

**Minutes of the Town of Johnsbury Regular Board Meeting June 4, 2013  
Held at the Wevertown Community Center, Wevertown, NY**

Minutes of the regular meeting of the Town Board of the Town of Johnsbury held on Tuesday, June 4, 2013 at 7:00PM at the Wevertown Community Center, Wevertown, NY. Supervisor Vanselow called the meeting to order at 7:00pm and the pledge to the flag was led by Supervisor Vanselow.

Roll call showed the following persons present: Supervisor Ronald Vanselow; Town Councilmen/ Eugene Arsenault, Katharine Nightingale, Peter Olesheski, Jr, Arnold Stevens; Town Clerk/ William Rawson.

Guests: On attached list

**RESOLUTION NO. 87**

Mr. Olesheski presented the following resolution and moved its passage with a second from Mr. Arsenault to accept the minutes of the May 21, 2013 regular Town Board Meeting as written. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

**CORRESPONDENCE:**

1. A notification from the Army Corps of Engineers regarding a permit application for a jurisdictional determination for a proposal consisting of the installation of an aeration system in the swimming area pond and a multi-use trail system and informing the Town Board that the proposed work will not require a permit from the Army Corps of Engineers.

Supervisor Vanselow added that apparently the issues regarding the multi-use trail system construction which had been raised by the NYS Office of Parks, Recreation and Historic Preservation regarding historical and archaeological questions have been resolved. Supervisor Vanselow said that Mr. Steve Ovitt will be here later in the meeting to discuss the multi-use trail system construction.

**COMMITTEE REPORTS:**

**OLD BUSINESS:**

Supervisor Vanselow reminded the Town Board that many years ago Mr. George R. Van Voorhis III or possibly his father created a development on Holland Road and included was a road inside the subdivision was to be deeded to the Town and the Town Board had accepted the road which was built in the subdivision and the Town Highway has been maintaining that road.

Supervisor Vanselow explained that the subdivision has been resubmitted to the Town Planning Board and as a result of that submission it was determined that the road as built is not at the location where it is show on the subdivision map; the road has a curve and a turnaround instead of being straight with a turnaround. Mr. Olesheski asked if this was just "housekeeping." Supervisor Vanselow said that it was. Supervisor Vanselow explained that according to Town Attorney J. Anthony Jordan that the easiest solution is for the Town Board to accept map changes and a new map showing the road in the "as

built" location. Supervisor Vanselow said that Superintendent of Highways Daniel Hitchcock was in agreement to this map acceptance.

Mr. Olesheski said that it was shocking that the item was on the agenda this long and he said that he was sure that there were attorney costs associated with this issue. Supervisor Vanselow said that Town Attorney Jordan was not charging for this as the maps were created by Mr. Van Voorhis and no resolution was written by the attorney. Supervisor Vanselow added that Attorney Jordan's staff had tried to fax the map to the Town Hall for the prior meeting, but due to a problem with the fax machine it had not worked and he, Supervisor Vanselow had asked Attorney Jordan to have the map mailed through the Postal Service. Mr. Olesheski said that he would move the acceptance as it was agreed to by the Town Attorney and the Town Superintendent of Highways.

#### RESOLUTION NO. 88

Mr. Olesheski presented the following resolution and moved its passage with a second from Ms. Nightingale that the Town Board will accept with the agreement of the Town Attorney and the Superintendent of Highways the "as built" map of the 4V's subdivision off Holland Road in the Town of Johnsbury, Warren County, New York as showing the actual location of Highview Lane which is a Town Road (pages 2a - 2h attached). With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

Supervisor Vanselow reminded the Town Board that at a previous meeting (April 16, 2013) the Town Board acting as the Board of Health had authorized him to send correspondence to a property owner and allow him ten days to respond. Supervisor Vanselow reminded the Town Board that the property owner has not responded and that Supervisor Vanselow had then, following the May 7, 2013 Town Board meeting, and with Town Board assent, sent a follow up letter outlining the potential penalties for failure to comply and allowing five days for reply. Supervisor Vanselow said that that letter, sent with return receipt had not been picked up. Supervisor Vanselow said that this was a vexing situation.

