types at this point.
- There was repeated discussion of types of bridges and costs among Arlon, the Selectboard, and guest of the hearing. There was also repeated discussion regarding the State not having any grants or money available to help the Town with the Bridge. Not complying with an application was again mentioned by Arlon. Sandy stated that we never received such an application, nor would she never ever have not filled one out if one were available, she felt apologetic to anyone who may have misunderstood this. She also stated that she looks for them all the time to help better our town and the roads and works with Calvin closing to make sure they are submitted on time. Sandy stated when she was told there was an application that she had missed by Senator Bobby who said he spoke to VTRANS, that she would follow up with them and find out if there really was one that was missed before the next Board meeting.
- Alden feels that putting in a temporary bridge and applying for a grant is not an answer, because to do something, it needs to be a permanent thing. He feels spending money on renting something temporary is a waste of time and should only be done one time so as to not cost us way more than it should.
- Andre asked what the procedure was to get down Arlon's road now in the winter, Calvin answered that his ton truck does it, he exclaimed he not saying it's not hard, but it does the job.
- Chris Hager, Lister, had asked Arlon to clarify if the costs for his bridge estimates were for a permanent bridge or a temporary bridge, Arlon stated it was for a temporary to be put in place and for the

permanent bridge to be put in place. There was further discussion on this with the same answers, and examples of other towns that have had the same issues.

- George asked if the Town will be moving ahead with the road reclassification plan. Richard responded that if an alternate plan could be achieved, then no. Calvin asked Arlon and Scott if they would put a hold on the lawsuit temporarily. Arlon stated he would have to talk with his attorney and said he planned to let the Board know what his attorney advised before the next Board meeting. Arlon also asked the Selectboard to get more quotes/estimates from places he noted he had talked to and the Selectboard members all agreed to do so.
- Senator Bobby explained a little on the 80/20 split from the State and said that even applying for a grant could put us on a list for 3 years or more before we even receive anything. He said he may have more information for us in 2 weeks on this subject matter.
- Lerry chase had mentioned that when we talked about the 80/20 split they didn't count the traffic going up and down the road that maybe they only counted the traffic going on the bridge, to make it eligible for State funds. The discussion took a turn back to discussing being on the list for State grants.
- Andre asked what the cost was going to be if this lawsuit continues, Richard stated we really don't know. Ron stated that if we loose then it would cost the town the price of the bridge and the lawsuit.
- Alden stated that at this point he feels that we have come to a stand still and some investigating will be going on by all parties involved to try to get things going and find a solution. He asked Arlon again if he and Scott would hold off on the lawsuit. Scott and Arlon stated they would get an answer to the Selectboard by Tuesday at our next Board meeting on June 26, 2018. The Board agreed to wait the 3 days to hear from Arlon and Scott.
- Richard asked if anyone else had more comments or questions. Charles Boulmetis asked if Arlon's lawyer decides to proceed forward with the lawsuit, does that mean we will proceed with the reclassification process, Richard answered we are going to take it one step at a time.
- No further comments or questions were asked.

Meeting adjourned at 11:35 a.m.

NOTE:

Voice recording of minutes is on permanent record at the Town Office for listening if/when needed.

Richard Pion- Chm.

Christy Pion – Selectboard Clerk

Alden Warner

Dwight Richardson

Attachment A

We are here to determine whether to reclassify a portion of Kempton Hill Road from Class 3 to a town trail. By way of background, VTrans inspected the bridge and determined that it was not safe and that we should immediately close it. We did that. Fixing the bridge would cost approximately \$?? plus permitting and engineering costs. To put that in context, Lowell's annual budget is \$280,000 for the Selectboard and \$275,000 for the Road budget.

We started looking for money to fix the bridge. VTrans told us that funds are not available. We are still looking for money. Reclassifying this stretch of road will give us more time to find grants, or put this this to a town vote.

This stretch of road can be reclassified if reclassification serves the public good, necessity, and convenience of Lowell's inhabitants. Factors we will consider in making this determination include:

- adequacy of other property and locations;
- quantity, kind, and extent of cultivated and agricultural land which may be taken or rendered unfit for use, immediately and over the long term, by the proposed reclassification;
- effect upon home and homestead rights and the convenience of the owner of the land;
- effect of the highway upon the scenic and recreational values of the highway;
- need to accommodate present and future utility installations within the highway corridor;
- public usage;

- cost of construction and maintenance;
- need to mitigate the environmental impacts of highway construction; and
- effect upon town grand lists and revenues.

DISCLOSURES OF EX PARTE COMMUNICATIONS AND CONFLICTS

ASK ANYONE WHO HAS ANYTHING TO SAY TO COME FORWARD AND TAKE
OATH

INVITE ANYONE TO SUBMIT WRITTEN COMMENT

ASK PEOPLE TO MAKE STATEMENTS FOLLOWED BY SELECTBOARD QUESTIONS

MOVE TO CLOSE THE PUBLIC HEARING AND EVIDENCE

DELIBERATIONS

DECISION

Selectboard Hearing – June 23, 2018

Statement by Arlon Warner and Scott Tallman

1. For the record, our names are Arlon Warner and Scott Tallman, and we live year-round, next to the bridge, at 77 Kempton Hill Road in Lowell, Vermont.

Background info

2. In the summer of 2017, the Kempton Hill Bridge was inspected by agents of the State and Federal governments pursuant to Federal Law. In a letter to the Town dated August 11, 2017, state inspector, Pamela Thurber wrote that the Bridge was "...in poor condition..." and that repairs were "...not feasible and full replacement is necessary." (See Tab 1). On September 8, 2017, the town selectboard passed a "resolution for temporary closure of Kempton Hill Bridge..." without warning to us. Closure was accomplished by placing large concrete blocks on both sides of the bridge. (See Tab 2)

3. We immediately began attending the Selectboard meetings to voice our concerns. Selectboard members stated repeatedly that they don't "feel right" spending so much money for a bridge without a town vote. This town vote would be "essentially meaningless" according to Carl Andeer, staff attorney with the Vermont League of Cities and Towns. He wrote that "...The Selectboard isn't required to ask the voters to do maintenance or repair a class 3 town highway, the town may be obligated to make repairs on the bridge. If, under the law, the town is obligated to repair and maintain the class 3 highway and repair the bridge, a town vote is essentially meaningless." (See Tab 3). The Selectboard members has decided to not abide by Title 19, Para 310 (a) of the Vermont Statutes which states "A town shall keep its class 1, 2, and 3 highways in good and sufficient repair during all seasons of the year..." (See Tab 4). A Notice of Insufficiency was delivered to the Town Clerk's office on Oct 2, 2017 of which they never responded to within the time limit of 72 hours. (See Tab 5).

4. Also, it was obvious to us that the voters of the Town of Lowell would not approve the funds for the bridge repair project. Selectboard member, Alden Warner also believed a town vote would be a waste of time. During the 10/17/17 Selectboard meeting, he said, "In my own mind I know that the people in town aren't gonna, they don't give a damn as long as it's not in their own driveway. You know what I'm saying? So uhh, of course they're gonna vote it down." (Refer to audio for 10/17 at 1:08:50 or see 10/17 transcript).

5. During these meetings, a couple selectboard members demonstrated a surprising lack of urgency in fixing the town's bridges. During the 10/31/17 selectboard meeting, Selectboard Chair, Richard Pion, acknowledged that he's known about the failing abutments on the Kempton Hill bridge for years, "They moved a good many years ago, that bridge's. It's been a long time that bridge has been settling." He also mentions at the same meeting how dangerous the bridge is in front of the Lowell Post Office on VT Route 58, and that he's willing to wait until something happens so the town won't have to pay for it. He said "Someday something's gonna happen to that bridge, but then the state will be there." (Refer to audio recording for 10/31 selectboard meeting at 2:18:59, or 10/31/17 transcript). At the Lowell Town Meeting in March, Richard Pion openly admitted that the selectboard would not fix or maintain the bridge in front of the Post Office on Vt. Rt. 58, that they would wait until it was condemned. When a town citizen asked if there was money to fix this bridge, Richard answered, "The State has not condemned it yet."

6. At the selectboard meeting on 10/31, Richard Pion responded by making threats to reclassify the road as a class 4 road. He made it clear that if we sued the town, he would make a motion to begin reclassification proceedings. He said, "If we can't come to some conclusion we can start the process to declassify the road to class 4. That would take care of the bridge issue. Period." (Refer to audio for 10/31 Selectboard meeting at 40:00 or see 10/31 transcript).

7. We would also like to point out that since 2007, the highest Federal Sufficiency Rating given by the state during at least four inspections (2007, 2009, 2011, and 2014) of the Kempton Hill Bridge was 25.1 out of 100 points. (See Tab 6). Also, the state has given the bridge a rating of "SD", Structurally Deficient, on these reports. (See Tabs 7 & 8). The bridge was inspected about every two years by the state, and the state has recommended repairs and maintenance for years. The Town of Lowell has consistently neglected their recommendations. Lowell's former road commissioner, Reginald Pion, of 20 years, also alerted the selectboard regarding repairs and maintenance that was needed. Aside from changing the decking on the surface of the bridge, nothing had been done to maintain the beams and abutments which have now failed.

8. Here we are today. The selectboard is following through on their threats. They are attempting to permanently close the Kempton Hill Bridge and the section of road that leads from the bridge to the Valley Road, without any regard for our safety and convenience. Their goal, if achieved, is to close the safest way we have to access and exit our property. Such a closure would leave us with only one exit which is extremely steep, dangerous, and possibly life-threatening during the winter months. At times, we would be blocked in with no way out, even when there are small amounts of snow. They are choosing to ignore our safety and the safety of others.

Necessity

Our Safety

9. Arlon purchased the property on May 7, 1982, 36 years ago, knowing there were two ways to exit: A right turn from the driveway, takes you over the bridge and up a slight incline to the Valley Road (.1 mile). A left turn from the driveway takes you up the Kempton Hill Road (.2 mile) to the Mines Road. Most of the climb is steep; and there are two areas that are extremely steep. Near the bottom of the hill, where our driveway meets the Kempton Hill Road, the grade is 14.25%. It has a 90 degree turn from our driveway on to this steep slope. This requires us to nearly stop our vehicle while turning onto the hill, giving us very little, if any momentum as we start climbing. Quite often this is where we get stuck. On the final part of the hill there is a section measured at a 16.75% grade. Getting up this final section, even with a dusting of snow on the road, requires the driver to have a fair amount of momentum in case the tires begin to lose traction, so the car can still manage to spin its way to the top. Given that there is a curve and a steep bank on the left side of the road before this top section, it is nothing less than dangerous when attempting to navigate. (See Photo # 1, taken 9/22/17).

10. During Arlon's 36 years of owning this property and over 25 years residing there, he does not remember any time, not once, when his car became stuck or he couldn't make it over the bridge and onto the Valley Road during the winter months. In contrast to that, last winter having only the steep left turn up the hill as an exit, we documented 7 times over a three-month period when we were unable to leave. (See Tab 9). During these 7 times, there was as much as 2" of snow on the road and as little as ½" of snow. (See Photo #'s 5 & 6, both taken 2/6/18). There were three times we nearly made it to the

top of the hill before spinning to a stop where we had to back our car .2 mile down the hill to our driveway. There were two documented times when we fish-tailed near the top of the hill, narrowly missed a snowbank, then were able to spin our way to the top of the hill. There were several other times, times of heavier snow, when we didn't try to leave, knowing there would be no chance to get up the hill and thus were blocked in.

