

**Minutes of the Town of Johnsborg Regular Board Meeting September 20, 2011
Held at 7:00pm at the Town of Johnsborg Library, North Creek, NY**

Minutes of the regular meeting of the Town Board of the Town of Johnsborg held on Tuesday, September 20, 2011 at 7:00pm at the Town Library, North Creek, NY Supervisor Goodspeed called the meeting to order at 7:00pm and the pledge to the flag was led by Councilman Arnold Stevens.

Roll call showed the following persons present: Supv. Sterling Goodspeed; Town Councilmen/ Eugene Arsenault, Frank Morehouse, Jr., Arnold Stevens, and Ronald Vanselow; Town Clerk/ William Rawson.

Guests: On attached list

RESOLUTION NO. 172

Mr. Morehouse presented the following resolution, and moved its passage with a second from Mr. Arsenault, to accept the minutes of the September 6, 2011 regular Town Board meeting as written. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

CORRESPONDENCE:

1. A letter from the Johnsborg Emergency Squad requesting a meeting with the Town budge office and another Town Board member to discuss a new contract between the Town and the Emergency Squad prior to the 2012 budget being presented to the Town Board.
2. A letter from the Town of Johnsborg Youth Committee requesting authorization from the Town Board to apply for a LARAC grant to fund an after school art class and also a dramatics class; the maximum request would be \$5000.00 with the match to be obtained from sources other than the Town.
3. A letter from Highway Superintendent Daniel Hitchcock asking that the Town Board to allow him to advertise to fill two part time wing person positions for the plowing season.

Supv. Goodspeed suggested that he meet with Mrs. Kelly Nettle, the president of the Johnsborg Emergency Squad on Thursday at 1:00pm at the Town Hall to discuss the Emergency Squad requests.

Supv. Goodspeed asked if the Town Board wished to act on the request to advertise two part time positions of wing operator for the winter season as had been done last two years.

RESOLUTION NO. 173

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Arsenault to authorize the advertising of two part time positions of wing operator for the Highway Department for the 2011 through 2012 (approximately November through April) winter snow plowing season for one week in the North Creek News-Enterprise. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays – 0

COMMITTEE REPORTS:**OLD BUSINESS:**

Supv. Goodspeed informed the Town Board that he had received a fax from Town Attorney Tony Jordan with a fire contract proposed by the fire companies. Supv. Goodspeed said that he will distribute copies to the Town Board members and added that Attorney Jordan said that he has not had time to review the contract. Supv. Goodspeed said that he hopes to be able to have the Town Board take action on the contract at the next Town Board meeting.

Supv. Goodspeed informed the Town Board that the 2012 Town Budget is presenting difficulties; several groups or individuals are seeking increased funding. Supv. Goodspeed noted that there are increases in the retirement payment, workers compensation and health insurance. Supv. Goodspeed noted that the property tax cap law allows a local law as a remedy for the 2% tax cap. The budget numbers are currently up about 10%. Supv. Goodspeed noted that the Johnsbury Emergency Squad is one of a half dozen groups seeking increased funds. Mr. Vanselow said that he understood from an e-mail from Town Attorney Jordan that only a percentage of the retirement was exempt from the 2% cap; Supv. Goodspeed and Mr. Vanselow both noted that the cap did not include any mandate relief. Supv. Goodspeed said that there seemed to be a slight reduction in liability insurance. Mrs. Kelly Nettle said that she understood that the cap could be overridden by a 60% vote of the governing body; Supv. Goodspeed replied that it would require a local law, including a public hearing, to override the 2% cap.

