

**Minutes of the Town of Johnsburg Regular Board Meeting October 5, 2010  
Held at 7:00pm at the Wevertown Community Center, Wevertown, NY; also Executive  
Session to Interview Candidates for the Zoning Enforcement Officer Vacancy**

Minutes of the Executive Session of the Town Board of the Town of Johnsburg to held on Tuesday, October 5, 2010 at 6:00pm at the Wevertown Community Center, Wevertown, NY, for the purpose of conducting interviews for the Zoning Enforcement Officer vacancy. Supervisor Goodspeed called the meeting to order at 6:00pm.

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.

Also present were Danae Tucker, Christine Stewart, Scott Allard and Rand Fosdick the candidates to be interviewed.

Mr. Stevens presented the following motion, with a second from Mr. Vanselow to enter into executive session for the purpose of conducting interviews for the Zoning Enforcement Officer vacancy at 6:00pm. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays – 0

Supv. Goodspeed presented the following motion, with a second from Mr. Stevens to adjourn the executive session for tonight at 6:58pm with another interview session planned for October 19, 2010 prior to the regular Town Board meeting. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays – 0

Minutes of the regular meeting of the Town Board of the Town of Johnsburg held on Tuesday, October 5, 2010 at 7:00pm at the Wevertown Community Center, Wevertown, NY. Supervisor Goodspeed called the meeting to order at 7:02pm. The pledge to the flag was led by Councilman Eugene Arsenault.

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. Also present was Town Attorney Tony Jordan.

Guests: On attached list

**RESOLUTION NO. 182**

Mr. Vanselow presented the following resolution, and moved its passage with a second from Mr. Arsenault, to accept the minutes of the September 21, 2010 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 Mr. Joseph and Mrs. Mary Rosano noting the conditions of Heath Road and Riverside Station Road in conjunction with the closed bridge on Harrington Road asking that the Town Board take immediate steps to rectify the situation.
2. A letter from Ms. Jo Ann Smith resigning as the cleaner of the Tannery Pond Community Center.

3. A letter from Superintendent of Highways Daniel Hitchcock requesting that the Town Board authorize the advertising of two part time positions of wing operator for the winter season.
4. A letter from the Warren County Board of Elections to the Town Supervisors explaining that the Board of Elections needs assistance from them in having either the Town Clerks or a recommended individual return the voting machine memory cards to the Board of Election offices without delay following the election.
5. Letters of interest in the Zoning Enforcement Officer position were received from W. Rand Fosdick, Frank Slycord, Christine Stewart, Angela Barilli Smith, Danae Tucker, and Scott Allard.

#### COMMITTEE REPORTS:

#### OLD BUSINESS:

Supv. Goodspeed noted that from 6:00pm to 6:58pm the Town Board had conducted interviews of candidates for the vacant Zoning Enforcement Officer position and that additional interviews will be conducted on October 19, prior to the regular Town Board meeting. Supv. Goodspeed added that interested persons may still apply for the position.

Ms. Kate Hartley made a presentation to the Town Board regarding the placement of a mosaic on the cement retaining wall opposite Café Sara on Main Street in North Creek. Ms. Hartley explaining that the project would take about two or three years to complete and that it would be permanent and graffiti resistant. Ms. Hartley informed the Town Board that Warren County, the owner of the retaining wall, required that the adjacent property owners and the Town of Johnsbury give an authorization of the project; she added that the Foley's and Geoff Konis were supportive of the project. Ms. Hartley said that she hoped that the Town could assist her in contacting the remaining property owner. Mr. Vanselow asked how many property owners still needed to be contacted; Ms. Hartley replied that there were two. Supv. Goodspeed said that he had spoken with the Superintendent of the Warren County Department of Public Works and found him supportive of the project. Ms. Hartley said that she planned to fund the project through an Arts and Education grant and an Occupancy Tax request. Mr. Robert Nettle asked if the mosaic would hold up and if it could be replaced by others if she was no longer present; Ms. Hartley said that it should hold up well and that it could be worked on by others. Mr. Paul Heid asked if this process has been done in other locations; Ms. Hartley replied that it had been done successfully in many locations. Mr. Paul Heid said that this should add to Town pride and added that the Town should find a way to perpetuate this project. Mr. Peter Heid said that he thought that it would work well and that he believed that it would have lower maintenance costs than many projects planned for the Ski Bowl Park. Supv. Goodspeed asked if the Town Board would grant a conceptual approval of the mosaic project and allow him to write a letter in support of the project.