11. Given that we were unable to exit our property several times last winter and given the lighter amount of snowfall we had last winter, we are very concerned about our safety in a necessary emergency medical or fire response. A slippery, snowy or icy hill could prevent ambulances or fire trucks from being able to get down the hill without getting stuck, and ambulances may not be able to make it back up the hill to drive us to the hospital. Also, because of the bridge closure, emergency vehicles would lose additional precious minutes in response time due to traveling the longer route and navigating more hills via the Mine Road. Such delays in response time could be the difference between life and death, or the difference between saving or losing our house from fire.

12. Members of the selectboard have indicated that in the event of a winter emergency, ambulances and fire trucks could be parked on the Valley Road (eastern) side of the bridge, and hoses and stretchers could be carried over bridge and to our home. This scenario would not work, since during this past winter, with the bridge closed, there were 8-foot-high snow banks against end of the bridge and were over 10 feet in depth making this idea very risky, dangerous and unrealistic. (See Photo # 2, taken 3/14/18). Imagine climbing these snow banks with a stretcher, even worse, being the person on the stretcher. Furthermore, if the bridge and road to the Valley Road were reclassified to a Trail, the road, over time, will eventually erode, become overgrown and unwalkable. The stability of the bridge will become increasingly dangerous as the decking further rots until it is unusable even as a pedestrian crossing. Then the question becomes as to what would happen when the bridge is completely removed for environmental or safety reasons? For these reasons, parking emergency vehicles on the opposite side of the closed bridge would not be a realistic or viable option.

13. On Feb 22, 2018, one side of the steep portion of the Kempton Hill Road eroded and was washed out due to a winter thaw. We alerted the road commissioner on that day. He diverted some water from running down our driveway, but the road washout was not repaired until May 11, 2018. A total of 77 days..... Over two months! (See photo #3, taken 2/23/18 & photo #4 taken 5/4/18). We are concerned that if a more serious washout occurred, we would be totally blocked in for several days.

14. Selectman, Alden Warner, wrote in an email that the Kempton Hill Road is dangerous, stating that closing the bridge "...would make it very dangerous and difficult to travel the steep hill in winter months..." and said, "I feel strongly that we need to replace the bridge, regardless of who lives there." (See Tab 10). Reginald Pion, former Road Commissioner for the Town of Lowell for 20 years ending in 2016, has also indicated safety concerns and the accessibility of emergency vehicles due to the steepness of the hill in winter months. (See enclosed notarized statement).

Tax Client Safety

15. Arlon has used his home office for his Income Tax preparation business for over 25 years and relies on his home being accessible at all times by a high volume of clients. Unfortunately, tax time coincides

with the worst driving winter months. Without the Kempton Hill Bridge, many of these clients are forced to attempt to navigate the steep hill. This past winter, a client tried to leave the home office after a tax meeting when there was only a dusting of snow on the road. He tried several times to climb the hill and spun out after going about 40 feet each time. The only way he was able to leave was by backing up the entire length of the hill in reverse as he had a front wheel drive vehicle. On another documented occasion, a client with a 4-wheel drive truck looked down the hill and decided he didn't dare to drive down the hill. Instead he drove 4.9 miles to the Valley Rd side of bridge, climbed over the cement barricade at the far end of the bridge, walked across the snow-covered condemned bridge, over the other cement barricade at the other end of the bridge, and then walked to the tax office at my residence. For clients who become stuck on the Kempton Hill Road, it should be noted there is no cell phone coverage. The client would have to walk down the steep/slippy hill to our house to call for assistance.

Public Good

Bridge Cost

16. After a meeting at the Kempton Hill Bridge with Engineer Brian Richardson on 10/22/17, Alden reviewed different options and pricing for replacing the bridge during the Select Board Meeting on 10/31/17. His options ranged from \$106,000 to \$143,000. This amount did not include removal of old wood decking on the bridge which Alden indicated he would do that for free, and it did not include putting new wood decking back on the bridge. (See Tab 11). The highest estimate was \$240,000. This is using a Mabey or Bailey Bridge design. (See transcript or audio recording (32:52 to 34:40) of the 10/31/17 Select Board meeting). Total bridge costs obtained from the Mabey Bridge Company and a local Construction Co. (Blow & Cote, Inc., Morrisville, Vt) would be not more than \$220,600. This quote is less than half of some earlier engineer estimates of \$473,900. (See Tab 12). Estimate costs for a temporary bridge is \$36,600 plus rental cost of about \$150 to \$200 to the State of Vermont. (See Tab 13). In a conversation with Senator Starr, he also indicated that a temporary bridge would be possible while a grant application was in process for 80% state funding and only 20 % town funding. In fact, the town selectboard received a grant application, but never completed it.

Money Available for Bridge

17. The town already has assets to cover all, or nearly all, of the cost of a new bridge, thus avoiding the need for a local property tax increase. It has over \$136,700 as of 12/31/17 in a bank CD obtained from the Community Wind Towers. (See Tab 14) The town also owns hundreds of acres located off Irish Hill Rd and Albany Mountain, some of which could be sold to help pay for the bridge. At the 10/31/17 selectboard meeting, it was discussed how this land could be used to generate extra revenue such as logging, being sold to an adjoining land owner, or from sap sales from local sugaring producers. These properties are listed as assets on the Town's Balance sheet and total \$178,600. (Tab 15 and also refer to audio recording of 10/31 Selectboard meeting beginning at 51:30).

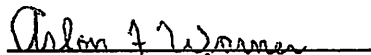
Convenience

18. Because Arlon operates his tax business out of his home, he has a large volume of time-sensitive, confidential mail he needs to receive and send out each week. Because of the bridge closure, the United States Postal Service no longer delivers mail to our house. which creates a situation where 6 days per week we must drive to the post office in Lowell village. That's 7.2 miles round trip. 6 times per week adds up to 43.2 miles per week extra. We now must also pay for a Post Office Box rental. The United Parcel Service refuses to drive down Kempton Hill Road because of the steepness, so UPS leaves packages at Wayne Warner's house on Rt. 100, which is an 8.2 mile round trip.

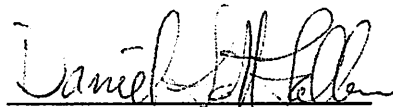
19. **Our property value has dropped.** The Town Listers reduced the assessed value of the property by \$22,780 on May 15, 2018, due to "functional & economic depreciation for access from Mines Rd only due to the bridge closure." (See Tab 16). The bridge closure could also substantially reduce the selling price of the property even further in the future.

Conclusion

20. We have major concerns about the Lowell selectboard ignoring our safety and accessibility for us as well as our business clients, and for emergency response vehicles during the harsh Vermont winter months. Arlon bought the property knowing he had two ways to exit. The selectboard is now trying to take away the safest way to access our home by permanently closing this bridge and reclassifying the eastern end of Kempton Hill Road. As indicated, the town already has assets to cover the cost of the bridge replacement without increasing property taxes. Based on the above facts and information, we strongly urge the select board to replace the Kempton Hill Bridge for the necessity, public good and convenience of the residents of the Town of Lowell, Vt.



Arlon I. Warner



D. Scott Tallman



Tab 1

State of Vermont
Agency of Transportation - Highway Division
Bureau of Asset Management and Performance - Bridge Inspection
One National Life Drive
Montpelier, VT 05633-5001
www.aot.state.vt.us

[phone] 802-828-2621
[fax] 802-828-3566
[ttd] 800-253-0191

August 11, 2017

Mr. Richard Pion, Selectboard Chair
Mr. Calvin Allen, Road Commissioner
Town of Lowell
c/o Ms. Sandy LaDeau, Town Clerk
2170 VT Route 100
Lowell, VT 05847

RE: Lowell, bridge #16 on TH #15 (Class 3) over Burgess Brook

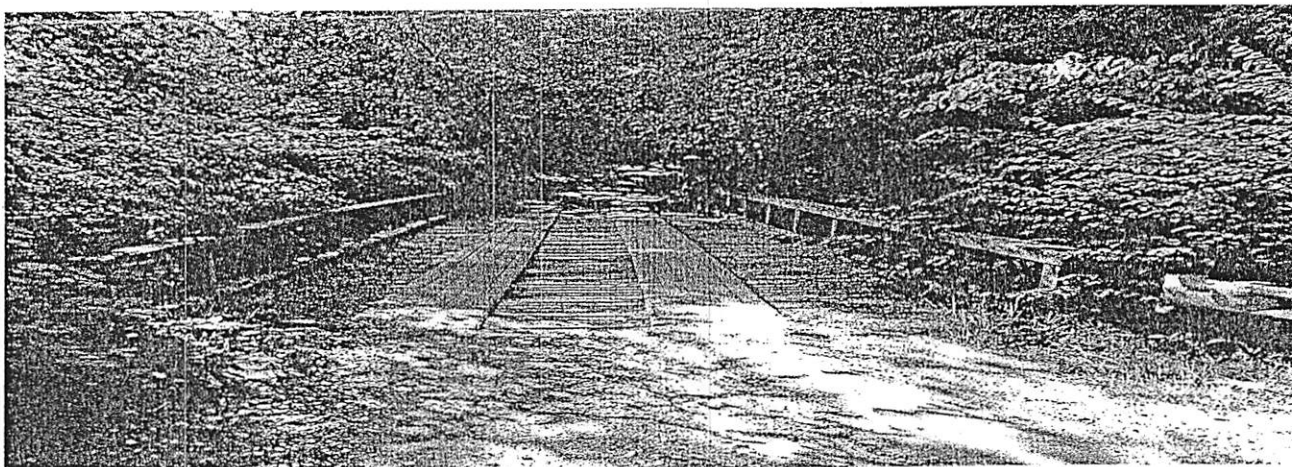
Dear Mr. Pion and Mr. Allen:

The Federal National Bridge Inspection Standards require inspection of all publicly owned bridges over 20 feet in length on a 24 month cycle. A two-member team performs the inspection, with at least one member specially trained for this work. The Agency of Transportation provides this inspection in the interest of public safety and as a service to the municipalities with the cost shared between the Federal government and the State.

The above referenced structure is a single span rolled beam bridge with a timber deck spanning Burgess Branch. During a recent inspection, the following problems were noted in need of attention:

This letter is to notify the Town of Lowell that closure of the bridge may be necessary in the near future and allocating funds to make repairs (such as a installing a new deck) is not recommended. Plans to compensate for road closure should be considered now.

The timber deck and rail system are decaying, however the bridge is in poor condition due to chronic settlement issues. Repairs to address the bridge are not feasible and full replacement is necessary. The bridge is not programmed for replacement and it may be necessary to close the bridge soon as distress continues. To maintain traffic, an alternative to consider, is the possibility of installing a single lane "Mabey" style temporary panel bridge. Installation of the temporary would need to take into account room and grades for "launching" procedures. The temporary would also need to extend several feet beyond each end of the bridge resting on concrete stub type abutment pads.

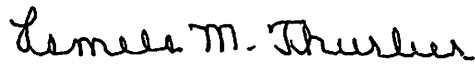


To: Town of Lowell
RE: Lowell, bridge #16 on TH #15 (Class 3) over Burgess Brook
Date: August 11, 2017
Page 2

This structure is owned by the town and as such is the responsibility of the town. **Failure to comply with the recommendations may compromise public safety, result in additional damage, and/or substantially reduce the service life of the structure.**

If you have any questions concerning the matter, please contact your local District Transportation Administrator, DTA Dale Perron at 334-7934 or me at 802-828-0041. A representative from Bridge Inspection would be willing to meet with you at the site to discuss the contents of this letter.