Supervisor Vanselow explained that he has spoken to Town Attorney J. Anthony Jordan regarding this issue and he has sent the Town Board members an e-mail outlining two options for dealing with this issue. One option is to continue to work through Town Zoning Enforcement Officer Danae Tucker and through Town Court where fines can be assessed. Supervisor Vanselow said that he was not interested in having fines assessed, he wanted to get the property owner to begin a dialogue with the Town Board on how to correct the problem. Supervisor Vanselow said that Mr. Arsenault had suggested going to the resident's home to speak to him regarding the problem. Supervisor Vanselow said that he had not had time to do so today and that he had spoken with ZEO Tucker who had reported that she had been to the site four different times and she has written a letter setting out the penalties and possible actions by the Town including a summons to Town Justice Court. Attorney Jordan said that if the Town mails the letter both by certified return receipt and by first class mail that the Town will have made sufficient attempts to contact the owner. Mr. Olesheski asked about having the Warren County Sheriff deliver a letter to the property owner. Supervisor Vanselow said that the Sheriff's office can deliver a summons and probably could deliver a letter. Mr. Olesheski said that he was not sure if

it was appropriate for either Supervisor Vanselow or a Town Board member to go to the house to speak with the owner.

Supervisor Vanselow said that the second option is for the Town Board to act as the Board of Health and issue a notice of violation which will be posted on the property and then physically go on the property and make the repairs and then bill the property owner for the repairs. Supervisor Vanselow said that the only downside to this is that if the issue goes to court there is a small chance that the Town may not prevail and then the Town would be unable to recover the cost of the repairs.

Supervisor Vanselow said that he would like to proceed with the first method of having ZEO Tucker proceed with the letter which she has written and if there is no response from the property owner, then have ZEO Tucker file a complaint in Town Justice Court and request that a summons to appear in Town Court be issued to the property owner. The Town Justice can levy fines and the fines amount to one thousand dollars per week with each week being a separate offence so it would add up quickly. Supervisor Vanselow said again that he wants to get the property owner to speak to the Town Board.

Ms. Nightingale asked if the Town board acted as the Board of Health will it still wind up in Town Justice Court or will it go to the Warren County Court. Supervisor Vanselow replied that he was not sure in which court the issue would appear. Mr. Stevens said that acting as the Board of Health would be the long hard way of settling the issue. Supervisor Vanselow said that the Town would be forcing its way onto private property and tearing the property up. Mr. Stevens said that the course proposed by Supervisor Vanselow sounded reasonable and asked if any Town Board action was required to move forward with the letter from ZEO Tucker. Supervisor Vanselow replied that no action was needed. Mr. Olesheski requested if ZEO Tucker would send the letter by both first class mail and certified mail with a five day time frame to contact her. Supervisor Vanselow said that was correct and added that ZEO Tucker had included a number of ways to contact her as time is of the essence. Mr. Olesheski, Mr. Arsenault and Ms. Nightingale all agreed with Mr. Stevens that this sounded good. Supervisor Vanselow said that if the property owner does not contact ZEO Tucker then she will proceed with issuing an appearance ticket and proceed from there to Town Justice Court.

Supervisor Vanselow informed the Town Board that in 2008 the Town Board went through the process of declaring a half acre lot in Bakers Mills on Bateman Road to be surplus in anticipation of selling it to a neighboring property owner. The price of \$10,000.00 which was discussed at that time was considered to be too high by the neighbor. Supervisor Vanselow said that he has spoken with the neighbor again and he is willing to spend a few thousand dollars for the property. Supervisor Vanselow said that Town Attorney J. Anthony Jordan had told him that the declaration of surplus from 2008 was still valid. Supervisor Vanselow would like permission from the Town Board to enter into a negotiation with the neighboring landowner to determine a price for the property. Supervisor Vanselow explained that the property is being used as a trash dump. Mr. Arsenault asked if the Town would need to advertise to proceed. Supervisor Vanselow said that all of that had been done in 2008.