Supv. Goodspeed explained that he polled the Town Board members for permission to allow Mr. Donald Filkins to do an audit of the Town Buildings; he asked Mr. Filkins to present his findings to the Town Board. Mr. Filkins presented a slide show of the defects which he found and also presented the Town Board with a written list of the problems with the Town Buildings and probable corrections to the defects. All of the Town buildings have defects and while some are serious others could be inexpensively corrected. Supv. Goodspeed asked Secretary Cherie Ferguson to update the Town Board on the heating/cooling system problem at the Tannery Pond Community Center. Sect. Ferguson explained that it was a question of the age of the operating system on the computer which controls the heating/cooling system; a spare parts computer in the Town Hall has been refurbished and the operator is attempting to use that computer. Supv. Goodspeed said that simplifying the heating/cooling has been discussed; the heat pump system does not lend itself to a quick temperature change such as by thermostat. Supv. Goodspeed thanked Mr. Filkins for his overview of the buildings and asked that the Town Board authorize himself to discuss possible building repairs with Mr. Filkins. Mr. David Bulmer asked if there is a maintenance person responsible for the buildings; Supv. Goodspeed said that the Parks and Buildings department does a daily building check.

RESOLUTION NO. 174

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Vanselow that the Town Board authorizes the Town supervisor to discuss the deficiencies in the Town Buildings with Mr. Donald Filkins and also to prioritize corrections to the Town buildings. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays – 0

Mrs. Kelly Nettle suggested that the Town look at the stone wall in the Ski Bowl Park; Mr. David Bulmer suggested looking at projects which may mitigate ice/water damage before winter. Mr. Arsenault said that the Town Board needs to look at a long range plan to correct the problems and may need to borrow money to make corrections; he added that it is embarrassing to see the Town Buildings in this condition. Supv. Goodspeed noted that this was not only a budget issue. Supv. Goodspeed asked about the roof of the Town Hall and the Library area; Mr. Donald Filkins said that some parts are good and that some parts of the roof are shot.

Supv. Goodspeed reminded the Town Board that the Town Engineer, Cedarwood Engineering Services (formerly Delaware Operations), had worked up an estimate for the rebuilding of the transfer station control room and the trash compactor with an estimated cost between \$67,900.00 and \$76,900.00 based upon the current building codes and prevailing wage laws. An estimate of award from NYMIR, the insurance carrier was \$55,125.88; Cedarwood Engineering Services believes that the award would be a workable amount to rebuild the facility. The writing of bid specifications is not included in this amount. Supv. Goodspeed asked that the Town Board approve the dollar amount of the award from NYMIR of \$55,125.88 less a \$10,617.41 holdback to be paid upon the completion of the rebuild and the deductible of \$1,000.00 for a check of \$43,508.47. Mr. Arsenault asked if there would be any out of pocket costs; Secretary Cherie Ferguson replied that there were some modifications, but that hopefully, there would be no out of pocket costs. Mr. Arsenault asked for a time frame; six to eight weeks if no bid is necessary. Mr. Morehouse asked how there could be no bid; Supv. Goodspeed said that if it is broken up into portions it could be below the bid threshold. Mr. Morehouse said that the electrical, plumbing and the building may need to be bid. Mr. Stevens asked if Cedarwood Engineering Services was going to oversee the bid or quote process; Supv. Goodspeed said that they would be overseeing the project.

RESOLUTION NO. 175

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Vanselow, to accept the dollar amount of the award from NYMIR of \$55,125.88 less a \$10,617.41 holdback to be paid upon the completion of the rebuild and the deductible of \$1,000.00 for a check of \$43,508.47 as presented and subject to review by Town Attorney Jordan. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Mr. Louis Falzerano asked if a scale would be added to allow charging by weight; Supv. Goodspeed said that it could be looked into. Mr. Falzerano said that charging by volume when the Town pays for removal by weight is not equitable. Mr. Victor Dunkley, a town employee who works at the transfer station, said that the volume of trash is seasonal; there is less trash during the fall and more during the summer and ski season. Mrs. Kelly Nettle asked Mr. Dunkley's opinion of a scale; Mr. Dunkley replied that a scale for household trash would be relatively simple, but one for construction debris is more difficult.