Sincerely,



Pamela M. Thurber, P.E.
Bridge Inspection and Budget Program Manager

PMT: mlj

cc: Dale Perron, DTA District #9
NBIS Inspection Files via MLJ



TOWN OF LOWELL

2170 VT RTE 100
LOWELL, VT 05847

Telephone 802-744-6559
Fax 802-744-2357

SEPTEMBER 8, 2017

RE: 19 V.S.A. §§ 303 AND 1110

TO: RESOLUTION FOR TEMPORARY CLOSURE OF KEMPTON HILL BRIDGE IN
LOWELL VERMONT

Whereas the present conditions on Kempton Hill Bridge are such that the traveling public, or highway itself, might suffer harm caused by vehicular use of that highway bridge due to unsafe travel recommended by the State of Vermont, and whereas the Lowell Selectboard is authorized under 19 V.S.A. §§ 303 and 1110, to regulate the use of motor vehicles on town highways and to adopt rules to restrict the use of town of town highways, NOW THEREFORE, the Lowell Selectboard does RESOLVE that motor vehicle travel on Kempton Hill Bridge shall be prohibited from all traveling of the bridge until further notice.

Lowell Board of Selectmen:

Richard Pion-Chm.
Alden Warner
Dwight Richardson

sladeau@lowelltown.org

From: Carl Andeer <candeer@vlct.org>
Sent: Thursday, October 12, 2017 2:39 PM
To: sladeau@lowelltown.org
Subject: bridge on town highway

Hi Sandra,

I am writing to followup on the phone conversation we had earlier today. You had an inquiry related to repairing a bridge on a class 3 road that the town maintains. You also asked if it the Selectboard could ask the voters whether they want to repair the bridge.

Response:

Under state law, the minimum standards for class 3 highways are "a highway negotiable under normal conditions all seasons of the year by a standard manufactured pleasure car." Selectboards have authority to determine if a class 3 highway or a section thereof should be plowed during winter, but such a determination would have to be made through a written decision after following the process as laid out in 19 VSA Sections 708-711.

Full statute is as follows:

19 VSA Section 302(a)(3)(B): "(B) The minimum standards for class 3 highways are a highway negotiable under normal conditions all seasons of the year by a standard manufactured pleasure car. This would include but not be limited to sufficient surface and base, adequate drainage, and sufficient width capable to provide winter maintenance, except that based on safety considerations for the traveling public and municipal employees, the selectboard shall, by rule adopted under 24 V.S.A. chapter 59, and after following the process for providing notice and hearing in section 709 of this title, have authority to determine whether a class 3 highway, or section of highway, should be plowed and made negotiable during the winter. However, a property owner aggrieved by a decision of the selectboard may appeal to the transportation board pursuant to subdivision 5(d)(9) of this title."

Note that the definition of highway includes "bridges and culverts," as stated in 19 VSA Section 1(12):

"(12) "Highways" are only such as are laid out in the manner prescribed by statute; or roads which have been constructed for public travel over land which has been conveyed to and accepted by a municipal corporation or to the State by deed of a fee or easement interest; or roads which have been dedicated to the public use and accepted by the city or town in which such roads are located; or such as may be from time to time laid out by the Agency or town. However, the lack of a certificate of completion of a State or town highway shall not alone constitute conclusive evidence that the highway is not public. The term "highway" includes rights-of-way, bridges, drainage structures, signs, guardrails, areas to accommodate utilities authorized by law to locate within highway limits, areas used to mitigate the environmental impacts of highway construction, vegetation, scenic enhancements, and structures. The term "highway" does not include State Forest highways, management roads, easements, or rights-of-way owned by or under the control of the Agency of Natural Resources, the Department of Forests, Parks and Recreation, the Department of Fish and Wildlife, or the Department of Environmental Conservation."

(underlining added by me).

The Selectboard's decision whether to put the question of repairing the bridge to the voters is a political one. In other words, there is nothing in state law that prohibits asking the voters, but the Selectboard isn't required to ask the voters to do maintenance or repair a class 3 highway. More importantly, because (based on what you stated) the town has and does maintain the class 3 town highway, the town may be obligated to make repairs on the bridge. I cannot make that determination however, it is a question that relies on many circumstances and facts not available to me. If, under the law, the town is obligated to repair and maintain the class 3 highway and repair the bridge, a town vote is essentially meaningless.

If there is a potential for the town to be sued by a resident on the class 3 highway in question, I recommend working with a town attorney. The attorney will be able to hopefully determine if the town is obligated to maintain and repair this portion of the class 3 highway and will also be able to give other recommendations.

Regards,

Carl Andeer, Esq.

Staff Attorney I, Municipal Assistance Center
Vermont League of Cities and Towns
89 Main Street, Suite 4
Montpelier VT, 05602



www.vlct.org

Voice: 802-229-9111

Fax: 802-229-2211

VERMONT LEAGUE OF CITIES & TOWNS

Serving and Strengthening Vermont Local Governments

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The Vermont Statutes Online

Title 19 : Highways

Chapter 003 : Town Highways

(Cite as: 19 V.S.A. § 310)

§ 310. Highways, bridges and trails

(a) A town shall keep its class 1, 2, and 3 highways and bridges in good and sufficient repair during all seasons of the year, except that based on safety considerations for the traveling public and municipal employees, the selectboard shall, by rule adopted under 24 V.S.A. chapter 59, and after following the process for providing notice and hearing in section 709 of this title, have authority to determine whether a class 2 or 3 highway, or section of highway, should be plowed and made negotiable during the winter. A property owner aggrieved by a decision of the selectboard may appeal to the transportation board pursuant to subdivision 5(d)(9) of this title.

(b) Class 4 highways may be maintained to the extent required by the necessity of the town, the public good and the convenience of the inhabitants of the town, or may be reclassified using the same procedures as for laying out highways and meeting the standards set forth in section 302 of this title.

(c) A town shall not be liable for construction, maintenance, repair, or safety of trails.

(d) For class 2 and 3 highways that have routinely not been plowed and made negotiable prior to July 1, 2000, the process requirements of subdivision 302(a)(3)(B) of this title and subsection (a) of this section shall not be required. A property owner adversely affected by this subsection may request the selectboard to plow and make negotiable a class 2 or 3 town highway. However, a property owner aggrieved by a decision of the selectboard may appeal to the transportation board pursuant to subdivision 5(d)(9) of this title. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1999, No. 156 (Adj. Sess.), §§ 29, 30, eff. May 29, 2000.)

NOTICE OF INSUFFICIENCY

NOW COME the undersigned residents of Lowell, Vermont and hereby give formal notice to the Lowell Selectmen of an insufficiency on Town Highway #15 a/k/a Kempton Hill Road, to wit: closure of Bridge #16 spanning Burgess Brook. Notice is given pursuant to 19 V.S.A. § 971 which provides:

When a highway or bridge is out of repair or unsafe for travel, any three citizens or taxpayers in the State may give written and signed notice of the insufficiency to the selectmen of the town in which the highway or bridge is situated, setting forth in general terms the location of the highway or bridge and the nature of the insufficiency. If the town neglects for seventy-two hours to respond by either denying the allegation or to commence work upon the highway or bridge, or fails to continue the work in good faith and with reasonable dispatch until the highway or bridge is put in good and sufficient repair, the citizens may file with one of the County Road Commissioners or the Superior Court for the county in which the highway or bridge is situated, a written complaint signed and sworn to, setting forth in general terms the location of the highway or bridge and the nature of the insufficiency. The complainants shall also give the Commissioners security by deposit or otherwise for the costs of proceedings under the complaint.

The undersigned believe the closure of the Bridge is in violation of Vermont law and urge the Selectmen to authorize the rental a temporary bridge until such time as a permanent replacement is installed.

Arden Warner Arden Warner 9/28/17
Printed Name: Date

D. Scott Tallman D. Scott Tallman 9/28/17
Printed Name: Date

Jeff Place Jeff Place 9.28.2017
Printed Name: Date

Lorin Warner Lorin Warner 9/28/2017
Printed Name: Date

Linda LaDeau LINDA LADEAU 9/29/2017
Printed Name: Date

BOOKCHIN & DURRELL, PC
ATTORNEYS AT LAW
TWO SPRING STREET
MONTPELIER, VERMONT
05602
TELEPHONE 802-229-9829
438 MAIN STREET
P.O. BOX 530
VT 05629
TEL. ONE 802-766-2870

RECEIVED
OCT 02 2017
9:26 Am

Christy M. Tison Asst. Clerk

Kempston 1711 Kol
Tab 6

STRUCTURE INSPECTION, INVENTORY and APPRAISAL SHEET

Vermont Agency of Transportation ~ Structures Section ~ Bridge Management and Inspection Unit

Inspection Report for **LOWELL**

bridge no.: 00016

District: 9

Located on: C3015

over **BURGESS BRANCH**

approximately 0.15 MI TO JCT W CL2 TH Owner: 03 TOWN-OWNED

CONDITION

Deck Rating: 6 **SATISFACTORY**
Superstructure Rating: 5 **FAIR**
Substructure Rating: 7 **GOOD**
Channel Rating: 7 **GOOD**
Culvert Rating: N **NOT APPLICABLE**
Federal Str. Number: 101013001610131
Federal Sufficiency Rating: 25
Deficiency Status of Structure: SD

AGE and SERVICE

Year Built: 1943 Year Reconstructed: 0000
Service On: 1 **HIGHWAY**
Service Under: 5 **WATERWAY**
Lanes On the Structure: 01
Lanes Under the Structure: 00
Bypass, Detour Length (miles): 05
ADT: 000050 % Truck ADT: 02
Year of ADT: 1998

GEOMETRIC DATA

Length of Maximum Span (ft): 0072
Structure Length (ft): 000075
Lt Curb/Sidewalk Width (ft): 0
Rt Curb/Sidewalk Width (ft): 0
Bridge Rdwy Width Curb-to-Curb (ft): 14.5
Deck Width Out-to-Out (ft): 16
Appr. Roadway Width (ft): 014
Skew: 00
Bridge Median: 0 **NO MEDIAN**
Min Vertical Clr Over (ft): 99 FT 99 IN
Feature Under: **FEATURE NOT A HIGHWAY OR RAILROAD**
Min Vertical Underclr (ft): 00 FT 00 IN

STRUCTURE TYPE and MATERIALS

Bridge Type: **STEEL BM W TIMBER DK**
Number of Approach Spans: 0000 Number of Main Spans: 001
Kind of Material and/or Design: 3 **STEEL**
Deck Structure Type: 8 **TIMBER**
Type of Wearing Surface: 7 **WOOD OR TIMBER**
Type of Membrane: 0 **NONE**
Deck Protection: 0 **NONE**

APPRAISAL *AS COMPARED TO FEDERAL STANDARDS

Bridge Railings: 0 **DOES NOT MEET CURRENT STANDARD**
Transitions: 0 **DOES NOT MEET CURRENT STANDARD**
Approach Guardrail: 0 **DOES NOT MEET CURRENT STANDARD**
Approach Guardrail Ends: 0 **DOES NOT MEET CURRENT STANDARD**
Structural Evaluation: 2 **INTOLERABLE, REPLACEMENT NEEDED**
Deck Geometry: 6 **EQUAL TO MINIMUM CRITERIA**
Underclearances Vertical and Horizontal: N **NOT APPLICABLE**

Waterway Adequacy: 8 **SLIGHT CHANCE OF OVERTOPPING ROADWAY**

Approach Roadway Alignment: 3 **INTOLERABLE, CORRECTIVE ACTION NEEDED**
Scour Critical Bridges: U **UNKNOWN FOUNDATION**

DESIGN VEHICLE, RATING, and POSTING

Load Rating Method (Inv): 2 **ALLOWABLE STRESS (AS)**
Posting Status: A **OPEN, NO RESTRICTION**
Bridge Posting: 5 **NO POSTING REQUIRED**
Load Posting: 07 **END OF ROAD IS POSTED WITHIN SIGHT OF BRIDGE**
Posted Vehicle: 6 **GROSS LOAD ONLY**
Posted Weight (tons): 08
Design Load: 0 **OTHER OR UNKNOWN**

