

**Minutes of the Town of Johnsbury Regular Board Meeting August 6, 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, August 6, 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. 116**

Mr. Stevens presented the following resolution and moved its passage with a second from Mr. Arsenault to accept the minutes of the July 16, 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 letter from Mark J. Kennedy, Regional Traffic Engineer, for NYS Department of Transportation (DOT) announcing the results of their investigation of the speed limit request submitted by the Town of Johnsbury for State Route 28 in the hamlet of North River; the DOT has determined that a reduction in speed is not warranted although increased enforcement to lower traffic speeds would be appropriate. (The reply was originally misaddressed to the Essex County Dept. of Public Works.)
2. A notification of a liquor license renewal application from Eric Wilson for Pete's Aah at 267 Main Street, North Creek, NY.
3. A letter from Ms. Susanne Murtha and Mr. Thomas Akstens requesting that the Town Board restricts ATV use on Town roads.
4. A letter from Highway Superintendent Daniel Hitchcock requesting that the Town Board authorize the purchase of a new plow truck under state contract at a cost of total cost of \$202,739.80.

Supervisor Vanselow said that he probably could have predicted the response to the speed limit reduction request. Ms. Nightingale was incredulous that the NYS Department of Transportation (DOT) response was sent to Essex County and asked if it was possible that the wrong portion of State Route 28 was checked. Supervisor Vanselow said that there is no section of State Route 28 in Essex County. Mr. Arsenault noted that the reply said that over one half of the cars checked were travelling faster than the speed limit. Ms. Nightingale asked if that doesn't require a speed reduction. Supervisor Vanselow said that in the letter Regional Traffic Engineer Kennedy said that more enforcement was required. Ms. Nightingale said that since the request was sent in to DOT there has been another accident involving a motorcycle. Mr. Olesheski said that it will take additional accidents and possibly serious accidents to get the DOT to reduce the speed limit. Supervisor Vanselow said that he has spoken to Senator Little's office regarding the speed limit

reduction request for the bypass (State Route 28 in North Creek) and he is hopeful that a speed reduction will be authorized for the stretch of road.

Supervisor Vanselow said that in regard to the letter from Ms. Susanne Murtha and Mr. Thomas Akstens requesting that the Town Board restrict ATV use on Town roads he noted that there is already a NYS law in place making it illegal to ride ATV's on any roads including Town roads. Supervisor Vanselow said that he did not see the need for the Town Board to pass a law making it more illegal to ride ATV's on Town roads. Mr. Olesheski asked that Supervisor Vanselow provide a written response to the letter explaining that the proposed changes to allow ATV use on Town roads had never been done and that it was illegal to ride ATV's on Town, county and state roads under NYS law. Mr. Olesheski said that it boils down to enforcement of the existing law. Supervisor Vanselow said that he would write a letter of response to Ms. Susanne Murtha and Mr. Thomas Akstens.

Supervisor Vanselow said that Highway Superintendent Daniel Hitchcock has delivered a formal request to purchase a plow-sanding truck at a cost of \$129,000.00 for a Western Star truck under NYS contract and an additional \$73,739.80 for the plow and wing package, plus the dump box and sander and the hardware and materials to connect and operate those items. The total is expected to be \$202,739.80. Supervisor Vanselow said that there is \$100,000.00 in the equipment fund and that he plans to add \$100,000.00 or slightly more in the 2014 budget. Mr. Olesheski said that the Highway Committee (Nightingale, Olesheski) had an opportunity to meet with Highway Superintendent Hitchcock and to discuss this purchase; the timing should be good to allow for delivery and payment in early 2014 if ordered soon. The Highway Committee moved and seconded this purchase.

#### RESOLUTION NO. 117

Mr. Olesheski presented the following resolution, and moved its passage with a second from Ms. Nightingale, to authorize the purchase of a 2013 Western Star plow truck from Tracey Road Equipment under NYs contract price of \$129,000.00 and a plow and sander package from Viking-Cives also under state contract at \$73,739.80 for a total of \$202,739.80 from the 2014 Equipment budget line which it is anticipated will be increased to that amount in the 2014 Town budget. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

#### COMMITTEE REPORTS:

Mr. Olesheski reported that the Highway Committee (Nightingale, Olesheski) had met with Highway Superintendent Daniel Hitchcock to discuss several issues including the request from Ms. Leslie Clement that the Town abandons a portion of Shields Road and the committee also met with Ms. Leslie Clement to discuss her request.