#### RESOLUTION NO. 183

Mr. Arsenault presented the following resolution and moved its passage with a second from Mr. Morehouse to grant conceptual approval of the mosaic project for the retaining wall on Main Street, North Creek, opposite from Café Sara as presented by Ms. Kate Hartley and authorizing the Town Supervisor to write a letter of support for the project. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays – 0

Supv. Goodspeed asked that Ms. Hartley update the Town Board at the next regular meeting on October 19.

Supv. Goodspeed updated the Town Board on the Front Street Mountain Development project. Supv. Goodspeed informed the Town Board that there has been some movement on the de-mapping application. Town Attorney Jordan has drafted a new letter to go with the de-mapping application and noted that the attorney costs will be charged to Front Street Mountain Development.

Supv. Goodspeed noted that a letter from the Department of Environmental Conservation (DEC) regarding the technical review of the wastewater process and noting that the aforesaid review has been suspended and that the DEC is awaiting a revised State Pollutant Discharge Elimination System (SPDES) permit application.

Supv. Goodspeed added that the Town Board had authorized the signing of the water system expansion application and that the application will be mailed tomorrow.

Supv. Goodspeed said that his office has been working on some financial issues regarding Front Street Mountain Development as well. Accounts Clerk Candace Lomax has been told that a \$5000.00 check for the attorney escrow account is in the mail. The Town has proposed a \$20,000.00 bond for the development of the wastewater review by Delaware Operations and Front Street Mountain Development has returned a \$10,000.00 offer. Town Attorney Jordan explained that he suggested accepting the \$10,000.00 amount as a down payment with the escrow fund to be replenished when it is depleted to \$2000.00.

Supv. Goodspeed informed the Town Board that Front Street Mountain Development has moved and relocated the hold and haul tanks for town house #1 without Town approval; Mr. Arsenault asked Front Street Mountain Development attorney Daniel Smith for an explanation and comment. Attorney Smith explained that the tanks had been placed in the area of a portion of the road now being built and that they have been moved to a location to become a part of the permanent wastewater system. Mr. Arsenault asked why they were moved without Town Board permission; Attorney Smith said that it was a screw up on the part of Front Street Mountain Development. Attorney Smith said that the tanks in their new location have been inspected by Engineer James Hutchins for the Town and he has reported that they are working properly; he added that Front Street Mountain Development is asking for Town approval of the new location of the tanks.

Attorney Smith explained that the notice of the DEC suspending its review of the wastewater system is related to a discrepancy in the permit application; the plans were for a 12,000 gallons per day system and the application requested permission for 10,000 gallons per day system. Attorney Smith said that the application will be amended to correct the issue. Mr. Vanselow noted that the permission for the tank and haul expires on December 31, 2010 and asked if Front Street Mountain Development is planning to return to ask the Town Board to grant an extension for the tank and haul system; Attorney Smith said that Front Street Mountain Development will probably return to request an extension and he added that the developer has been working on the details for four connected septic systems and that they are close to returning to ask permission on that issue with approval from the Town engineers. Supv. Goodspeed asked the Town Board members if they wished to act upon the request to approve the relocation of the hold and haul tanks for the first town house unit; Attorney Jordan said that the Town Board can approve the new placement if the members decide to do so. Mr. Vanselow asked if this authorization would include all prior conditions; Mr. Arsenault said that it was reauthorizing the original holding tank approval in a new location. Mr. Arsenault said that when instances arise which lead toward the

stopping of working together it is a cause of a loss of the trust necessary in continuing the process of moving forward

#### RESOLUTION NO. 184

Supv. Goodspeed presented the following resolution, and moved its passage with a second from Mr. Stevens to grant approval of the relocation only of the tanks associated with the temporary hold and haul system of Front Street Mountain Development as inspected by Engineer James Hutchins and further, that all conditions imposed by the original authorization granted in Resolution Number 132 enacted on July 21, 2009 continue in full force and effect. With 4 members voting in favor the resolution is declared carried. Ayes-4 (Arsenault, Morehouse, Stevens, Goodspeed) Nays – 1 (Vanselow)

Supv. Goodspeed asked if the Town Board would approve the acceptance from Front Street Mountain Development of a \$10,000.00 escrow down payment for the funding of the wastewater system review by Delaware Operations with the escrow fund to be replenished when it is depleted to \$2000.00.