INSPECTION and CROSS REFERENCE

X-Ref. Route:

Insp. Date: 072007

Insp. Freq. (months) 24

X-Ref. BrNum:

INSPECTION SUMMARY and NEEDS

THIS STRUCTURE IS IN GOOD TO POOR CONDITION. THE CURRENT APPROACH ALIGNMENT IS POOR. THE BEAMS SHOULD BE CLEANED OF ALL RUST SCALE AND THEN PAINTED. THE BRUSH SHOULD BE CUT BACK FOR BETTER VISIBILITY. 7 - 25 - 07

STRUCTURE INSPECTION, INVENTORY and APPRAISAL SHEET

Vermont Agency of Transportation ~ Structures Section ~ Bridge Management and Inspection Unit

Inspection Report for **LOWELL**

bridge no.: 00016

District: 9

Located on: C3015

over **BURGESS BRANCH**

approx. 0.15 MI TO JCT W CL2 TH3

Owner: 03 TOWN-OWNED

CONDITIONDeck Rating: 6 **SATISFACTORY**Superstructure Rating: 5 **FAIR**Substructure Rating: 5 **FAIR**Channel Rating: 8 **VERY GOOD**Culvert Rating: N **NOT APPLICABLE**

Federal Str. Number: 101013001610131

Federal Sufficiency Rating (April 2010): 24.7

Deficiency Status of Structure (April 2010): SD

STRUCTURE TYPE and MATERIALSBridge Type: **ROLLED BM W TIMB DK**

Number of Approach Spans: 0000

Number of Main Spans: 001

Kind of Material and/or Design: 3 **STEEL**Deck Structure Type: 8 **TIMBER**Type of Wearing Surface: 7 **WOOD OR TIMBER**Type of Membrane: 0 **NONE**Deck Protection: 0 **NONE****AGE and SERVICE**

Year Built: 1943 Year Reconstructed: 0000

Service On: 1 **HIGHWAY**Service Under: 5 **WATERWAY**

Lanes On the Structure: 01

Lanes Under the Structure: 00

Bypass, Detour Length (miles): 05

ADT: 000050 % Truck ADT: 02

Year of ADT: 2007

APPRAISAL *AS COMPARED TO FEDERAL STANDARDSBridge Railings: 0 **DOES NOT MEET CURRENT STANDARD**Transitions: 0 **DOES NOT MEET CURRENT STANDARD**Approach Guardrail: 0 **DOES NOT MEET CURRENT STANDARD**Approach Guardrail Ends: 0 **DOES NOT MEET CURRENT STANDARD**Structural Evaluation: 2 **INTOLERABLE, REPLACEMENT NEEDED**Deck Geometry: 6 **EQUAL TO MINIMUM CRITERIA**Underclearances Vertical and Horizontal: N **NOT APPLICABLE**Waterway Adequacy: 8 **SLIGHT CHANCE OF OVERTOPPING ROADWAY**Approach Roadway Alignment: 3 **INTOLERABLE, CORRECTIVE ACTION NEEDED**Scour Critical Bridges: U **UNKNOWN FOUNDATION****GEOMETRIC DATA**

Length of Maximum Span (ft): 0072

Structure Length (ft): 000075

Lt Curb/Sidewalk Width (ft): 0

Rt Curb/Sidewalk Width (ft): 0

Bridge Rdwy Width Curb-to-Curb (ft): 14.5

Deck Width Out-to-Out (ft): 16

Appr. Roadway Width (ft): 014

Skew: 00

Bridge Median: 0 **NO MEDIAN**

Min Vertical Clr Over (ft): 99 FT 99 IN

Feature Under: **FEATURE NOT A HIGHWAY OR RAILROAD**

Min Vertical Underclr (ft): 00 FT 00 IN

DESIGN VEHICLE, RATING, and POSTINGLoad Rating Method (Inv): 2 **ALLOWABLE STRESS (AS)**Posting Status: A **OPEN, NO RESTRICTION**Bridge Posting: 5 **NO POSTING REQUIRED**Load Posting: 07 **END OF ROAD IS POSTED WITHIN SIGHT OF BRIDGE**Posted Vehicle: 6 **GROSS LOAD ONLY**

Posted Weight (tons): 08

Design Load: 0 **OTHER OR UNKNOWN****INSPECTION and CROSS REFERENCE**

X-Ref. Route:

Insp. Date: 062009

Insp. Freq. (months) 24

X-Ref. BrNum:

INSPECTION SUMMARY and NEEDS

06/26/2009 - The entire plank guard rail system is quite poor with rotten and broken wooden posts. The rail system is very flimsy overall considering the bridge height and it's poor alignment. Deck will need replacing in the next 2 years or so as decay is progressing. Both abutments have settled considerably in the last 15 years. Abutment #1 has settled 5" + at it's northern end, while abutment #2 has settled as much as 3". All beams now bow downstream as much as 3" and are tipped 1" - 2"; indicative of the abutment movement. Plans should be made to fully replace this structure within the next 10 years. Vegetation should be cut back to improve sight distance. - MJ/DS

STRUCTURE INSPECTION, INVENTORY and APPRAISAL SHEET

Vermont Agency of Transportation ~ Structures Section ~ Bridge Management and Inspection Unit

Inspection Report for **LOWELL**

bridge no.: 00016

District: 9

Located on: C3015

over **BURGESS BRANCH**

approx. 0.15 MI TO JCT W CL2 TH3

Owner: 03 TOWN-OWNED

CONDITION

Deck Rating: 8 **VERY GOOD**
 Superstructure Rating: 5 **FAIR**
 Substructure Rating: 5 **FAIR**
 Channel Rating: 8 **VERY GOOD**
 Culvert Rating: N **NOT APPLICABLE**
 Federal Str. Number: 101013001610131
 Federal Sufficiency Rating (April 2011): 24.7
 Deficiency Status of Structure (April 2011): SD

AGE and SERVICE

Year Built: 1943 Year Reconstructed: 0000
 Service On: 1 **HIGHWAY**
 Service Under: 5 **WATERWAY**
 Lanes On the Structure: 01
 Lanes Under the Structure: 00
 Bypass, Detour Length (miles): 05
 ADT: 000050 % Truck ADT: 02
 Year of ADT: 2007

GEOMETRIC DATA

Length of Maximum Span (ft): 0072
 Structure Length (ft): 000075
 Lt Curb/Sidewalk Width (ft): 0
 Rt Curb/Sidewalk Width (ft): 0
 Bridge Rdwy Width Curb-to-Curb (ft): 14.5
 Deck Width Out-to-Out (ft): 16
 Appr. Roadway Width (ft): 014
 Skew: 00
 Bridge Median: 0 **NO MEDIAN**
 Min Vertical Clr Over (ft): 99 FT 99 IN
 Feature Under: **FEATURE NOT A HIGHWAY OR RAILROAD**
 Min Vertical Underclr (ft): 00 FT 00 IN

STRUCTURE TYPE and MATERIALS

Bridge Type: **ROLLED BM W TIMB DK**
 Number of Approach Spans: 0000 Number of Main Spans: 001
 Kind of Material and/or Design: 3 **STEEL**
 Deck Structure Type: 8 **TIMBER**
 Type of Wearing Surface: 7 **WOOD OR TIMBER**
 Type of Membrane: 0 **NONE**
 Deck Protection: 0 **NONE**

APPRAISAL *AS COMPARED TO FEDERAL STANDARDS

Bridge Railings: 0 **DOES NOT MEET CURRENT STANDARD**
 Transitions: 0 **DOES NOT MEET CURRENT STANDARD**
 Approach Guardrail: 0 **DOES NOT MEET CURRENT STANDARD**
 Approach Guardrail Ends: 0 **DOES NOT MEET CURRENT STANDARD**
 Structural Evaluation: 2 **INTOLERABLE, REPLACEMENT NEEDED**
 Deck Geometry: 6 **EQUAL TO MINIMUM CRITERIA**
 Underclearances Vertical and Horizontal: N **NOT APPLICABLE**
 Waterway Adequacy: 8 **SLIGHT CHANCE OF OVERTOPPING ROADWAY**
 Approach Roadway Alignment: 3 **INTOLERABLE, CORRECTIVE ACTION NEEDED**
 Scour Critical Bridges: U **UNKNOWN FOUNDATION**

DESIGN VEHICLE, RATING, and POSTING

Load Rating Method (Inv): 2 **ALLOWABLE STRESS (AS)**
 Posting Status: A **OPEN, NO RESTRICTION**
 Bridge Posting: 5 **NO POSTING REQUIRED**
 Load Posting: 01 **NO LOAD POSTING SIGNS EXIST NEAR BRIDGE**
 Posted Vehicle: **POSTING NOT REQUIRED**
 Posted Weight (tons):
 Design Load: 0 **OTHER OR UNKNOWN**

INSPECTION and CROSS REFERENCE

X-Ref. Route:

Insp. Date: 062011

Insp. Freq. (months) 24

X-Ref. BrNum:

INSPECTION SUMMARY and NEEDS

06/16/11 The beams continue to deteriorate and need extensive cleaning and painting to save the beams from more section loss. New approach guardrail need to be installed with standard size and shape guardrails and posts. The wash outs in the approaches at the abutments on the banks should be filled in. Abutment #1 seems to have settled in the past about 8" in 16'. The town should monitor the abutments for any more settlement after high rains and spring thaw. DCP & FRE

5 / 2014

STRUCTURE INSPECTION, INVENTORY and APPRAISAL SHEET Vermont Agency of Transportation ~ Structures Section ~ Bridge Management and Inspection Unit

Inspection Report for **LOWELL** bridge no.: 00016 District: 9
 Located on: C3015 over **BURGESS BRANCH** approx. 0.15 MI TO JCT W CL2 TH3 Owner: 03 TOWN-OWNED

CONDITION

Deck Rating: 7 **GOOD**
 Superstructure Rating: 5 **FAIR**
 Substructure Rating: 4 **POOR**
 Channel Rating: 7 **GOOD**
 Culvert Rating: N **NOT APPLICABLE**
 Federal Str. Number: 101013001610131
 Federal Sufficiency Rating (April 2015): 025.1
 Deficiency Status of Structure (April 2015): SD

AGE and SERVICE

Year Built: 1943 Year Reconstructed: 0000
 Service On: 1 **HIGHWAY**
 Service Under: 5 **WATERWAY**
 Lanes On the Structure: 01
 Lanes Under the Structure: 00
 Bypass, Detour Length (miles): 05
 ADT: 000050 % Truck ADT: 02
 Year of ADT: 2007

GEOMETRIC DATA

Length of Maximum Span (ft): 0072
 Structure Length (ft): 000075
 Lt Curb/Sidewalk Width (ft): 0
 Rt Curb/Sidewalk Width (ft): 0
 Bridge Rdwy Width Curb-to-Curb (ft): 14.5
 Deck Width Out-to-Out (ft): 16
 Appr. Roadway Width (ft): 014
 Skew: 00
 Bridge Median: 0 **NO MEDIAN**
 Min Vertical Clr Over (ft): 99 FT 99 IN
 Feature Under: **FEATURE NOT A HIGHWAY OR RAILROAD**
 Min Vertical Underclr (ft): 00 FT 00 IN

STRUCTURE TYPE and MATERIALS

Bridge Type: **ROLLED BM W TIMB DK**
 Number of Approach Spans: 0000 Number of Main Spans: 001
 Kind of Material and/or Design: 3 **STEEL**
 Deck Structure Type: 8 **TIMBER**
 Type of Wearing Surface: 7 **WOOD OR TIMBER**
 Type of Membrane: 0 **NONE**
 Deck Protection: 0 **NONE**