Ms. Leslie Clement had suggested that the Town abandon a portion of Shields Road in her proposed subdivision and a homeowners association would be created to improve and maintain the road. Mr. Olesheski said that following the discussion with the committee it appears that Ms. Clement had decided that it would be less expensive and less paperwork if she were to improve Shields Road at her expense and according to the Town subdivision regulations with the Town continuing ownership and maintenance of the road. The

Highway Committee then met with Highway Superintendent Daniel Hitchcock and discussed this issue and he appeared to be agreeable to this plan as long as Ms. Clement builds the road to all the specifications of the Town subdivision regulations. Mr. Olesheski said that he had e-mailed Ms. Clement that in his opinion that she needed to obtain a copy of the road specifications from the subdivision regulations and contact the Planning Board to work on the approval for the road improvement. Mr. Olesheski said that the Town Board can't override the Planning Board decisions. Supervisor Vanselow said that this is not like the Town would be adding road mileage to the Town inventory. Mr. Olesheski said that if Ms. Clement performed the work, then the Town would have a good road added to the inventory. Mr. Arsenault asked the length of the portion of road being discussed. Mr. Olesheski and Ms. Nightingale said that it was about one thousand feet in length. Mr. Arsenault asked if the Town was obligated to make the improvements. Supervisor Vanselow said that according the information which Highway Superintendent Hitchcock had brought to the Town Board a few months ago and the resolution passed by the Town Board (Resolution Number 267 12/18/12) any property owner(s) residing on a seasonal road, such as Shields Road, who wishes the town to maintain said road on a year round basis, will be responsible for bringing the road into such a condition that the highway department will be able to maintain the road. Supervisor Vanselow said that there is one property owner on Shields Road prefers that the road has an older unkempt look. Mr. Olesheski said that Ms. Clement has made some improvements, but not to the level which the subdivision regulations would require. Mr. Olesheski said that Ms. Clement has expressed an interest in coming before the Town Board; he said that he had told her that he did not see that the Town Board could do anything for her.

Supervisor Vanselow noted that Planning Board members Mr. Curtis Richards and Mr. Roger Smith were present and asked if they had any input. Mr. Smith said that the Planning Board had been reviewing an application from Ms. Clement for several months and at a site visit the Planning Board had been surprised at the amount of work which had taken place prior to the proper applications being obtained. Mr. Smith said that he is in favor of the Town accepting one thousand feet of road and in return having a subdivision of six residential lots being added to the tax roll. Mr. Smith said that he came to the meeting tonight in the interest of protecting the rights of the property owner on Shields Road in the case of abandonment of the road by the Town. Ms. Nightingale said that she believed that by the end of the discussion with Ms. Clement that she had determined that it was going to be less expensive to upgrade the road that to take it over. Mr. Olesheski said that Highway Superintendent Hitchcock had talked to her about building the road, but had told her to work with the Planning Board. Mr. Richards said that he thought that Highway Superintendent Hitchcock would be one of the important individuals in determining if the road was up to Town standards. Mr. Smith said that he believes that there will be some costs to Ms. Clement; he said that the lack of a storm-water runoff plan was the major issue stalling her project at this time.

Mr. Smith added that he thought that Ms. Clement had done some of the road work with Barton Mines tailings which are not suitable according to the Town regulations and will need to be redone. Supervisor Vanselow said that a property owner can do a certain amount of work prior to making application to the proper agency, but the chance the property owner takes is that the agency make require a different plan of work or the work

to be done to a higher standard. Mr. Olesheski said that the Highway Superintendent can't tell the Planning Board to take over a road, but the Planning Board can tell the Highway Superintendent to take over a road. Mr. Olesheski said that the Town Board can't tell the Planning Board to overlook the fact that Ms. Clement did work without the proper permits. Mr. Smith said that the Planning Board wants a professionally designed storm-water and erosion control plan and is not getting it. Mr. Olesheski said that it appears that Ms. Clement is trying to get around the Planning Board and that he believes that it is the Town Board's job to keep nudging her back to the Planning Board. Mr. Smith asked that the Town Board provide enforcement. Supervisor Vanselow said that he sees the enforcement as the fact that Ms. Clement won't get a signed and stamped map without going through the process with the Planning Board. Mr. Smith said that there are serious erosion problems and intrusion onto other owners' property as well.