Supervisor Vanselow explained that according to the deed of gift for the property to the Town from the Bakers Mill-Sodom Vol. Fire Company that if the property was sold by the Town that any proceeds would be used for improvement of facilities for the youth of the

Town of Johnsbury. Mr. Olesheski asked if Supervisor Vanselow had any thoughts on uses for the money derived from the sale. Supervisor Vanselow said that he wants to work on the tot lot at the Scout Hall in Bakers Mills; Supervisor Vanselow said that some work had been done there in the past year and he would like to use the money in the area of Town where the property exists. The Town Board voiced conceptual approval for negotiating a price for the property.

Supervisor Vanselow explained that the Town Board had approved a resolution to request that the New York State Department of Transportation (DOT) investigate the possibility of a speed limit reduction for State Route 28 between the southern entrance to the hamlet of North Creek and continuing north to the northernmost entrance to Main Street from State Route 28. Supervisor Vanselow said that it appeared that the request was sent to Warren County DPW, but did not progress to DOT for some reason. Supervisor 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. Supervisor Vanselow said that such a speed limit request would have support from Senator "Betty" Little, ORDA, Adirondack Tri-County Nursing and Rehabilitation Center and Front Street Mountain Development. Supervisor Vanselow said that the DOT doesn't want a sheaf of supporting documents, but Senator Little will contact DOT after the request is sent to them and she will carry the request from ORDA as well.

Ms. Nightingale asked if Senator Little would help with the North River speed limit reduction request from last year. Supervisor Vanselow said that he was not sure about Senator Little's response to that request. Ms. Nightingale said that she would contact Senator Little.

Mr. Arsenault asked if it was possible to dialogue with DOT about this issue. Supervisor Vanselow said that he has spoken with a retired DOT administrator who explained that the DOT has certain criteria and the request either fits that criteria or it doesn't and DOT does not want emotional involvement to enter into the decision. Mr. Arsenault said that people did not necessarily mean emotion and he added that the area is becoming more built up, busy and dangerous. Supervisor Vanselow said that politics could come into it and the assistance of Senator Little would be helpful. Mr. Olesheski asked if the volume of traffic was the reason for not reducing the speed limit. Supervisor Vanselow said that he was not sure of the reason. Mr. Olesheski said that he believed it to be a reasonable request to have the forty-five mile per hour speed limit from the Stewart's Shop north to the northern most entry to Main Street in North Creek. Supervisor Vanselow said that he believes that assemblyman Daniel Stec would help with this as well.

#### RESOLUTION NO. 89

Ms. Nightingale presented the following resolution and moved its passage with a second from Mr. Stevens to ask for an extension of the forty-five mile per hour speed limit on State Route 28 north from the southern intersection of County Route 77 (Main Street) and State Route 28 to the northernmost intersection of County Route 77 (Main Street) in 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

## NEW BUSINESS:

Supervisor Vanselow noted that the monthly report of the Animal Control Officer William Mosher for the month of May 2013 was in the Town Board members' packets. Town Clerk Rawson added that it should be noted that a Warren County Public Health rabies vaccination clinic will be held at the North Creek Fire House on June 15, from 10:00am to noon.

Supervisor Vanselow noted that the monthly report of the Zoning Enforcement Officer, Danae Tucker, for the month of May 2013 was in the Town Board members' packets.

Supervisor Vanselow explained that the Supervisor's Monthly Report, for the month of May 2013 was not available at this time.

Supervisor Vanselow explained that the list of pay rates for the Summer Youth Program employees had been put together with most returning employees receiving a \$.25 per hour raise from 2012 and recommendations for hires as noted. Supervisor Vanselow asked if the Town Board wished to accept the recommendations of the Youth Committee for Summer Youth Program hires.