APPRAISAL *AS COMPARED TO FEDERAL STANDARDS

Bridge Railings: 0 **DOES NOT MEET CURRENT STANDARD**
 Transitions: 0 **DOES NOT MEET CURRENT STANDARD**
 Approach Guardrail: 0 **DOES NOT MEET CURRENT STANDARD**
 Approach Guardrail Ends: 0 **DOES NOT MEET CURRENT STANDARD**
 Structural Evaluation: 2 **INTOLERABLE, REPLACEMENT NEEDED**
 Deck Geometry: 6 **EQUAL TO MINIMUM CRITERIA**
 Underclearances Vertical and Horizontal: N **NOT APPLICABLE**
 Waterway Adequacy: 8 **SLIGHT CHANCE OF OVERTOPPING ROADWAY**
 Approach Roadway Alignment: 4 **MEETS MINIMUM TOLERABLE CRITERIA**
 Scour Critical Bridges: U **UNKNOWN FOUNDATION**

DESIGN VEHICLE, RATING, and POSTING

Load Rating Method (Inv): 2 **ALLOWABLE STRESS (AS)**
 Posting Status: P **POSTED FOR LOAD**
 Bridge Posting: 4 **POSTING REQUIRED**
 Load Posting: 07 **END OF ROAD IS POSTED WITHIN SIGHT OF BRIDGE**
 Posted Vehicle: 6 **GROSS LOAD ONLY**
 Posted Weight (tons): 03
 Design Load: 0 **OTHER OR UNKNOWN**

INSPECTION and CROSS REFERENCE X-Ref. Route:

Insp. Date: 052014 Insp. Freq. (months) 12 X-Ref. BrNum:

INSPECTION SUMMARY and NEEDS

5/27/2014 Abutment #1 has settled 1/4 " more since last inspection. Erosion on abutment #1 side should be repaired. Backwall on abutment #1 should be repaired to protect the fascia beams on the downstream side. Riprap should be added where the old laidup stone abutment has failed on abutment #1. ~ FRE/TJB

5/8/2013 Abutment #1 has settled 2 1/2" in 4' measurements were taken between beams 2 and 3 on abutment#1. New approach guard rail have been installed. More fill should be added on both approaches under the rail. ~FRE/DAK

12/13/2012 - Return for cursory QC inspection. New galv. steel beam approach rail installed at each corner. Bridge also posted at end of road for 3 Tons and No trucks. A 10" vertical drop was measured along the east abutment at the downstream end.** Again, the posting limit of 3 tons needs to be strictly adhered to. ~ MJ/MK

VTans Inspection Program

- **Sufficiency Rating:** A bridge sufficiency rating includes a multitude of factors: inspection results of the structural condition of the bridge, traffic volumes, number of lanes, road widths, clearances, and importance for national security and public use, to name just a few.

The sufficiency rating, from a low of 0 (completely insufficient) to a high of 100 (entirely sufficient), is indicative of a bridge's sufficiency to remain in service. The formula places 55 percent value on the structural condition of the bridge, 30 percent on its serviceability and obsolescence, and 15 percent on its essentiality to public use.

VT Trans Inspection Program

- **Structurally Deficient (SD):** Bridges are considered structurally deficient if significant load-carrying elements are found to be in poor or worse condition due to deterioration and/or damage, or the adequacy of the waterway opening provided by the bridge is determined to be extremely insufficient to the point of causing intolerable traffic interruptions. The fact that a bridge is structurally deficient does not immediately imply that it is likely to collapse or that it is unsafe.
- **Functionally Obsolete/Deficient (FO/FD):** Bridges are considered functionally obsolete when the geometry of the roadway the bridge carries or crosses over no longer meets today's minimum design standards for width or vertical clearance for that classification of roadway and the amount of traffic it carries or the adequacy of the waterway opening provided by the bridge is determined to be insufficient to the point of causing traffic interruptions. The fact that a bridge is functionally obsolete does not imply that it is unsafe.

12/12/17 5:50pm Scott

- Could not climb hill with 2" of snow. Drove beyond driveway about 20' before the car would only spin in place.

12/12/17 6:00 P.M. Arlen

Could only get to top of hill after some spinning about $\frac{1}{3}$ of the time even with four studded tires. Would not be able to get out with four regular winter tires. Used my Toyota Corolla. Car Hill had not been sanded.

12/13/17 8:20 AM

$\frac{1}{2}$ " snow, car climbed 30-40' up hill until tires would only spin. Hill not sanded.

12/13/17 9:45 A.M. -

Made it to the top but did spin a little with my Toyota, again with 4 studded tires. Hill had not been sanded.

12/14/17 by 8:00 P.M. Hill had been plowed and sanded; was able to make it to top of hill without spinning.

12/16/17 9:10 AM

$\frac{3}{4}$ " snow. Car tires spun through first section of hill "fish-tailed" and spun during the top steep section. Nearly slid into left bank at top, but managed to spin way to top.

12/19/17

$\frac{1}{2}$ " snow. Spun & "fish-tailed" way up to top. had to slow down to avoid snow bank at top, then barely had speed to get to top.

12/22/17 2:30 pm

2" snow. Tires spun immediately upon turning up Kempton hill. Managed to make it 90' before car veered to side and spun to a stop.

2/4/18 1:20 pm

2" snow. Could not make it up hill. Tires spun out car slowed to stop about 60 feet from driveway tried twice.

2/22 warm weather. Melting snow washed out half of road (pictures). Called Calvin. Barely made it up road w/ deep ruts and mud @ top of hill

3/8 7:30 am 1" snow after hill was plowed. Car made it about 20' before spinning to a stop

3/11/18 11:00am dusting of snow.

- client couldn't make it up hill. spun out after 40ft or so.

turned around and made it up hill traveling in reverse.

1:15pm dusting of snow

- tried twice more couldn't make it up. Steep part at top, spun out twice. had to back down hill twice

3/15/18 11:30am 1" Snow

Scott • Car spun out ~~near~~^{on} steep top part, had to back down length of hill.

4/15/18 1:00pm 1" Snow

- Client w/ 4 wheel Drive truck. At top of hill, looked down hill, decided he didn't dare drive down. Instead drove several miles around to Valley RD to other side of bridge, walked across bridge to house. parking truck on other side of bridge.

From: Alden Warner <alden@myfairpoint.net>
To: Arlon
Subject: FW: Lowell Bridge
Date: Oct 26, 2017 11:26 AM
Attachments: [image002.gif](#) [image001.jpg](#) [Conflict Policy.pdf](#)

From: Alden Warner [mailto:alden@myfairpoint.net]
Sent: Thursday, October 26, 2017 7:48
To: Ron Shems <ras@diamond-robinson.com>
Subject: Lowell Bridge

Ron, I know you already spoke to Richard, but I assume that Sandy has sent you an e-mail regarding the Bridge in Lowell. The resident who lives next to the bridge is anxiously awaiting for your response, as he has hired an attorney to fight the closing of the bridge, which would make it very dangerous and difficult to travel the steep hill in winter months. Not sure if Richard mentioned it to you or not, but it happens to be my brother. It puts me in a rather odd situation, but I feel strongly that we need to replace the bridge, regardless of who lives there. Would it be possible to get a response ASAP, and send a copy to sandy, as well as myself, being that the office is closed on Fridays? I'd like to get it to him.

Thanks,
Alden



Virus-free. www.avg.com

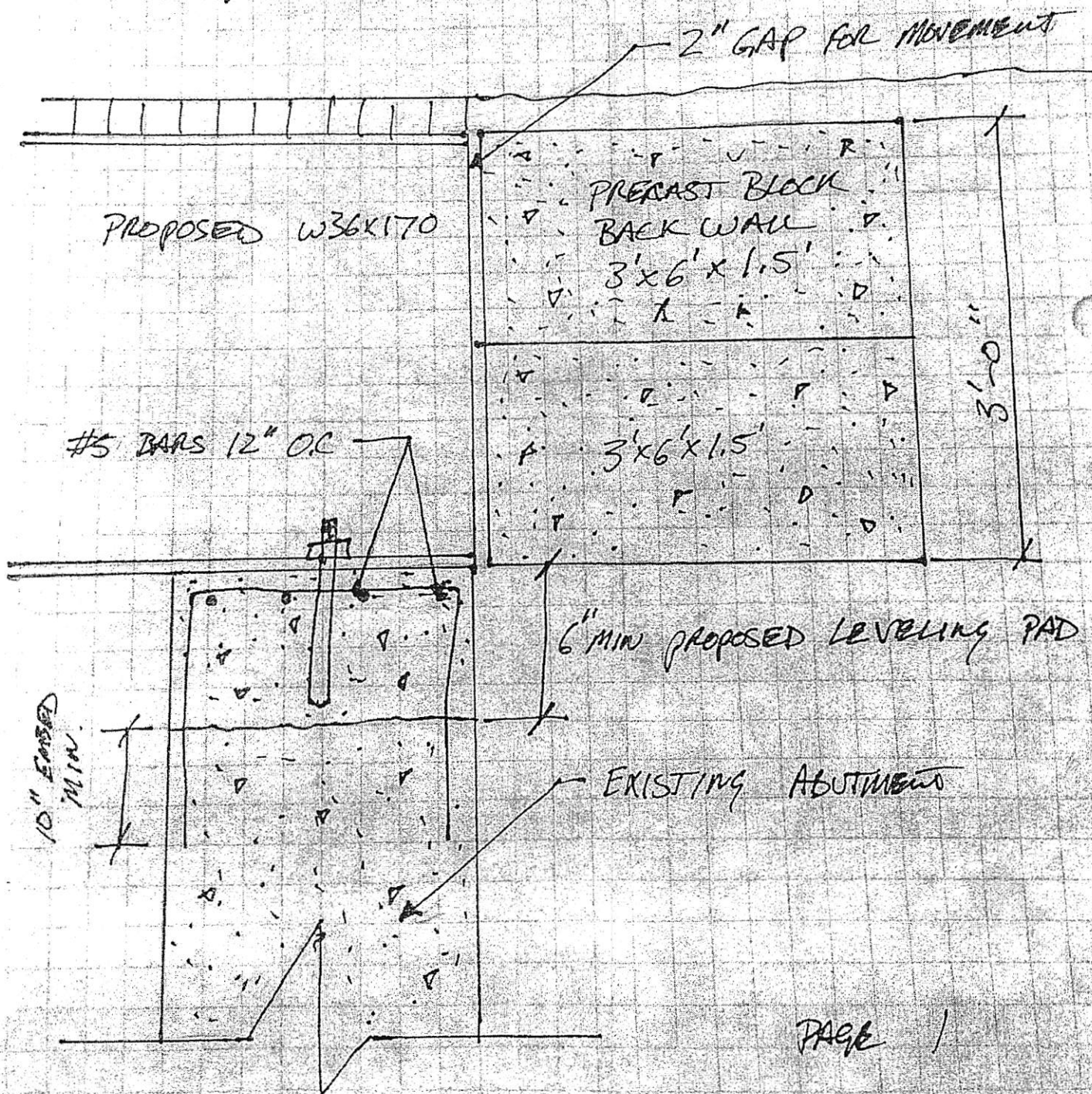
FOUNDATION WORK \Rightarrow \$38,000
 REMOVE OLD BEAMS \Rightarrow \$15,000
 NEW STEEL BRIDGE \Rightarrow \$53,000

(SEE PAGE 1 & 2)

TOTAL \Rightarrow \$106,000

NOTE:

- ~~NO~~ NO WOOD DECK REMOVAL
- NO WOOD DECK INSTALL
- ASSUME TOWN GRAVEL FOR REBUILD.