Mr. Smith would like to have a penalty for Ms. Clement's actions. Supervisor Vanselow said that it could be addressed as a violation of the local ordinance in which case the local justice court is limited to fines, not corrective actions and what the Town Board would like to see is corrective actions. To obtain a corrective action decision would require a Supreme Court action; he added that the Town has tried to work through an issue in Supreme Court for almost two years and there is still no resolution. Mr. Smith said that he wants to show that there is no benefit in trying to work outside the system; he said that Ms. Clement has gotten a benefit by being able to perform several months of work without any permits and acceptable storm-water abatement plans. Supervisor Vanselow said that his understanding is that a property owner is able to do a certain amount of work prior to submitting a subdivision application; after submitting the application all work is to cease until Planning Board approval and permits are obtained. Mr. Stevens asked if an application has been submitted. Supervisor Vanselow said that an application was filed in May 2013. Mr. Smith said that the application showed major work to private and public properties beyond that of the applicant's. Mr. Stevens asked if since the date of application additional work has been done on the property. Mr. Smith said it appears that the work continued after the application was received. Mr. Olesheski and Ms. Nightingale said that when they visited the site with Ms. Clement, it did not appear that any work had been done recently. Ms. Nightingale said that she questioned the suitability of some material used on the project. Secretary Cherie Ferguson said that permits were required for working in the Town right of way. Mr. Olesheski said that it appears that at one point Highway Superintendent Hitchcock had told her that she could work in the Town right of way. Supervisor Vanselow said that he wants to get legal advice on how to proceed as this is new territory for the Town. Mr. Peter Heid said that he believed that she should be allowed to maintain the road, but do not do any work on the lots.

Mr. Olesheski said that it appears that this is no longer an abandonment issue and the Town Board can look at it from a different angle. Mr. James Jones said that if more than one acre of earth is disturbed then permits are required. Ms. Nightingale asked what constitutes disturbed earth. Mr. Jones said that it is defined in the NYS Department of Environmental Conservation SPEDES permit regulations. Mr. Olesheski said that according to Ms. Clement home sites were logged, not the overall area. Mr. Olesheski and Ms. Nightingale said that basically they want Ms. Clement to go to the Planning Board.

Mr. Olesheski said that the Highway Committee had discussed the Barton Mines Road

with Highway Superintendent Hitchcock and that they will relay his concerns to the Town Board when that item comes up on the agenda.

**OLD BUSINESS:**

Supervisor Vanselow informed the Town Board that the Town had received a request that the existence of a private road be made for purposes of a "911" recognition by Warren County. This is not to be regarded as a step toward acceptance of the road by the Town for maintenance. The road in question is a private road extending from the end of the Town road, Bartman School Road and the property owner is requesting that the town Board recognize the existence of a private road named "Bartman School Road Extension".

**RESOLUTION NO. 118**

Mr. Stevens presented the following resolution and moved its passage with a second from Mr. Arsenault that the Town Board recognizes the existence of a private road named Bartman School Road Extension coming off from Bartman School Road in the Town of Johnsburg in parcels number 147.-1-2 currently belonging to Gail Ceremuga and 147.-1-6.2 currently belonging to Michael J. Ryan; this is not to be regarded as a step toward acceptance of the road by the Town for maintenance. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

Supervisor Vanselow said that he would like to discuss reducing the number of Planning Board members from seven to five through the enactment of a local law which was drawn up by Town Attorney Jordan. Supervisor Vanselow said that a copy of the local law was given to the Town Board in their packets. The reduction would be accomplished by attrition, through the expiration of terms. There is currently one expired term which the Town Board would not fill and the next member term to expire would then also be eliminated. The current member could be appointed to fill the balance of an already vacant unexpired term if approved by the Town Board. The membership could be reduced by two seats in about seven months.

Supervisor Vanselow explained that the Town Board has advertised, gotten an article placed in the North Creek News-Enterprise and personally asked individuals to apply to become members of the Planning Board in order to fill vacancies all to no avail and that at least once or twice the Planning Board has not been able to convene due to a lack of a quorum. Supervisor Vanselow said that reduction of the Planning Board has been discussed over the past couple of years. Supervisor Vanselow said that there are currently two vacant regular member seats as well as the alternate seat.