Supv. Goodspeed asked Mr. Vanselow for a report on the Occupancy Tax committee; Mr. Vanselow said that the committee members from 2010 had agreed to remain and he suggested

that the application deadline of October 1, 2011 be moved forward to November 1, 2011. Mr. Vanselow added that there has been some discussion among committee members regarding the criteria and possibly doing away with the mandatory 25% annual reduction. Mr. David Bulmer, president of the Gore Mt. Regional Chamber of Commerce, said that some projects are important and are not designed to be self sufficient. Supv. Goodspeed said that Warren County dealt with this and decided that some projects do fall into a super project category (Americade for example). Mr. Vanselow asked if there was any idea of the amount of funding available for dispersal; Secretary Cherie Ferguson replied that the first payment is \$30,000.00 and that the second payment is usually about \$4,000.00 if one is received. Mrs. Kelly Nettle said that when she chaired the Occupancy Tax committee that the 25% reduction was only applied to projects which were expected to make money. Mr. Bulmer asked if the date for approval of the applications will be changing; Mr. Vanselow said that he expected no change in that date.

RESOLUTION NO. 176

Mr. Arsenault presented the following resolution, and moved its passage with a second from Mr. Morehouse, to change the deadline for Occupancy Tax applications from October 1, 2011 to November 1, 2011. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Supv. Goodspeed noted that copies of Proposed Local Law #2 of 2011 entitled "A Local Law of the Town of Johnsburg, Warren County, New York, to Regulate Parking Upon the Highways Within the Corporate Limits of the Town of Johnsburg" were distributed to the Town Board in their packets; Supv. Goodspeed noted that the purpose of this Proposed Local Law is to add a no parking area on Harrington Road within the Town of Johnsburg.

RESOLUTION NO. 177

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Morehouse:

Whereas Proposed Local Law #2 of 2011 entitled "A LOCAL LAW OF THE TOWN OF JOHNSBURG, WARREN COUNTY, NEW YORK, TO REGULATE PARKING UPON THE HIGHWAYS WITHIN THE CORPORATE LIMITS OF THE TOWN OF JOHNSBURG" was presented to the Town Board at its regular meeting held on September 20, 2011, I move that a public hearing on said Proposed Local Law #2 of 2011, as follows, be held on October 18, 2011 at 7:00 p.m. at the Town Hall, North Creek, New York, in accordance with Municipal Home Rule Law and direct that the Town Clerk publish the required notice in the Town's Official Newspaper at least one time at least 5 days in advance of said public hearing.

A LOCAL LAW OF THE TOWN OF JOHNSBURG, WARREN COUNTY, NEW YORK, TO REGULATE PARKING UPON THE HIGHWAYS WITHIN THE CORPORATE LIMITS OF THE TOWN OF JOHNSBURG

Be it enacted by the Town Board of the Town of Johnsburg as follows:

Section 1 – PREAMBLE AND ENACTING CLAUSE

For the purpose for providing for the safe and orderly use of the public highways within the Town of Johnsbury by the operators of motor vehicles, their passengers and other persons, the Town Board of the Town of Johnsbury, Warren County, New York, duly convened in regular session and having duly held a public hearing thereon, does hereby enact this Local Law pursuant to the authority granted under Section 1640(a) of the Vehicle and Traffic Law of the State of New York.

Section 2 – TITLE

This Local Law shall be known and cited as the “Traffic Local Law of the Town of Johnsbury”.

Section 3 – DEFINITIONS

The definitions set forth in Article 1 of the Vehicle and Traffic Law of the State of New York, as the same may be amended from time to time, are hereby adopted as applicable to this Local Law.

Section 4 – AUTHORITY TO INSTALL TRAFFIC CONTROL DEVICES

The Town of Johnsbury Highway Department shall install and maintain traffic control devices when and as required under the provisions of this Local Law to make effective the provisions of said Local Law and may install and maintain such additional traffic control devices as it may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York subject to the provisions of Sections 1682 and 1684 of that Law.

Section 5 – PARKING, STANDING AND STOPPING RESTRICTIONS

(a) Parking on Harrington Road in the Town of Johnsbury shall be subject to parking restrictions set forth at all times, with parking prohibited on either side of Harrington Road. Said restrictions shall apply as follows:

No person shall park, stop or leave standing any vehicle on the northeasterly side or southwesterly side of Harrington commencing at a point that measures 500 meters southeasterly from the center line of the intersection of Heath Road and Harrington Road thence in a generally southeasterly direction 155 meters.