EXISTING ABUTMENT
WITH LEVELING
PAD

TO BE
CENTERED
ON TRAVEL
LANE

PROPOSED BACKWALL
(3'x6'x1.5' BLOCK)

PRECAST BLOCK
RETAINING WALL,
ANGLE & LENGTH
TO BE DETERMINED
IN THE FIELD

FOUNDATION WORK \Rightarrow
 REMOVE OLD BEAMS \Rightarrow
 NEW STEEL BRIDGE \Rightarrow

75,000 (SEE PAGE 8)

15,000

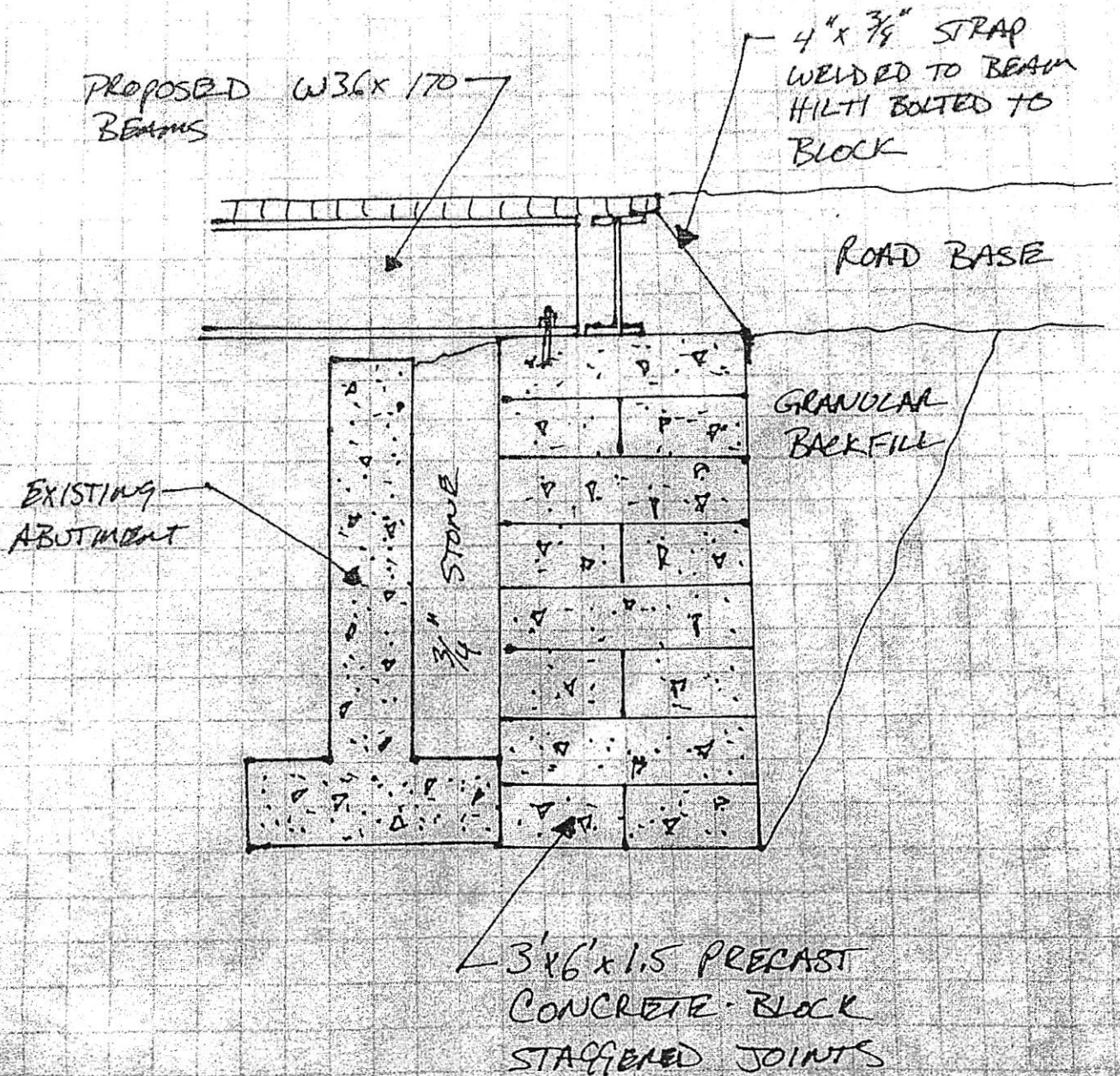
53,000

\$143,000

TOTAL

NOTE:

- NO WOOD DECK
- NO REMOVAL OF OLD DECK
- ASSUME TOWN GRAVEL FOR REBUILD.



Arlon Warner

From: Adam Blair <A.Blair@mabey.com>
Sent: Tuesday, June 19, 2018 1:01 PM
To: Arlon Warner
Subject: RE: Lowell VT C200 Bridge

Arlon,

Price for 100ft option:
 C200
 Length: 100ft
 Width: 13.8ft rw
 Live load: HS20
 Trusses: SSHRH+

Budget sale price: \$109,500

Price excludes:
 Freight to Lowell, VT
 Guard rail: add \$22,000
 Anti-skid on decks: add \$16,500

Regarding the loading on the bridge, HS20 covers all legal highway loads, including fire trucks

Regarding installation, yes, a crane is the best way to install the bridge. We can provide the names of some contractors in Vermont who are experienced with our bridges.

Regarding acceptance of the bridge, Vermont Agency of Transportation (VTAOT) owns several Mabey bridges, so there should not be an issue getting approval for the bridge.

Regards,
 Adam Blair
 Customer Support Representative
 Office: 410-567-1957
 Mobile: 410-387-6424
 Email: A.Blair@mabey.com
 Website: mabey.com

| | |
|--|------------------|
| C 200 Bridge | \$ 109,500 |
| Guard rail | 22,000 |
| Anti-Skid on decks | 16,500 |
| Freight (Estimate) | 10,000 |
| 110 Ton Crane (10 days) | 11,600 |
| Crane Mob + DeMob | 4,000 |
| Abut. rents (Estimate) | 19,000 |
| Labor | 20,000 |
| Admin + Misc | 8,000 |
| Total Estimated Costs, New Bridge | \$220,600 |

Arlon Warner

From: Hannah Speer <hannah@blowandcote.com>
Sent: Friday, June 22, 2018 8:35 AM
To: Arlon Warner; warnerair@together.net
Subject: Temporary Bridge Estimate

Hi Arlon:

Here is a break down for the temporary bridge you and Marc spoke about:

Crane w/operator – two weeks (10 days): \$5800/week = \$11,600
Crane rigger: \$1000/week = \$2,000
Mobilization = \$2300 lump sum
Demobilization = \$1700 lump sum
Two concrete abutments and backwall: 2'thick x 5'wide x 20'long = \$18,000 lump sum
Rebar = \$1000 lump sum

You're looking at an estimated cost of \$36,600.

Please let us know if you have any further questions.

Thanks,

Hannah R. Speer

Estimator

Blow & Cote, Inc.

www.blowandcote.com

802-888-2067

APPRAISAL FUND

| | FY 2015 | FY 2016 |
|------------------------------------|--------------|--------------|
| PRIOR BALANCE | \$ 3,474.04 | 13,893.04 |
| REVENUE | | |
| STATE- LISTER FUND | 6,278.95 | 6,669.00 |
| STATE- LISTER TRAINING | 390.05 | 0.00 |
| TOWN ASSESSMENT | 4,000.00 | 4,000.00 |
| | 10,669.00 | 10,669.00 |
| TOTAL REVENUE & FUND BALANCE | \$ 14,143.04 | \$ 24,562.04 |
| DISBURSEMENTS | | |
| APPRAISAL FEES | - | 215.00 |
| LISTER COMPUTER SUPPORT / HARDWARE | - | 215.00 |
| LISTER TRAINING | 250.00 | 215.00 |
| TOTAL DISBURSEMENTS | \$ 250.00 | \$ 215.00 |
| TOTAL REVENUE & FUND BALANCE | 14,143.04 | 24,562.04 |
| LESS TOTAL DISBURSEMENTS | 250.00 | 215.00 |
| APPRAISAL FUND ENDING BALANCE | \$ 13,893.04 | \$ 24,347.04 |

KINGDOM COMMUNITY WIND FUND

| | FY 2015 | FY 2016 |
|----------------------------|------------|------------|
| PRIOR BALANCE | 136,031.86 | 136,367.49 |
| REVENUE | | |
| GMP REVENUE ABOVE TAX 2014 | - | - |
| INTEREST REVENUE | 335.63 | 340.40 |
| TOTAL REVENUE & BALANCE | 136,367.49 | 136,707.89 |
| DISBURSEMENTS | | |
| TRANSFER TO KCW CD | - | - |
| TOTAL DISBURSEMENTS | - | - |
| TOTAL REVENUE | 136,367.49 | 136,707.89 |
| LESS TOTAL DISBURSEMENTS | - | - |
| KCW FUND ENDING BALANCE | 136,367.49 | 136,707.89 |

KCW CD BALANCE \$136,707.89

TOWN OF LOWELL DEPRECIATION SCHEDULE

2017

| Date | Description | Purchase Price | Purchase or Value Change Date | Explanation of value change | New Value | Life in yrs | Accum. Depreciation | Remaining Value | Annual Depreciation | Year of Depreciation | Months in yr to depreciate | Depreciated for year |
|------------------|------------------------------------|-------------------|-------------------------------|-----------------------------|---------------------|-------------|---------------------|---------------------|---------------------|----------------------|----------------------------|----------------------|
| 9/19/2017 | 3362 gallon 2018 fire tanker truck | 150,000.00 | 10/23/17 | | 150,000.00 | 25.00 | 0.00 | 150,000.00 | 6,000.00 | 2017 | 2.00 | 1,000 |
| Unavailable | Grader | | 12/31/17 | Replacement Value Quote | 45,000.00 | 3.00 | | 45,000.00 | | | | |
| 7/3/1905 | Loader | | 12/31/17 | Replacement Value Quote | 60,000.00 | 3.00 | | 60,000.00 | | | | |
| 11/8/2017 | 3 office DELL Computers-optiplex | 2,250.00 | 11/8/17 | | 2,250.00 | 5.00 | | 2,250.00 | 450.00 | 2017 | 2.00 | |
| 12/12/2017 | 9' BOSS Sander | 6,200.00 | 12/12/17 | | 6,200.00 | 7.00 | | 6,200.00 | 885.71 | 2017 | 0.00 | |
| | TOTAL EQUIPMENT | | | | 263,450.00 | | | 263,450.00 | | | | 1,070 |
| BUILDINGS | | | | | | | | | | | | |
| 11/1/2017 | Bandstand | | 6/2/14 | Assessed | 3,500.00 | NA | | 3,500.00 | | | | |
| 11/1/2017 | School Bldg | | 6/9/14 | Assessed | 1,229,000.00 | NA | | 1,229,000.00 | | | | |
| 11/1/2017 | Town Garage | | 6/9/17 | Assessed | 84,800.00 | NA | | 84,800.00 | | | | |
| 11/1/2017 | Town Office Bldg | | 6/9/14 | Assessed | 192,100.00 | NA | | 192,100.00 | | | | |
| | TOTAL BUILDINGS: | | | | 1,509,400.00 | NA | | 1,509,400.00 | | | | |
| LAND | | | | | | | | | | | | |
| 11/1/2017 | Land by Bandstand | | 6/2/14 | Assessed | 14,000.00 | NA | | 14,000.00 | | | | |
| 11/1/2017 | Ethyl Shore Estate Land | | 6/2/14 | Assessed | 27,600.00 | NA | | 27,600.00 | | | | |
| 11/1/2017 | Moulton Land (Off Irish Hill) | | 6/2/14 | Assessed | 67,000.00 | NA | | 67,000.00 | | | | |
| 11/1/2017 | Mason Land (Albany Mtn) | | 6/2/14 | Assessed | 111,600.00 | NA | | 111,600.00 | | | | |
| 11/1/2017 | School Land | | 6/9/17 | Assessed | 27,500.00 | NA | | 27,500.00 | | | | |
| 11/1/2017 | Town Garage Land | | 6/9/14 | Assessed | 22,900.00 | NA | | 22,900.00 | | | | |
| 11/1/2017 | Town Office Bldg Land | | 6/9/14 | Assessed | 129,000.00 | NA | | 129,000.00 | | | | |
| 11/1/2017 | Former Dump Site | | 6/9/17 | Assessed | 1,700.00 | NA | | 1,700.00 | | | | |
| 11/1/2017 | Vernon Warner flood plain | | 6/2/14 | Assessed | 500.00 | NA | | 500.00 | | | | |
| 11/1/2017 | Town Gravel Pit | | 6/3/14 | Assessed | 124,000.00 | NA | | 124,000.00 | | | | |
| | TOTAL LAND | | | | 525,800.00 | NA | | 525,800.00 | | | | |
| | TOTAL | 158,450.00 | | | 2,298,650.00 | | | 2,185,200.00 | | | | |