Supervisor Vanselow said that he has spoken with Planning Board members James "Cork" Nester and Timothy Record and they both approve of the change; Supervisor Vanselow noted that Planning Board members Curtis Richards and Roger Smith were present and asked for their input on the change. Both members present were in favor of the change. Mr. Olesheski asked about the possibility of offering a stipend for Planning Board members as was talked about at an earlier meeting. Supervisor Vanselow said that the payment of board members becomes an employment issue; he asked Secretary Cherie Ferguson to explain further. Sect. Ferguson explained that there was the question of

whether they would be on the payroll or "contract" employees. Sect. Ferguson said that the Town could be obligated for health insurance if the members were on payroll. This would not be a problem if they were "contract" employees, but the length of meetings might trigger hourly rate issues. Supervisor Vanselow said that these are questions we could get answers to if we want to go that direction. Mr. Olesheski said that the Occupancy Tax Committee had five members and some of those in the audience said that they did not believe that to be enough representation. Mr. Olesheski asked Mr. Richards and Mr. Smith if they thought that a small stipend would entice new members. Mr. Richards and Mr. Smith both said that they did not believe that it would help. Sect. Ferguson suggested that the publicity of the law might help attract new members. Supervisor Vanselow said that the Town can only get three members for the Zoning Board of Appeals.

Supervisor Vanselow asked if the Town Board wanted to move the proposed Local Law to change the Planning Board members from 7 to 5 to a public hearing.

#### RESOLUTION NO. 119

Mr. Olesheski presented the following resolution and moved its passage with a second from Ms. Nightingale:

Whereas Proposed Local Law #1 of 2013 entitled "Local Law #1 of 2013 of the Town of Johnsburg reducing the number of Planning Board Members from 7 to 5 was presented to the Town Board at its regular meeting held on August 6, 2013, I move that a public hearing on said Proposed Local Law #1 of 2013, as follows, be held on September 3, 2013 at 7:00 p.m. at the Wevertown Community Center, Wevertown, New York, and direct that the Town Clerk publish the required notice in the Town's Official Newspaper, the North Creek News-Enterprise 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 PROVIDE FOR A CHANGE IN THE NUMBER OF PLANNING BOARD MEMBERS FROM 7 TO 5**

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

#### Section 1 – **PREAMBLE AND ENACTING CLAUSE**

For the purpose of providing for the orderly operation of the properties within the Town of Johnsburg and in order to protect and safeguard the Town of Johnsburg, its residents and their property with respect to certain land development within the Town, the Town Board of the Town of Johnsburg, 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 271(7) of the Town Law of the State of New York.

#### Section 2 – **TITLE**

This Local Law shall be known and cited as the “Local Law #1 of 2013 of the Town of Johnsburg reducing the number of Planning Board Members from 7 to 5.”

### Section 3 – **TEXT OF LAW**

Effective immediately the number of Planning Board Members shall be reduced from 7 to 5 Planning Board Members to take effect upon the expirations of the next two terms in accordance with Section 271(7) of the Town Law of the State of New York.

### Section 4 – **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 Johnsburg hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

### Section 5 – **REPEALER**

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

### Section 6 – **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, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

Supervisor Vanselow explained that following meetings with Federal Emergency Management Agency (FEMA) and Engineer Thomas Suozzo of Cedarwood Engineering, the Town's Engineer firm, that Highway Superintendent Daniel Hitchcock has determined that the construction of a 3' x 4' x 110' retaining wall along a portion of Barton Mines Road, to stop the deterioration of the roadbed of that road due to flooding, using T-wall purchased from the Fort Miller plant at a cost of approximately \$37,750.00 for T-wall blocks, as approved in Resolution Number 109 at the July 16, 2013 regular Town Board meeting, is not the method which the Town should pursue to repair the damaged section of Barton Mines Road. Highway Superintendent Hitchcock now believes that the method which the town should pursue is to utilize native rock which will be provided at no charge by the Barton Mines Corporation. Supervisor Vanselow asked that the Town Board rescind Resolution Number 109 and then pass a resolution authorizing the expenditure of approximately \$4500.00 for equipment rental, and approximately \$4000.00 to \$5000.00 to transport the rocks and shape them; he added that he was looking for a resolution to authorize up to \$20,000.00 total for the project. Mr. Arsenault asked if Highway Superintendent Hitchcock had shared why he changed his plan. Supervisor Vanselow said

that the FEMA representative had said that the NYS Department of Environmental Conservation (DEC) will not allow you to put the manufactured blocks in the creek bed and that native rock should be used. Supervisor Vanselow added that Engineer Suozzo has been pushing this approach all along. Supervisor Vanselow explained that Highway Superintendent Hitchcock has made an arrangement with a local contractor who has the proper equipment to set the rocks and assure that no one is within 100 feet of the rocks while they are being set. Mr. Olesheski said that the Highway Committee (Nightingale, Olesheski) had asked Highway Superintendent Hitchcock if this method would be as good as the "T-wall" method and he replied that Engineer Suozzo thought that it would work just as well and be cheaper than the "T-wall". Supervisor Vanselow asked for a motion to rescind Resolution Number 109.