#### RESOLUTION NO. 185

Mr. Morehouse presented the following resolution, and moved its passage with a second from Mr. Arsenault to approve the acceptance from Front Street Mountain Development of a \$10,000.00 escrow for payment of professional fees associated with the review of the wastewater system pursuant to NYS Transportation Corporation Law. The escrow fund to be replenished to \$10,000, when it has been depleted to \$2000.00. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays – 0

Supv. Goodspeed explained to the Town Board that in expediting the work on the temporary replacement bridge over Johnson Brook on Harrington Road it was important to make sure that all procurement and permitting policies are followed. The old bridge has been removed and the steel for the new bridge has arrived. Currently, the water level resulting from the recent rains have been too high to allow work on the bridge to continue. According to Town Attorney Jordan two sets of purchasing rules deal with the work being done with the FEMA awards; these are the State of New York and the Town of Johnsburg procurement policy. Supv. Goodspeed said that if a state of emergency is declared regarding the project, then the bidding rules are replaced by the need to obtain quotes. Supv. Goodspeed asked if the Town Board wished to declare a State of Emergency in regard to the bridge on Harrington Road over Johnson Brook due to the lack of availability of emergency medical and fire services and the onset of inclement weather.

#### RESOLUTION NO. 186

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Vanselow to declare the repair and replacement of the bridge on Harrington Road over Johnson Brook an emergency and to commence immediately the repair work necessary to protect the health welfare and safety of the citizens of the Town of Johnsburg. The basis for this declaration includes the lack of availability of emergency medical and fire services available to the residents living on Harrington Road and due to the onset of inclement weather which will halt the ability to continue work on the project. As such will proceed with three quotes instead of the formal bidding process. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays – 0

Supv. Goodspeed explained that the Town Board must accept a quote for the concrete work in order to continue work on the replacement bridge on Harrington Road over Johnson Brook. The Town Superintendent of Highways has received three quotes for the concrete work on the bridge site: Jim Jones Excavating \$45,000.00, Gallup Concrete \$33,990.00 and Jim Wakeman \$42,000.00. Supv. Goodspeed asked that the Town Board accept the lowest quote which was from Gallup Concrete in the amount of \$33,990.00.

#### RESOLUTION NO. 187

Mr. Arsenault presented the following resolution, and moved its passage with a second from Mr. Stevens to accept the lowest quote, in the amount of \$33,990.00 from Gallup Concrete, for the construction of abutment footings and abutments for the bridge over Johnson Brook on Harrington Road, in the amount of \$33,990.00. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays – 0

Mr. Vanselow raised the question of the Occupancy Tax Committee not having a chairperson due to the resignation of the former chairperson, Mrs. Kelly Nettle; Mr. Joel Beaudin, a member of the committee, said that the Town Board would need to find a chairperson from outside the committee as the members would continue to be on the committee, however, none wanted to be chairperson. Mr. Vanselow volunteered to chair the Occupancy Tax Committee; Supv. Goodspeed thanked him for volunteering and the Town Board approved of his action. Mr. David Bulmer urged the Town Board not to automatically disallow later applications as sometimes good new ideas appear later in the year.

Mr. Vanselow reminded the Town Board of the discussion of the “Harvestfest” at the previous meeting and asked if the shuttle would be used. Mr. Vanselow requested that the Town sponsor the shuttle for Saturday of the Columbus Day weekend at a cost of \$400.00 from Occupancy Tax funds with the Main Street Merchants performing the necessary record paperwork.

#### RESOLUTION NO. 188

Mr. Vanselow presented the following resolution, and moved its passage with a second from Supv. Goodspeed that the Town of Johnsbury sponsor the shuttle bus for Saturday of the Columbus Day Weekend at a cost of \$400.00 from Occupancy Tax funds and with the Main Street Merchants performing the necessary record keeping for the project. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays – 0

#### NEW BUSINESS

Supv. Goodspeed requested that the Town Board accept the resignation of Mrs. Jo Ann Smith as cleaner for Tannery Pond Community Center read earlier in the meeting and added he was asking for authorization to advertise the position.