Tab 15



Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6

Statement by Reginald Pion, 176 Pion Rd., Lowell, Vt. 05847

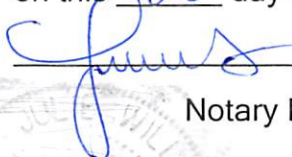
Regarding Road Reclassification and Bridge Closure
of the eastern end of Kempton Hill Road

It has come to my attention that the Select Board of Lowell is trying to reclassify (close) the eastern end of the Kempton Hill Rd (including the bridge). I am opposed to this action. I have been an employee of the Town of Lowell for 40 years and a former Road Commissioner for 20 years. Every bit of this 40-year time I was involved with roads and road maintenance for the town. I know all the roads of Lowell as if they were the back of my hand. During those 40 years, I can recall several times during the winter months that no emergency vehicles, or anyone for that matter, would have been able to safely make it down to or up from Arlon Warner's residence if they had to rely only on the western section of the Kempton Hill Road due to how steep the hill is. Reclassifying and closing the eastern end of the Kempton Hill Road or permanently closing the bridge would create an ongoing unsafe winter danger and inconvenience for anyone who had to rely solely on the western end of the Kempton Hill Road (which includes the steep part of the road). I have even had my very own truck, with chains on, slid down this steep hill out of control causing me to get stuck.

Based on my many years of experience, it is my strong opinion, that the permanent closure of the Kempton Hill Bridge (Town Bridge #16) or the reclassification of the east end of Kempton Hill Road (Including the Bridge) will result in safety issues, possibly life-threatening, during the winter months. This would also pose this same danger to all those clients who come to Arlon Warner's home office looking for income tax assistance. A loss of life or any serious injury would probably open the door to yet another law suit against the town if the Select Board chose to go that route.

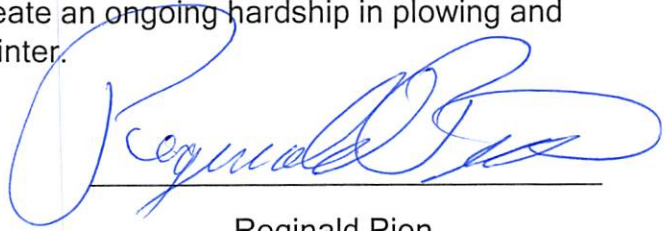
Based on these facts and based on my experience in road maintenance, I make a strong recommendation that the Lowell Select Board avoid any attempt to reclassify the eastern end of the Kempton Hill Road (including the bridge) and to maintain its classification as a regular class 3 road. Based on these same facts and experience, I also make a strong recommendation that the Select Board perform the needed maintenance and / or replacement of the Kempton Hill bridge which would make it unnecessary to reclassify this 300 feet of town road. To not do so will also create an ongoing hardship in plowing and maintenance of the Kempton Hill Road in the winter.

Subscribed and sworn to before me
on this 20th day of June, 2018



Notary Public

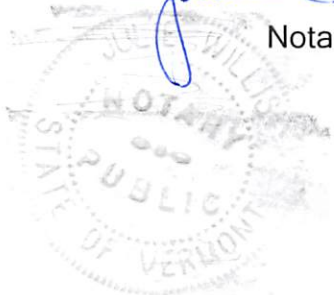
Julie Smith
Exp. 2/10/19



Reginald Pion

6-20-18

Date



**Statement by Lorin Warner, 2439 Carter Rd., Lowell, Vt. 05847
Regarding Road Reclassification and Bridge Closure
of the eastern end of Kempton Hill Road**

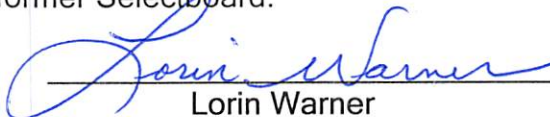
1. For the record let me state that my name is Lorin Warner of Lowell, Vt. In two months I will reach 70 years of age and I am a life-long resident of Lowell. I should also state that Arlon Warner is my brother, however I do not reside on the Kempton Hill Road.
2. There's a French expression that we commonly use in English called "déjà vu". It basically means.... here we go again as we've been here before. There's another saying that we've probably all heard that seems to apply here: Those that ignore and are naïve about the events and lessons of history are doomed to relive and relearn from them. Since I grew up only a short walking distance from the Kempton Hill bridge, I keenly remember the 'squabble' regarding the Kempton Hill Bridge and Road occurring once before, during the 1950's, when the original Kempton Hill Bridge needed replacement. The same questions regarding the need and wisdom of bridge replacement arose at that time as well. At that time, the Selectboard had the foresight to initiate a little investigation and to do a little 'leg work' to support their conclusions. At that time, they opted to lay down a counter device which allowed them to precisely determine the volume of traffic utilizing the Kempton Hill Road and bridge. Based on the numbers that were revealed from the counting device, the Selectboard concluded that the bridge and road needed to be maintained and replaced. There may not be much that we can all agree on here today, but I suspect that we all can agree that traffic has not decreased since the 1950's. As a life-long resident of Lowell, for nearly 70 years, I would strongly advise the present Selectboard to recognize and learn a lesson from history regarding conclusions that were reached by a previous Lowell Selectboard, approximately 60 years ago, and draw the same conclusions that were reached at that time.
3. The role of a Select Board should be threefold:
 - #1. to serve and support the well being of each and every one of the citizens of the community - i.e the spirit of neighbor helping neighbor;
 - #2. to respond to the needs of the citizens of the community; and
 - #3. to maintain the infrastructure of the town.From all outward appearances it would appear that the Selectboard has failed on all three counts. Sadly, there has been a 'good ole boys' attitude in other words.... if we ignore a problem, perhaps it will go away. It seems obvious that the Selectboard is doing nothing to serve and support those citizens who have a need and wish to utilize this crossroad and bridge between the Valley Road and the Mines Road....i.e the Kempton Hill Road and Bridge. It also seems obvious that the Selectboard is doing nothing to respond to the needs of Arlon Warner and Scott Tallman, as they can easily demonstrate their dire need for maintaining the road and bridge. It also appears that the #3 role of the Selectboard has also failed as substantiated by the fact that the former road commissioner had advised them repeatedly over a period of years that the bridge needed attention. The Selectboard has carried on and has simply ignored the Road Commissioner's advice.
4. It seems obvious to any casual observer of recent events that this road reclassification maneuver is serving as a punitive measure against Arlon Warner and Scott Tallman for initiating their legal proceedings in an attempt to force the Town of Lowell to abide by 19 VSA 310 in an attempt to maintain / repair / replace the Kempton Hill bridge. A public statement was made by Selectboard member, Richard Pion, at a Selectboard meeting, that if Arlon Warner brought a lawsuit against the town in an attempt to have the bridge maintained / replaced, the town would simply reclassify the road, (This is substantiated by audio tape and a transcription). Reclassifying the road as a trail would then relieve the town of having to repair or replace the Kempton Hill Bridge. Ultimately, this reclassification procedure is exactly what has happened. To quickly and

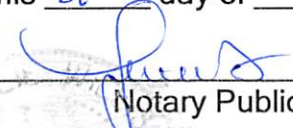
simply reclassify the road as a trail truly appears to be a scheme by the Selectboard to disallow time for Arlon's lawsuit to be brought before the court which could then force the Selectboard to repair / replace the Kempton Hill bridge according to 19 VSA 310. The actions of the Selectboard, pertaining to reclassification, seems to remind one of the old expression: "Putting the cart before the horse" in an attempt to avoid the maintaining, repairing, or replacing the bridge. This truly appears an attempt by the Selectboard to use a sly timetable which could conceivably deny Arlon Warner's and Scott Tallman's their due process rights. Arlon and Scott should be allowed their due process rights in a court of law as a means to protect their rights and to prevent the closure of the Kempton Hill bridge as mandated by 19 VSA 310.

5. Another important consideration is the fact that the Kempton Hill bridge and road serve as the only backup for the 91 year-old Wursthorne bridge on Vt. Rt.58, which was built in 1927. The Wursthorne bridge and Kempton Hill bridge (and road) are the only two bridges which connect the eastern and western sections of the town. Given the 91 year age of the Wursthorne bridge (on Vt. Rt. 58) it seems only prudent to maintain a 'backup' bridge in the event of the Wursthorne bridge failure. If the Kempton Hill bridge is permanently closed, such a backup / detour will no longer exist. The Wursthorne bridge was taken out in the 1927 flood. Once again, let's learn from history it could happen again. I could very easily envision the need for the Kempton Hill bridge being used as a temporary detour if / when the Wursthorne bridge fails due to deterioration, age, or flood.

6. Last, but not least, let me share a little personal history that I had dealing with someone attempting to navigate the steep western end of Kempton Hill Road, which would become necessary if the eastern end of the Kempton Hill Road is reclassified as a trail or the bridge is permanently closed. As a child of about 11 or 12 years of age, I was with my cousin, Virginia Powers, in her vehicle. She started maneuvering up the hill. Somewhere near the top of the hill, because of the severe steepness of the hill and the snow conditions, she started spinning and was unable to proceed to the top of the hill. But worse than that, she started sliding backwards, out-of-control, down the hill. I distinctly remember seeing the terror in her eyes due to being out of control and gaining speed going backwards down the hill. Thankfully, before entering the bridge or dropping 30 feet backwards into the river, her vehicle went into a ditch and finally stopped. This terrorizing life-threatening experience I shall never forget; thankfully, due to my youthful age I was unaware of the danger I had just experienced. I therefore sympathize and have empathy for anyone who is forced to use the hill under somewhat snow-covered conditions. The above possible scenario of coming down the hill backwards and possibly dropping into the river is of course exactly what the Selectboard is attempting to force upon Arlon Warner and Scott Tallman as a means of getting in and out of their residence. If the eastern portion of the Kempton Road is reclassified and the Kempton Bridge is not repaired or replaced, the above situation would be applied to Arlon and Scott on a daily basis. Even the UPS drivers refuse to make deliveries to Arlon and Scott's residence if they are forced to use only the western steep portion of the Kempton Hill Rd. I, or anyone of us at this meeting, would be horrified if we were forced into this method of egress and ingress to our own residence day after day. Let's use some common sense and use the same logic as exhibited by our former Selectboard.

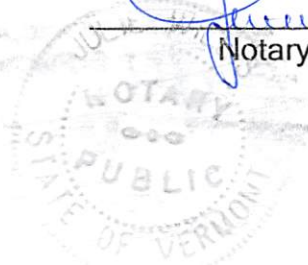
Subscribed and sworn to before me
on this 20th day of June, 2018


Lorin Warner


Notary Public

June 20, 2018
Date

*Submitted
Sep 21/19*



Select Board Meeting

October 17, 2017

Attending

Selectboard: **Richard Pion** (chair), **Alden Warner**, **Dwight Richardson**.