#### RESOLUTION NO. 120

Ms. Nightingale presented the following resolution and moved its passage with a second from Mr. Arsenault that the Town Board of Johnsburg acts to rescind Resolution Number 109 of 2013 (passed on July 16, 2013) which authorized the funding of the construction of a 3' x 4' x 110' retaining wall along a portion of Barton Mines Road, to stop the deterioration of the roadbed of that road due to flooding, using T-wall purchased from the Fort Miller plant at a cost of approximately \$37,750.00 for T-wall blocks; and further, it is understood that there will be additional costs of approximately \$1000.00 for the forming and pouring of a 110' footer; and further, it is understood that these estimates do not include the costs of labor and backfill; and further, the source of the funding for this project is to be determined by Highway Superintendent Daniel Hitchcock and Town Supervisor Ronald Vanselow. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

Supervisor Vanselow asked for a motion to authorize moving forward with a project to stop the deterioration of the roadbed of that road due to flooding in the same location, along a portion of Barton Mines Road, using the native Barton Mines rocks up to a limit of \$20,000.00.

#### RESOLUTION NO. 121

Mr. Stevens presented the following resolution and moved its passage with a second from Ms. Nightingale to authorize the funding of the construction of a 3' x 4' x 110' retaining wall along a portion of Barton Mines Road, to stop the deterioration of the roadbed of that road due to flooding, using native Barton Mines rocks donated by Barton Mines Corporation and further, that the limit for the project will be \$20,000.00 including the rental of equipment for the project and the transporting of the rocks and the shaping of them as well as the setting in place of the rocks. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

Supervisor Vanselow informed the Town Board that he plans to have a corrective action plan response to the audit conducted by the NYS Comptroller's Office last year and delivered to the Town in April 2013. Supervisor Vanselow expects the Town Board to approve the corrective action plan at the August 20 Town Board meeting. Supervisor



Vanselow said that will write a resolution as the formal response to be authorized by a Town Board resolution agreeing to implement the items listed in the draft response to the audit recommendations which were mainly additional oversight issues. Supervisor Vanselow said that he has contacted Mr. Bill Mapes one of the auditors who was in Town Hall and let him know when it would be coming. Supervisor Vanselow said that he explained that he would mail the response resolution to Mr. Mapes the day following the meeting. Supervisor Vanselow said that the auditors weren't going to spend six weeks without finding something. Mr. Arsenault asked if all the changes have been implemented. Supervisor Vanselow said that all except the formal resolution. Supervisor Vanselow said that the Comptroller's office wants the Town Clerk, Tax Collection, bookkeeper and Justice books physically examined as was done this year and they want some additional oversight formally adopted.

#### NEW BUSINESS:

Supervisor Vanselow asked that the Town Board pass a retroactive resolution to authorize the health savings account payment for Mr. Christian Holt, the Town interim Assessor for the Town of Johnsbury through September 30, 2013. Supervisor Vanselow explained that, following his having polled the Town Board, a check in the total amount of \$250.00 was made out to the Glens Falls National Bank and deposited into the health savings accounts of interim assessor Christian Holt as authorized by Town Board Resolution number 107. The payment is listed in the General Fund portion of tonight's warrant payments.

#### RESOLUTION NO. 122

Mr. Arsenault presented the following resolution, and moved its passage with a second from Ms. Nightingale that the Town Board retroactively authorizes the Town Supervisor to make a deductible payment to the health savings account of Mr. Christian Holt, the Town interim Assessor for the Town of Johnsbury through September 30, 2013, in the Glens Falls National Bank in the total amount of \$250.00 which is a pro-rated amount through December 31, 2013. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays – 1 (Olesheski)

Supervisor Vanselow informed the Town Board that a law was passed by the NYS legislature and became effective as of January 1, 2011 that stated that electronic waste (e-waste) may not be transported with regular trash. Supervisor Vanselow explained that currently it is not a requirement of municipalities. Supervisor Vanselow explained that the Town has received an offer from a company to set up a collection box for e-waste; the company is asking that the collection box be in a covered and monitored area. Supervisor Vanselow said that he was not sure of a suitable location at the Transfer Station. Supervisor Vanselow said that he would like the Solid Waste Committee (Arsenault, Olesheski) to look the offer over and see if it makes sense for the Town. Supervisor Vanselow said that he thought that recycling e-waste was a good idea if a location could be found. Several local communities use this company for e-waste recycling.