## RESOLUTION NO. 90

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Olesheski to accept the recommendations of the Youth Committee that the following returning employees be paid at the listed pay rates for the entire 2013 Summer Youth Program term:

|                    |   |
|--------------------|---|
| Ann Dingman        | same percent raise as other Town employees (Director)       |
| Philip Goodman     | same percent raise as other Town employees (Asst. Director) |
| Nichole Calvert    | -\$7.75 per hour  |
| Samantha Cleveland | -\$8.25 per hour  |
| Kayla Williford    | -\$7.50 per hour  |
| Cheryl Hayes       | -\$8.75 per hour (Arts and Crafts Director)                 |
| Anna Goodman       |   |
| As a counselor     | -\$9.75 per hour  |
| As a bus driver    | -\$17.50 per hour   |
| Route rate         | -\$68.00 per day  |
| Catherine Allen    | -\$17.50 per hour (Extra trip Bus Driver)                   |
| Emmalee Ellsworth  | -\$7.25 per hour (New Counselor)                            |
| Anna Gahan         | -\$7.25 per hour (New Counselor)                            |

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

Supervisor Vanselow introduced Mr. Steve Ovitt to discuss the multi-use trail system proposed for the Ski Bowl Park which the Town Board conceptually approved on May 5, 2012.

(Supervisor Vanselow left the meeting at 7:28)

Mr. Ovitt presented the Town Board with a 7 phase draft trail development plan (attached pages 5a and 5b). Mr. Ovitt explained that he had developed the plan with the

guidelines of discussions with Supervisor Vanselow and Ski Bowl Park Grant Administrator Kelly Nettle. Mr. Ovitt explained that phases 1 through 5 are the most important and that of the projected total cost of \$26,360.00 that phases 1 through 5 would cost about 40 percent of that total. Mr. Ovitt said that as a of discussions it was decided that an additional 2.5 miles of bike trail to the top of Little Gore and also that Grant Administrator Nettle do more extensive excavation for the ski trails to make them more sustainable. The bike trail would allow for biking, hiking and possibly snowshoe use. Mr. Ovitt said that the trails had to be adjusted due to the ORDA ownership of Ski Bowl Park for the winter months of the year.

(Supervisor Vanselow returned to the meeting at 7:31pm)

The budget with Wilderness Property Management (Mr. Steve Ovitt) time, equipment rentals, signs, materials and fuel, is approximately \$20,360.80 and Mr. Ovitt estimated the cost for two laborers to be hired by the Town for five weeks at \$6,000.00. Supervisor Vanselow suggested that he believed that the cost for the laborers should be lower than the estimate.

Mr. Ovitt added that there was no additional permitting need from the Adirondack Park Agency or the Army Corps of Engineers and that Grant Administrator Nettle had approval from the NYS grant administrator at the Office of Parks and Historic Preservation. Mr. Ovitt explained that he would explore the additional trail to determine if it was achievable and if it was not then he would remove those costs from the estimate. Mr. Ovitt said that the added trails would enhance the experience for bikers coming to the area.

Supervisor Vanselow explained that the purpose of this presentation is to explain to the Town Board the estimated costs and the work plan for the multi-use trail portion of the Ski Bowl Park Grant project. Supervisor Vanselow said that he would like the Town Board to approve the starting of the project. Mr. Arsenault asked if the Town fund this expense. Supervisor Vanselow said that if the reimbursement funding which Grant Administrator Nettle has filed for does not arrive before the bills come in; then the Town can cover the costs for the short term.