Calvin Allen, Road Commissioner

Christy Pion, Select Board Clerk.

Sandy LaDeau, Town Clerk & Treasurer

Arlon Warner and **Scott Tallman**

Points of interest:

- 24:05 Bridge discussion begins. Board explains that State grants were unavailable, that there was nothing that VTrans could do, and that there was no state money for bridges.
- 29:27 **Alden** thinks the town can put in bridge for much less than original estimate. Drew up plan. Selectboard and Road commissioner discuss options.
- 36:31 **Richard** explains that he had Road Commissioner measure the grades of several other roads in Lowell. Making the point that many other roads are just as steep as our road (Kempton Hill Rd).
- 36:50 **Richard** "It's not an unreasonable grade compared to some of the roads in town". **Scott** makes the point that we need to slow down and almost stop to turn from driveway to road onto one of the steepest parts of road.
- 42:10 **Alden** mentions that "This year...the wind towers are going up \$32,500 per year." Possible source of money to pay for bridge.
- 49:18 **Richard** states that "The biggest problem that I've got is I don't care what we do we're not going to get any state help. That's the problem right there. It's going to be all out of town funds. Whether we pay \$200,000 or \$500,000 it's gonna be the taxpayers that'll have to pay for this bridge. If the state would pick up 75% of their share like they do on other bridges it'd be a totally different story.... I know it's not a nice thing to say, but before we spend a couple \$300,000 on anything, I guess I would make a motion that we have a town vote to see how the taxpayers feel about it. I don't think the three of us should make the decision to spend that kind of money without a town vote. Anytime we've ever bought a loader or a grader we went to the voters with a figure and said this is what it would cost...especially without the state help...nothing against anybody, but I don't feel comfortable spending that kind of money with the three of us making that decision."
- 50:45 **Alden** mentions the probability of this bridge issue leading to having lawyers involved and attorney fees.
- Richard** says that he understands **Arlon's** position, "That's his choice, we will have to defend ourselves, we also have other hills in town, he may win, he may lose. If it would be put to a town

vote, I guess I'd like to see it with two articles, one article would be to see if the town wants to spend up to a half a million dollars to rebuild that bridge, and if they vote that down at the same time I'd like to see an article there to see if the voters would want to throw up that road from his driveway to the Valley Rd. That would take it right off the town's...you know."

51:47 **Alden:** "I think it takes a certain procedure."

Richard: "I agree, but if 5% of the voters can call, if somebody starts a petition and 5% of the voters sign it, that only takes like 30 voters. You can have a meeting over that issue...at least it would let us know how the voters feel about it. They may want to spend that kind of money, if they do that's fine, 'cause it takes it off our shoulders. 'Cause there's gonna be lots of people that are going to be Goddamned unhappy if we spend that kind of money...That for me is going to create a big local tax.

52:36 **Alden** asks how much taxes went up when they had to purchase a new \$150,000 fire truck, wanting to use this to gauge how much taxes would rise if they paid for new bridge.

53:13 **Richard** "I have no problem if the voter's approve it, but if we're gonna spend up to a half a million dollars...even if we borrow it, it should be voter approved. 'Cause there's gonna be a lot of unhappy people."

55:22 Discussion about the **Blodgett Road Bridge** in Lowell that the town maintains. Apparently, the road was damaged a while ago and the town repaired it with FEMA money and it then passed inspection. In the conversation they acknowledge knowing that the bridge is in rough shape now and laugh about it:

55:39 **Calvin** (Road Commissioner): "They went and looked at it and they still gave you the money?" (Laughter)

Richard: "Yeah we got FEMA money for that, so it didn't really cost the town much

55:47 **Calvin** (also the fire chief): "I drove over it the other night we had a fire out there...it (the bridge) held us. (Laughter) I told the tanker to stay on the Carter Rd but it held the fire truck. I cross it with the grader, but the grader is long enough so half of its across..." (laughter)

56:14 They talk about whether they've done anything to the bridge, they say no, they say that Brian Richardson (chief engineer) said that the bridge could have fallen right into the river. Said that if one rock under the bridge moved the whole thing would go.

57:30 **Arlon** states concern that if the bridge remains closed, he'd still have difficulty getting out in an emergency situation.

Richard: "You know the thing to do if you live there is to buy an all-wheel drive or a 4-wheel drive..."

Scott: "It's a class 3 road, we don't need to."

Richard: "You don't need to? I tell you what, we have a lot of Class 3 roads

Dwight: "If you have a Class 3 road you can go off road if its slippery, go up Irish Hill."

Scott: "He bought the house with the bridge open as a class 3 road. He would never have bought it if he didn't have that access."

Richard: "The state will not put any money in them, the people have been on their own." Richard and Calvin continue by giving examples of all the roads in town that are as steep as our hill.

59:10 **Alden** states that in everyone of Richard's examples, the people bought the property knowing what they were getting into (steep road as only access) when they moved in.

1:06:20 After a discussion about what they'd do if the town's lawyer told them they'd have to rebuild the bridge, Richard and Dwight say they'd still have to bring the issue to the town's people to vote on the financing of it.

Calvin: "If the town was to hire an attorney, his job would be to make it so the town didn't have to put the bridge up, and there are ways and processes of throwing up that road and things we can do that we wouldn't have to build that bridge."

Richard: "The voter's do have a say, 'cause they are the ones that vote the money for the budget."

1:07:45 **Richard:** "We can throw the road up...but the road can be closed 'till the process is over."

1:08:10 **Calvin** recommends to Arlon and Scott that they bring this to the town for a vote to avoid court.

1:08:50 **Alden:** "In my own mind I know that the people in town aren't gonna, they don't give a damn as long as it's not in their own driveway. You know what I'm saying? So uhh, of course their going to vote it down"

1:10:04 **Calvin:** "Cause I know just from what I've been talking to the guys from the state and reading my book, and the little bit that I've been researching, there are ways around fixing that bridge."

1:13:00 **Arlon** asks what the select board's next step is regarding the bridge before winter. This is to answer question #2 relating to the Notice of Insufficiency.

Arlon: "Basically you're telling me that there's basically going to be no action?"

1:13:17 **Richard:** "We're gonna put in a turnaround so that he can turn around to sand the road." (This turnaround is to allow the town an area above our driveway to turnaround plows since there won't be a bridge).

1:13:26 **Scott:** "That's the plan?"

1:13:28 **Calvin:** "Well, are you guys going to pursue an attorney? I guess that would be the question, right?"

1:14:37 **Richard** reads out loud a letter written to the town by Carl Andeer, Esq, the staff attorney for the Vermont League of Cities and Towns. In this letter Carl states that since it is a class 3 road "the town may be obligated to make repairs on the bridge." He later says that if the town is required to maintain the bridge, "a town vote is essentially meaningless."

1:15:46 **Alden:** "It's saying (the above letter) that we are obligated, if you read it again, we're obligated to maintain the bridge, and we can do that we have the authority, the select board, to do that without bringing it to a vote."

1:15:57 **Sandy** (town clerk): "Well yeah, you've said that, we've all said that before. And Richard's said that, Dwight has said that. They don't feel right about it, is what Richard has said."

1:16:09 **Dwight:** "I don't feel right about putting that much money there. That's how I feel. That's a lot of money for one bridge, that's more than the rest of them cost us."

Select Board Meeting

October 31, 2017

Attending:

Select Board: **Richard Pion** (chair), **Alden Warner**, **Dwight Richardson**.

Calvin Allen, Road Commissioner

Christy Pion, Select Board Clerk

Sandy LaDeau, Town Clerk and Treasurer.

Priscilla Matten, Town Auditor

Arlon Warner and **Scott Tallman**

Two people from state, discussing available grant money

Points of Interest:

00:00 to 31:00 Members of the State discuss grant money \$800,000 that is available from a settlement from the closed Asbestos mine. They and the select board discuss the different streams, bridges, culverts in town that would qualify. The State requires work where fish and wildlife could be improved by the projects. It was determined before the meeting that the Kempton Hill Bridge didn't qualify. By the end of this discussion, Calvin was recommending that two culverts on Irish Hill Road receive the grant money.

31:22 Arlon asks Select board for a bridge update following their meeting at the bridge with engineer Brian Richardson on Oct 22, 2017.

32:52 Alden "I was a little disappointed with the prices it came out with, the first option is \$106,000, and the second option would be \$143,000...that only sets the beams, that does not include taking up the planking that's on it, which I would do that for free...but it also doesn't include putting the deck back on."

33:25 Arlon "But either one of these would be less than half what a Mabey Bridge would be..."

33:29 Alden "that is correct, to do the Bailey bridge like what the engineers talked about, the bridge itself was like a \$150,000...just the beams themselves were going to come to \$11,000, so basically \$90,000 of this is actually putting the beams in place, taking the old ones out. Even if we went with a Bailey Bridge with this design, you're still talking \$90,000 above the 150, so you're talking about \$240,000 with the Mabey Bridge with this design. Not going through with what the engineer had come up with the \$500,000 figure.

39:37 Richard: "I don't feel comfortable with spending a couple hundred thousand dollars without town approval. That's my opinion."

Arlon: "My opinion is what's in writing, a town vote may be meaningless."

40:00 Richard: "If we can't come to some conclusion we can start the process to declassify the road to Class 4. That would take care of the bridge issue. Period."

40:10 Arlon: "First of all, that's going to be probably a more than 1 or 2 year process and during that time..."

Richard: "...The bridge will be closed."

43:15 Alden mentions that Priscilla is at the meeting to talk about several properties that the Town owns that they may be able to sell. That they could take some of the money and put it into the bridge.

51:30 Priscilla (Town Auditor/Arlon and Alden's sister) returns conversation to land that the town owns that they are not using, that could be sold to possibly finance a bridge, and therefore increase the odds of the town residents approving a vote on the bridge. Lengthy, hour long conversation about several different plots of land and the potential of selling each. Some talk about auditing/accounting changes and procedure.

2:04:03 Richard: "You know, if you can get some engineers to stamp some approval to some of that, I don't have a problem bringing it to a town meeting, but if he turns around and sues us and we gotta go to court, I'm gonna make the motion that we classify the road, go through the process, at the same time we've got a lawyer working, to make it class 4 from his driveway to the Valley Rd."

2:04:30 Calvin: "I don't think you can make it a class 4 road, you'll have to make it a trail. Class 4 we're still responsible for culverts and bridges. So, a Trail alleviates you from your liability of all bridges and culverts."

Alden: "Class 4 still requires summer travel."

2:07:32 Alden "I don't see the town voting for, to put that bridge in there if it has to come out of the taxpayer's pocket. There's too many people that say, "don't make any difference to me, I don't want that extra money spent." They don't give a shit."

2:10:53 Calvin: "As long as he's reasonable about it (plowing the hill), if he accepts that we can't put a bridge in there, and with a good attitude, you know, but if he just wants to be a pain, like he said a half an inch of snow, if he can't get up that hill with a half an inch of snow he needs to park at the top of the hill and walk home. I mean, half an inch of snow, I mean I don't plow any of my roads for half an inch of snow."

2:18:59 Alden talks about the condition of the abutments of the Kempton Hill Bridge. "The abutments haven't broken or anything like that, but they have moved. Whether or not they were, they didn't move for the first 40 years (Richard laughs) or moved what they have in the last 10 years we don't know."

2:19:14 Richard: "They (abutments) moved a good many years ago, that bridge's. It's been a long time that bridge has been settling. You know, and that bridge by the Fire department, someday somethings gonna happen there too."

Others at the meeting correct him, that he means the bridge in front of the Post Office.

Richard: "Someday, somethings gonna happen to that bridge. But then the state will be there."