Mr. Robert Nettle asked what "e-waste" was. Supervisor Vanselow said that it was electronic waste, such as computers, televisions, and other electronic items. Mr. Olesheski wondered if it was the container or the e-waste that the company was worried about

getting wet and added if it was the container then the container could possibly be stored in another location. Supervisor Vanselow said that he was not looking to make a decision on this issue tonight; he added that the Town of Minerva had begun setting this up last year, but stopped and he wondered if there was a reason.

Supervisor Vanselow noted that the monthly report of the Animal Control Officer William Mosher for the month of July 2013 was in the Town Board members' packets.

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

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

Supervisor Vanselow explained that the state contract for bulk propane purchases was awarded to another provider than is currently used by the Town. The current provider, Amerigas, has said that they will match the state contract price for propane for the term of the state contract. Secretary Cherie Ferguson explained that the annual purchase is below the bidding threshold for the Town. Mr. James Jones suggested looking into refitting some other Town buildings as propane would be a cheaper heating fuel than fuel oil.

#### RESOLUTION NO. 123

Mr. Olesheski presented the following resolution, and moved its passage with a second from Ms. Nightingale that the Town Board authorizes the continuing of using Amerigas as the bulk propane supplier for the Town at the state contract price of \$1.4986 plus \$.28 per gallon for the balance of the state contract. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays – 0

#### RESOLUTION NO. 124

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- Claims #2013-643\* and #2013-644\* and #2013-650\* and #2013-651\* and #2013-652 and #2013-653 and #2013-655 through #2013-661 and #2013-681 and #2013-682 and #2013-684 through # 2013-687 and #2013-692 (\*already paid #2013-643 \$970.92 - Frontier July 2013 Telephone; #2013-644 \$288.00 - Tamco- July and August Telephone equipment rental; #2013-650 - \$802.28 - June 2013 telephone; #2013-4250.00 Glens Falls National Bank - HSA payment for C. Holt for Health insurance) (\$18,331.03); Highway Fund- Claims #2013-662 through #2013-673 and #2013-681 and #2013-682 and #2013-688 and #2013-692 (\$19,234.54); North Creek Water Dist.- Claims #2013-674 and #2013-681 (\$1,129.50); Capital Projects Funds Claims #2013-680 and #2013-689 through #2013-691 (\$10,340.20); Library Fund- Claim #2013-675 through #2013-679 and #2013-682 (\$2,870.97); and Trust and Agency Claim #2013-654 and #2013-681 through #2013-683(\$2,840.05). Total all warrants \$54,746.29. 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. Peter Heid said that he has looked at the multi-use trail and the surface seemed to be about three feet wide. Mr. Heid noted that the trail is posted for use in both directions and he said that the basic safe width for a bicycle is five feet and a three foot additional width on each side. Mr. Heid said that there are other things on the trail which don't meet the recommendations for a multi-use trail. Supervisor Vanselow said that it was designed by an individual who does this as a business and was engineered as that type of trail. Supervisor Vanselow said that if Mr. Heid put the question in writing that he would give the question to the trail designer Mr. Steven Ovitt for his review. Mr. Heid said that Supervisor Vanselow could look at the NYS specifications for multi-use trails and determine if the trail was even close to that. Mr. Heid said that the line of sight in some portions of the trail is too short to allow for stopping before hitting another bicycle. Mr. Olesheski said that he would like to have some review and follow up with Mr. Ovitt; he added that a written question would be best as Mr. Ovitt could then provide a researched explanation. Mr. Heid asked how two bicycles could meet and pass on such a trail. Ms. Nightingale said that she could not explain that, however, she was sure that there were Department of Environmental Conservation trails that were designated as mountain biking and hiking and that were not any wider and possibly narrower than that of the Town. Mr. Heid said that the specifications are almost identical from state to state. Ms. Nightingale said that it may be a question of terminology in describing the trail. Mr. Heid said that there is not enough room for bicycles to pass on the trail. Mr. Olesheski said that he remembered Mr. Ovitt using the phrase "single track" to describe the trail. Mr. Heid said that in that case it is not a multi-use trail. Mr. Heid asked if any of the Town Board members had been on the trail. Supervisor Vanselow said that he had been on part of the trail. Mr. Olesheski said that he will be sure to go look over the trail. Mr. Robert Nettle said that he did not believe that the trail was to be for biking; but for hiking and he did not believe that it would be reported to the NYS Office of Parks, Recreation and Historic Preservation as a multi-use trail, but as a foot trail. Ms. Nightingale said that she still believed that the use of the terminology was the point causing confusion.