#### RESOLUTION NO. 91

Mr. Stevens presented the following resolution and moved its passage with a second from Mr. Arsenault to authorize the hiring of two additional Town Parks employees for the purpose of assisting Wilderness Property Management (Mr. Steve Ovitt) in the construction of the multi-use trail portion of the Ski Bowl Park Grant project and further, the additional expenses associated with this project up to a total of \$26,360.00. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

#### RESOLUTION NO. 92

Ms. Nightingale presented the following resolution and moved its passage with a second from Mr. Arsenault that the following certified bills which have been reviewed by the board members be paid: General Fund (Total \$27,835.31) - Claims #2013-464 through #2013-471 and #2013-477 and #2013-478 and #2013-480 through #2013-493; Highway Fund (Total \$33,980.84)- Claims #2013-472 through #2013-478 and #2013-492 through #2013-496; North Creek Water Dist.(Total \$466.50)- Claim #2013-478; Library

Fund (Total \$812.85) - Claim #2013-477; Trust and Agency (Total \$3088.75) Claims #2013-462 and #2013-463 and #2013-477 through #2013-479; Total all warrants \$66,184.25. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays – 0

#### PRIVILEGE OF THE FLOOR

Mr. Olesheski said that he was approached by a constituent asking about the current state of the Wevertown Vol. Fire Company and its dissolution plans. Supervisor Vanselow replied that he had two items of information. He has been told that someone had asked Assemblyman Daniel Stec to look into whether the Wevertown Vol. Fire Company had filed with the Office of the NYS Attorney General as their attorney had promised the court that they would; as of that time, about three weeks ago they had not. The second item is that about a week and a half ago an appraiser called the Town Hall asking for the zoning of the Wevertown Fire House as they were hired to appraise it. Supervisor Vanselow said that he did not know why the building was being appraised.

Mr. Olesheski said that the follow-up question was where things are left with the other companies and the coverage area of the Wevertown Vol. Fire Company. Supervisor Vanselow said that he has spoken with Johnsburg Vol. Fire Company Chief Barry "Chip" Aldrich for about forty-five minutes and also has spoken with Edward Tuttle of the North Creek Vol. Fire Company about the issue of the non-existence of the Wevertown Vol. Fire Company. Supervisor Vanselow said that these two fire company representatives were concerned that there is no longer a "home district" to enter into the mutual aid forms. Warren County Fire Coordinator Brian LaFlure has a solution which neither liked. Supervisor Vanselow said that he spoke last week with Warren County Administrator Paul Dusek about the possibility of utilizing the Warren County G.I.S. person to assist in re-drawing the district lines for fire coverage. Supervisor Vanselow is looking into the amount of charges. Supervisor Vanselow asked Fire Coordinator Brian LaFlure how much detail the county wanted in drawing the boundary lines and he hopes to be able to sit down with the Warren County G.I.S. person next week.

Mr. Olesheski asked if there was likely to be an insurance issue for the residents and property owners of the Wevertown Vol. Fire Company district. Supervisor Vanselow said that he did not believe that there should be a problem as the contract with the various companies is to fight fires in the Town of Johnsburg fire district not only in specific districts. Supervisor Vanselow said that he expects this issue to move forward quickly. Supervisor Vanselow added that he has had some very preliminary contract discussions as well.

Mr. Arsenault asked what the determination was on the ownership of the Wevertown Fire House. Supervisor Vanselow said that he did not believe that there was one; he added that as he understands the situation the Wevertown Fire House belongs to the Wevertown Vol. Fire Company. Mr. Arsenault asked if the fire company exists. Supervisor Vanselow said not as a fire fighting entity, but as a not for profit corporation. Mr. Arsenault asked if the Wevertown Vol. Fire Company could sell the Wevertown Fire House and use the proceeds. Supervisor Vanselow said that as he understood the process that the Wevertown Vol. Fire Company could sell the fire house and use the proceeds to pay its debts or distribute the proceeds to other not for profit corporations. Supervisor Vanselow said that the money should not go into the pockets of the current members; he

added that their attorney promised that the Wevertown Vol. Fire Company would be following all the proper procedures for the dissolution. Mr. Stevens said that he understood that the procedure should include a dialogue between the fire company or their attorney and either a judge or the NYS Attorney General; Supervisor Vanselow added or both. Mr. Arsenault asked for a time frame. Supervisor Vanselow said that he does not have one. Mr. Stevens said that he would expect that the first move would be that of the fire company or their attorney contacting the Attorney General. Supervisor Vanselow said that the Town originally got involved when it appeared that there was no oversight for the dissolution process; once the fire company attorney told the judge that the Wevertown Vol. Fire Company would be following all the proper procedures the Town withdrew its question. Supervisor Vanselow said that he was keeping his eye on the issue, but the Town is not an involved party.