#### RESOLUTION NO. 189

Mr. Arsenault presented the following resolution, and moved its passage with a second from Mr. Morehouse that the Town Board accepts the resignation of Mrs. Jo Ann Smith from position of cleaner for Tannery Pond Community Center and further, that the Town Board authorizes the advertisement for one week in the North Creek News Enterprise for position of cleaner for Tannery Pond Community Center. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays – 0

Supv. Goodspeed asked Secretary Cherie Ferguson to report on the repairs to the Tannery Pond Community Center heat pump equipment. Sect. Ferguson reported that Thermal Associates had looked over the heat pump equipment and had determined that an expansion valve had seized and allowed a mixture of fluids which created acid and ate up the pump. Thermal Associates quoted a cost of \$6,750.00 for the installation and warranty of replacement parts for the pump. Mr. Arsenault asked if this was normal wear and tear; Sect. Ferguson replied that the system isn't ideal for the building due to the need to heat the concrete slab to raise the temperature and that this causes the heat pumps to work harder than planned. Mr. Vanselow suggested trying to get Thermal Associates to discuss this issue with NYS Energy Research and Development Authority (NYSERDA). Mr. Peter Heid said that geothermal doesn't work well in the Adirondacks. Mr. Paul Heid asked if there was any bond on the work; Accounts Clerk Candace Lomax replied that there was a one year warranty on the building. Mr. Robert Nessel suggested discussing the problem with the original designer and installer; Mr. Morehouse said that the electrical engineer is the proper individual to discuss the system with. Supv. Goodspeed said that he would invite NTSERDA and Thermal Associates to the next Town Board meeting in an attempt to get options.

Supervisor Goodspeed informed the Board the Tentative 2011 Budget has been delivered to the Town Clerk and asked the Town Clerk to distribute copies of the 2011 Tentative Budget to the Town Board members which was then done. Mr. David Bulmer asked about the timing of the budget discussion; Supv. Goodspeed said that he expected some discussion of the budget at the next Town Board meeting and that the budget would be moved to preliminary at that time and then copies would be made available to the public.

Supv. Goodspeed noted that the monthly report of the Animal Control Officer, William Mosher, for the month of September 2010, was in the Town Board members' packets

Supv. Goodspeed noted that the Supervisor's Monthly Report, for the month of September 2010, was in the Town Board members' packets.

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 year.

#### RESOLUTION NO. 190

Mr. Arsenault presented the following resolution, and moved its passage with a second from Mr. Stevens to authorize the advertising of two part time positions of wing operator for the Highway Department for the 2010 through 2011 (approximately October 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

Supv. Goodspeed acknowledged the service provided to the Town by Mrs. Dorothy Osterhout as Chairman of the Town of Johnsbury Planning Board; the Town Board concurred.

#### PRIVILEGE OF THE FLOOR

Mr. David Bulmer informed the public that the grand opening of the Wevertown Country Store would be at 10:00am on Saturday, October 9. Town of Johnsbury Planning Board Chairman Dorothy Osterhout said that this was an example of an individual following all of the Town zoning rules and that the owner had received all Town approvals over one year ago and

she had been treated horribly by the Warren County Code Enforcement with multiple ruling changes. Mr. Bulmer added that the NYS Department of Health had arrived at 12:15pm today to create added problems. Supv. Goodspeed said that a similar situation with multiple ruling changes had occurred with a hotel in North Creek; he added that it was particularly frustrating when individuals try to follow the rules and the rules are continually being changed. Mr. Arsenault asked what the problem was with Warren County oversight. Supv. Goodspeed said that Code Enforcement Director Karen Putney says that the problem is due to her department being understaffed; he added that there seemed to be different interpretations among the county inspectors as to the rules. Mr. Arsenault asked why the difference of interpretation; Supv. Goodspeed replied that many of the rules allow for in field interpretation which creates inconsistency. Mr. Stevens asked if former Zoning Enforcement Officer (ZEO) Chris May had suggested that the Town take over the enforcement from Warren County. Supv. Goodspeed replied that that for the Town to do this the ZEO position would have to be expanded. Mr. Peter Heid said that sales tax money was lost due to the business not being opened.

Mr. Paul Heid said that he was disappointed at the lack of press coverage of Town Board meetings; Supv. Goodspeed said that he was not sure of the availability of the press. Secretary Cherie Ferguson said that she puts information on Facebook and e-mails updates on the Harrington Road bridge project to those individuals who have supplied e-mail addresses. Mr. David Bulmer said that there is some Post Star coverage and Supv. Goodspeed added that the Post Star and the North Creek News Enterprise are short staffed.