Mr. Peter Heid added that he did not believe that Mr. Ovitt should allow an individual to ride on the three point hitch of a tractor and he said that he will be reporting that to the Town's insurance carrier.

Mr. Roger Smith said that a month or two ago that the Town Highway Department lost a truck to an accident on Route 8 and fifteen to twenty tons of stone were spilled over the bank. Mr. Smith said that he believed that the Town Highway Department should clean up the spilled material as he came upon a vehicle stopped at the side of the road on a turn with an individual loading pails of the spilled material into the vehicle and this type of activity could possibly lead to future accidents at that site. Mr. Smith said that he thought that there could be a liability to the Town and that he believed that the Town insurance carrier should pay for the cleanup as part of the accident. Ms. Nightingale said that it was a good point and Supervisor Vanselow said that he would bring the issue up to Highway Superintendent Hitchcock.

Mr. Dan Freebern, of Horicon, NY, reported that the roadway going into the Union Cemetery has washed out and it is very difficult to get into the cemetery to take care of the family plots. Supervisor Vanselow said that he will speak to Parks and Buildings Superintendent Matt Olden about fixing the washed out roadway and added that he had

worked on a washout in Bats Cemetery earlier this year. Mr. Freebern added that the water spickets do not work. Mr. Olesheski asked why there was no water in the cemetery. Secretary Cherie Ferguson said that the Town stopped repairing broken pipes as they were too numerous. Mr. Olesheski asked if that was something which should have been done or is it something that is at the Town's discretion. Supervisor Vanselow said that Union is the only cemetery in the Town with water. Supervisor Vanselow said that the only requirement is to move the cemetery twice a year. Mr. Arsenault said to ask Delaware Operations to look at the water line and possibly to see about getting at least one spicket to work. Supervisor Vanselow said that it was a surprise to at least one half of the Town Board members that there had been water lines operational in the cemetery. Mr. Robert Nettle asked that while it appears the Town is obligated by law to mow cemeteries twice a year; is the Town obligated to build or rebuild roads in cemeteries or put in water in cemeteries and will the work be billed to the churches or the families of those in cemeteries or to the taxpayers. Ms. Nightingale said that the Town should look to NYS law. Mr. Freebern asked if Union was a Town cemetery. Supervisor Vanselow said that it is an abandoned cemetery, not a Town cemetery and that under NYS law that the Town is responsible for mowing cemeteries twice a year. Mr. Freebern said that the area municipalities all maintain their cemeteries and can't understand that the Town of Johnsbury doesn't. Ms. Nightingale said that she had grown up in an area where most of the cemeteries were private and only the very old ones were maintained by the municipality. Mr. Curtis Richards said that as a matter of respect that the Town should maintain the cemeteries; he suggested asking Highway Superintendent Daniel Hitchcock to grade up the roads as it would not take much time. Supervisor Vanselow said that it was not a large project to fix the washout and that none of us wants the cemeteries to look bad. Mr. Nettle said that the respect should come from the families of those buried in the cemeteries and they should take care of the cemeteries. Mr. Arsenault said that he disagrees and that we should have respect for those who came before us. Mr. Peter Heid said that unchecked erosion of the roadway could lead to erosion in the graves and if the Town is obligated to mow the cemeteries it may be required to provide access by road for those hired to perform the mowing. Ms. Nightingale said that the roads should be repaired, but she didn't want to spend a large amount of money to supply water to the cemetery. Mr. Arsenault said that he didn't want to spend a lot of money to fix the water, but if it is a simple repair it should be done.

A motion to adjourn the meeting was presented by Mr. Stevens with a second from Mr. Arsenault at 8:15pm. 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 August 20, 2013 at the Tannery Pond Community Center, North Creek, NY.

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Prepared by William Rawson, Town Clerk