(b) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

Section 6 – POSTING REQUIREMENTS

The signs authorized by this Local Law to be installed shall be of the types specified and shall be erected and maintained pursuant to the pertinent posting requirements of the Vehicle and Traffic Law of the State of New York, regulations promulgated thereunder and any other statutes and regulations of the State of New York prescribing conditions for the installation of such signs.

Section 7 – **REMOVAL AND STORAGE OF VEHICLES**

- a) Authority to Impound Vehicles – when any vehicle is parked or abandoned on the highway within the Town of Johnsburg during a snow storm, flood, fire or other public emergencies, is found unattended on any highway within the Town of Johnsburg where said vehicle constitutes an obstruction to traffic, or is parked or abandoned on any highway within the Town of Johnsburg where stopping, standing or parking is prohibited, the Town Highway Superintendent of the Town of Johnsburg or an independent contractor employed for that purpose by the Town may cause such vehicle to be removed.
- b) Storage and Charges – any removal of any vehicle as provided for in subdivision “a” above, the Town Highway Superintendent or an independent contractor employed for that purpose by the Town may store such vehicle in a suitable location at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon payment to the Town of the amount of all expenses actually and necessarily incurred in effecting such removal together with any charges for storage, all such charges to be reasonable under all the circumstances.
- c) Notice of Removal – The Town Highway Superintendent shall without delay report the removal and disposition of any such vehicle removed as provided in subdivision “a” above to the Town Clerk of the Town of Johnsburg and it shall be the duty of such Town Clerk to ascertain to the extent possible the owner of such vehicle or person having charge of such vehicle and to notify the owner of the removal and disposition of such vehicle and of the amount which will be required to redeem same to the extent that such amount can be calculated at the time of giving such notice. Such notice shall be in writing and shall be mailed to the address ascertained by such Town Clerk to be the address of such owner or person having charge of such vehicle.

Section 8 – **PENALTIES OF VIOLATION OF LOCAL LAW**

Every person convicted of a traffic infraction for a violation of any provision of this Local Law shall for a first conviction thereof be punished by a fine of not more than \$150 or

by imprisonment of not more than fifteen (15) days or by both such fine and imprisonment; for a second such conviction within eighteen (18) months thereafter such person shall be punished by a fine of not more than \$300 or by imprisonment of not more than forty-five (45) days or by both such fine and imprisonment; upon a third conviction or subsequent conviction within eighteen (18) months after the first conviction such person shall be punished by a fine of not more than \$450 or by imprisonment of not more than ninety (90) days or by both such fine and imprisonment.

Section 9 – CONSTITUTIONALITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Johnsbury hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 10 – REPEALER

All ordinances, Local Laws and part thereof inconsistent with this Local Law are hereby repealed.

Section 11 – EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

NEW BUSINESS

Supv. Goodspeed informed the Town Board that the Town Clerk has found an error in the minutes of February 15, 2011, in Resolution Number 35; Town Clerk William Rawson said that there was a typographical error in the resolution approving the minutes of February 1, 2011 as the minutes of February 2, 2010. The Town Clerk explained that he had made a typographical error the resolution.

RESOLUTION NO. 178

Mr. Morehouse presented the following resolution, and moved its passage with a second from Mr. Stevens, to authorize the correction of the minutes of February 15, 2011, in Resolution Number 35 from the minutes of "February 2, 2010" to the minutes of "February 1, 2011". With

5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Supv. Goodspeed said that he had been contacted regarding traffic safety issues on State Route 28 near the Adirondack Tri County Health Care Center; over the past few years there have been several accidents at that site.

RESOLUTION NO. 179

Mr. Arsenault presented the following resolution and moved its passage with a second from Mr. Morehouse to investigate remedial action for reasons of safety on State Route 28 in the area of the intersection with Ski Bowl Road due to numerous accidents at or near that site via the New York State Department of Transportation. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Mr. Vanselow said that he would like to see an extension of the 45 miles per hour speed limit from the southern entrance to North Creek through the northern entrance of the hamlet. Mr. Arsenault asked if the New York State Department of Transportation (DOT) would contact Supv. Goodspeed; Supv. Goodspeed replied that sometimes they do and sometimes they don't. Mr. David Bulmer asked if letters would help; Supv. Goodspeed replied yes. Mrs. Kelly Nessel said that the flashing "Your speed is" signs attract her attention. Mr. Bulmer said that he is still interested in expanding the 30 miles per hour school zone throughout the hamlet; Supv. Goodspeed said that the relief had been asked for, but not granted. Mr. Bulmer asked about the regulation of Town roads by the Town government; Mr. Vanselow replied that the law did not pass. Mr. Arsenault asked that a representative from the DOT come to deliver a justification for turning down the speed limit reduction in an open Town Board meeting.