Mrs. Theresa Roeder, a property owner on Coulter Road, complained of the condition of Town roads, especially Coulter Road which frequently has washouts and she reported is very difficult to drive on when wet. Mrs. Roeder asked whose responsibility it is for a tree which falls at the shoulder of the road; Town Attorney Jordan replied that if the tree was on private property it is the responsibility of the property owner and if it is on the road it is the Town's responsibility. Attorney Jordan added that most if not all of the Town roads are "roads by use" and the Town has the right to maintain to the edge of current usage and also the right to expand to twenty five feet from the center of the road. Supv. Goodspeed suggested that Mrs. Roeder call Superintendent of Highways Daniel Hitchcock and ask him to meet her at the site to look at the problem; he added that the Town is experimenting with road surfacing on Durkin Road and expected to make improvements. Mrs. Roeder said that the tailings were not environmentally friendly and added that when the Highway Department works on the road it directs silt onto her property. Supv. Goodspeed replied that a specific ruling was issued on the use of tailings and said that the working of the road should be discussed with Supt. Hitchcock. Mr. Paul Heid said that the tailings were unstable and were polluting waterways.

Mr. Robert Nettle asked that the Town Board comment on the Top Ridge developers framing up a new building and asked why the Top Ridge project is going so smoothly. Town of Johnsburg Planning Board Chairman Dorothy Osterhout said that the Top Ridge developers came to the Town with plans and got their approvals and then performed their work with minimal changes to their plans and is now proceeding to Phase Two. Mr. Nettle asked how the Town knew that the plans were followed; Accounts Clerk Candace Lomax replied that Charles Rawson representing Delaware Operations and LaBombard Engineering inspected the work. Supv. Goodspeed said that he was absolutely astounded and confounded at the Front Street Mountain Development project; he added that Top Ridge jumped through the regulatory hoops and didn't argue each step and make constant plan changes as Front Street Mountain Development has. Mr. Peter Heid said that it would be a liability to the Town if the Town should have found a problem.

Mr. William Nickerson thanked the Town Board for the progress on the Harrington Road bridge project.

Mr. Robert Nettle noted the installation of ski lift towers near the old Hudson Trail.

Mr. Morehouse presented the following motion, with a second from Mr. Stevens to enter into executive session at 9:00pm for the purpose of discussing contract negotiations with the Town of Johnsbury Highway Department, a particular contractor with the Town and a Board of Health issue with the Town Attorney. With 5 members voting in favor the motion is carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays – 0

Also present at the request of the Town Board for the discussion were Town Attorney Tony Jordan and Secretary Cherie Ferguson and Accounts Clerk Candace Lomax.

Supv. Goodspeed presented the following motion, with a second from Mr. Vanselow to adjourn the executive session at 10:03pm. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Supv. Goodspeed asked that the Town Board approve the contract with the Town of Johnsbury Highway Employees Association.

#### RESOLUTION NO. 191

Mr. Arsenault presented the following resolution and moved its passage with a second from Mr. Stevens that the Town Board of the Town of Johnsbury ratifies the contract between the Town of Johnsbury and the Town of Johnsbury Highway Employees Association for a five year period with pay increases of 3% each year for the first three years and 4% in the fourth year and 5% in the fifth year and a cap of 25% on the Highway employees contribution for health insurance for the duration of the contract and further, the Town Board authorizes the Town Supervisor to execute said contract. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays –0

Supv. Goodspeed asked that the Town Board acting as the Board of Health and under the advisement of the Town Attorney authorize him to sign a notice to abate a health hazard at the Hudson River Trailer Park.

#### RESOLUTION NO. 192

Mr. Morehouse presented the following resolution and moved its passage with a second from Mr. Vanselow that the Town Board authorizes the Town Supervisor to sign a notice to abate a health hazard at a trailer at the Hudson River Trailer Park. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays –0

#### RESOLUTION NO. 193

Mr. Arsenault 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 #18G/Claims #368-381; Highway Fund- Warrant #18H/Claims #200-212; North Creek Water Dist.- Warrant #18W/Claims #67-71. 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. Stevens with a second from Mr.



Arsenault at 10:06pm. With 5 members voting in favor the motion is carried. Ayes-5  
(Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

The next regular Town Board meeting will be held at 7:00pm on October 19, 2010 at the  
Town Hall (Library), North Creek, NY.

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Prepared by William Rawson, Town Clerk