Supervisor Vanselow said that there was the discussion about the Warren County Self Insurance regarding the Workers Compensation charges which are being assessed to the Wevertown Vol. Fire Company. Supervisor Vanselow said that it appeared that the fire company would be accruing debts and that it would be in their best interest to work through the process as speedily as possible.

Mr. Olesheski said that he would let the individual know the current state of the Wevertown Vol. Fire Company and the fire districting issues.

Mr. Olesheski said that in the interest of sake of openness that he was going to ask a question about a disturbing e-mail from Supervisor Vanselow regarding a possible Federal Emergency Management Agency (FEMA) payment error. Mr. Olesheski asked if Supervisor Vanselow could elaborate on this issue.

Supervisor Vanselow explained that an employee of FEMA checked an incorrect box and sent the Town of Johnsburg approximately \$57,000.00 in excess of the amount which the Town was entitled to receive. FEMA has determined that the Town needs to repay the money to the granting agency and will get back to us with repayment options.

Mr. Olesheski asked if this was money which was used to purchase equipment for the Town Highway Department and for the origin of the payment. Supervisor Vanselow said that the payment was a reimbursement for a 2011 road repair project. Secretary Cherie Ferguson explained that the FEMA employee said that a large request for payment for repairs to the Chatiemac Road in the amount of about \$111,000.00. FEMA representatives reviewed the request and the Town documentation and approved approximately \$45,000.00 in the repayment request. Sect. Ferguson said that the \$111,000.00 was still in their system and the FEMA representative endorsed sending the Town portion of that amount to the Town of Johnsburg in the amount of approximately \$97,000.00 instead of the approximately \$41,000.00. Sect. Ferguson said that she had checked with FEMA that the payment was correct and they said that it was. Mr. Olesheski said that if FEMA said that the payment was correct and if the errors were made by FEMA that he did not want to repay the money.

Supervisor Vanselow said that nobody's happy about repaying the money; if the Town had an emergency which could be reimbursed by FEMA then the agency would take the amount owed out of any future payment earned by the Town of Johnsburg. Sect. Ferguson said that FEMA is supposed to be getting back to us with repayment options. Supervisor Vanselow said that he believes that the money has been spent and also, due to



tax cap regulations the Town could not raise the money from taxes for the repayment. Mr. Olesheski said that he was sure that their constituents would not want the Town to repay the money without exhausting all possible options not to do so. Mr. Arsenault said that the Town should try to arrange a settlement with FEMA; it was a pretty grievous error. Supervisor Vanselow said that he hasn't given up looking at options, but he is not sure that the Town has any recourse as the agency is partially culpable. Mr. Stevens added that FEMA appears to be totally culpable.

Mr. Curt Richards asked if the repayment funding would come from the General Fund or the Highway Fund. Supervisor Vanselow said that the FEMA funds went into the Highway Fund. Mr. Richards asked if the Highway Fund would be liable to repay the funds. Supervisor Vanselow said that the Town would have to repay it from some Fund. Mr. Olesheski asked if Supervisor Vanselow had discussed this with Town Attorney J. Anthony Jordan. Supervisor Vanselow replied that he had not, but he would if the Town Board wished him to do so. Supervisor Vanselow said that he would rather prefer to discuss this with Senator Kirsten Gillibrand and Congressman Bill Owens as this is a federal agency.

A motion to adjourn the meeting was presented by Ms. Nightingale with a second from Mr. Olesheski at 8:03pm. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

The next regular Town Board meeting will be held at 7:00pm on June 18, 2013 at the Tannery Pond Community Center, North Creek, NY.

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Prepared by William Rawson, Town Clerk