RESOLUTION NO. 180

Mr. Arsenault presented the following resolution and moved its passage with a second from Mr. Morehouse to ask for a review of the school speed limit and an extension of the speed limit throughout the hamlet of North Creek. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Supv. Goodspeed informed the Town Board that the owner of Braley & Noxon Hardware has decided to no longer sell transfer station tickets; he asked if there were any ideas regarding an outlet for the tickets over the weekend periods. Mr. David Bulmer suggested asking the Grand Union market in North Creek and the Wevertown Country Store in Wevertown; Supv. Goodspeed agreed to contact these stores.

Mrs. Kelly Nessel asked the Town Board to grant the Youth Committee permission to file two grant applications with LARAC, in the Town's name as per the letter read earlier in the meeting. If awarded, the grants will be used to fund an after school art class and also a dramatics class; the grant request for the after school art class would be between \$1000.00 and \$1500.00 and the dramatics class request is not known, but the total request is not to be above \$5000.00 with the match coming from grants, gifts and other non-Town funds.

RESOLUTION NO. 181

Mr. Arsenault presented the following resolution, and moved its passage with a second from Mr. Stevens to support the submission of two grant applications to LARAC by the Johnsbury Youth Committee, on behalf of the Town, for the Johnsbury Youth Program: 1- after school art in the amount to be between \$1000.00 and \$1500.00, and a dramatics class with an unknown amount; the total of the two items in the request(s) not to exceed \$5000.00 and the match is to be coming from grants, gifts and other non-Town funds. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

PRIVILEGE OF THE FLOOR

Mr. Donald Filkins explained that at the back of the Main Street stores near the North Creek Railway Depot there are some "junk" cars and some buildings in a state of disrepair; he asked if these unlicensed and unregistered cars are allowed under the Town Zoning law. Secretary Cherie Ferguson replied that the law allows one such car per parcel. Mr. Filkins asked about the possibility of doing away with allowing such cars in the hamlets; Supv. Goodspeed said that he could have the Town Attorney look into this. Mr. Morehouse said that this may cause a hardship on individuals and suggested the possibility of requiring such cars to be kept under cover. Mrs. Kelly Nettle said that landscaping was suggested to partially hide unsightly items and buildings in the study on North Creek prepared by Saratoga Associates. Mrs. Nettle suggested using the First Wilderness Corridor money to clean up the area. Mr. Vanselow said that there was a meeting of the Kellogg Buildings committee tomorrow; he added that he could not attend. Mr. Arsenault said that he would bring up the issue.

Mr. Morehouse asked when the older train cars will be moved; Supv. Goodspeed said that he would look into the timing.

Mr. David Bulmer said that signage to direct train passengers to Main Street was needed.

RESOLUTION NO. 182

Mr. Morehouse presented the following resolution and moved its passage with a second from Mr. Stevens that the following certified bills which have been reviewed by the board members be paid: General Fund- Warrant #16G/Claims #341-359; Highway Fund- Warrant #16H/Claims #189-202; North Creek Water Dist.- Warrant #15W/Claims#67-70; Library Fund-Warrant #8L/Claims#49-51; Capital Projects Fund- Warrant #6CPF/Claims #7-9. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

A motion to adjourn the meeting was presented by Mr. Vanselow with a second from Mr. Arsenault at 8:40pm. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

The next regular Town Board meeting will be held at 7:00pm on October 4, 2011 at the Wevertown Community Center, Wevertown, NY; a public hearing on Local Law #1 "A Local Law Prohibiting Entry Into and Remaining in Town Buildings by Persons in Physical Possession of a Deadly Weapon".

Prepared by William Rawson, Town Clerk