

**Minutes of the Town of Johnsbury Regular Board Meeting January 20, 2009
Held at 7:00pm at the Town of Johnsbury Library, North Creek, NY**

Minutes of the regular meeting of the Town Board of the Town of Johnsbury held on Tuesday January 20, 2009 at 7:00pm at the Town Library, North Creek, NY Supervisor Goodspeed called the meeting to order at 7:15pm and the pledge to the flag was led by Councilman Arnold Stevens.

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

Guests: On attached list

Supv. Goodspeed noted that the first African-American President of the United States was sworn in earlier today; he wished President Obama well during his term in office and said that he believed that the Town Board would join him in doing so.

RESOLUTION NO. 28

Mr. Morehouse presented the following resolution, and moved its passage with a second from Mr. Arsenault, to accept the minutes of the January 6, 2009 Organizational 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 Brother James Posluszny, of the North Country Ministries informing the Town Board of the situation of that organization's emergency fund.
2. A letter from Mark J. Kennedy, NYS Department of Transportation Regional Traffic Engineer, informing the Town Board and County Supt. of Public Works, William Lamy, that the NYS Department of Transportation has determined that the speed reduction of Hudson Street is warranted and additionally, suggesting curve warning signs for that section of road.

COMMITTEE REPORTS:

OLD BUSINESS:

Supv. Goodspeed reminded the Town Board of the dam (weir) failure during the previous year; he noted that as the town beach is a designated swimming area, if swimming is not possible due to the dam failure that the entire area will need to be fenced off under state and insurance liability requirements. James Hutchins, P. E. was asked to review the dam and suggest a repair method. Engineer Hutchins proposed using rock fill to replace the lost material in the cribs in order to maintain the previous water level. Supv. Goodspeed asked what permitting would be required; Engineer Hutchins explained that permits would be needed from both the Department of Environmental Conservation (DEC) and the Army Corps of Engineers. Engineer Hutchins has had discussions with the DEC and the permit process with that agency would require a more fish friendly design which he said would require minor changes; he added that he had not investigated the details of a permit from the Army Corps of Engineers. He noted that some permit requirements of the Army Corps of Engineers can be lengthy in time. He had also discussed the repairs with Warren County Soil and Water and the repairs seemed to be compatible with their fish habitat project in the North Creek. Supv. Goodspeed asked about the

cost of the project; Engineer Hutchins suggested a minimum of twenty-five to fifty thousand dollars. Mr. Arsenault asked if the Town can join with Warren County Soil and Water to approach the Army Corps of Engineers; Engineer Hutchins answered that he would be willing to work with the County to approach the Army Corps of Engineers if the Town Board wanted him to do so. Mr. Arsenault asked if this was the least expensive solution; Engineer Hutchins replied that it was. Supv. Goodspeed asked if the time frame was 2010; Engineer Hutchins said that it could be started in 2009, but if a long form application was necessary it could run to 2010. Mr. Stevens asked if there was a cost to the application; Engineer Hutchins replied that the only cost would be for his engineering services. Mr. Vanselow asked if any funds had been budgeted for this project; Supv. Goodspeed replied that there were not any funds budgeted for this project. Mr. Stevens asked if Supv. Goodspeed, as Budget Officer, had any recommendations as to funding the project; Supv. Goodspeed replied that he was nervous about the funding at such an early point in the fiscal year and suggested working on the permit process in 2009 and plan for the construction portion of the project in 2010. Mr. Peter Olesheski, acting-Chairman of the Ski Bowl Park Committee and Mrs. Kelly Nettle asked if the dam was necessary if the water level in the swimming area could be maintained by other means. Engineer Hutchins said that he believed that the separation of the swimming area from the balance of the pond was to allow for warmer water and less animal life in the swimming area; the dam helps keep the water level in the swimming area at a swim-able level. The Ski Bowl Park Committee had discussed methods of maintaining the water level without repairing the dam and was very supportive of an inexpensive alternative; the committee asked that the Town Board allow committee member Mr. Robert Nettle to explain a proposal for taking water from upstream, filter it through some crushed stone and by the use of gravity to transfer it to the swimming area through a pipeline. Supv. Goodspeed agreed with the request. Mr. Nettle said that he believed that a four inch pipe could transfer enough water into the swimming area to maintain levels to allow for swimming and diving. Mr. Nettle explained that he had discussed the proposal with both the DEC and the Army Corps of Engineers and both agencies had said that the permit process for this project would be minimal. Mr. Nettle provided drawings and calculations to explain his belief that the proposal would succeed in supplying enough water to maintain the necessary swimming levels. Engineer Hutchins reviewed the plans submitted by Mr. Nettle and said that the proposal merits consideration. Mr. Morehouse asked if a flood occurring without the dam being in place would cause a serious problem; Engineer Hutchins and Mr. Nettle agreed that it would make little difference if the dam was in place or not. Mr. Vanselow asked what would be the next step; adding that he believed that Mr. Nettle's plan was worth exploring. Mr. Stevens reminded the Town Board of the assertion by Warren County Soil & Water Director David Wick that if the dam were to be removed that it would never be allowed to be replaced. Supv. Goodspeed said that he would arrange a meeting between Engineer Hutchins, Mr. Nettle and a DEC representative to discuss both proposals and the Town Board would be informed of the results of the meeting. Mr. Daniel Prouty suggested that beaver dams on the North Creek above the area under discussion be looked at as well.

Supv. Goodspeed looked around the room and asked if anyone was present to make a presentation to the Town Board regarding cell towers; receiving no response he continued to the next agenda item.

Supv. Goodspeed noted that at the meeting of September 16, 2008, the Johnsburg Youth Committee has presented By-Laws to the Town Board for approval. Supv. Goodspeed noted that

the By-Laws had been forwarded to the Town Attorney for review; the review has been finished and the Town Attorney found no problem with the By-Laws. Supv. Goodspeed noted that the main change was an increase in the size of the committee; he recommended that the Town Board approve the By-Laws as written.

RESOLUTION NO. 29

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Arsenaault, that the Town Board accept as of this date, January 20, 2009, the By-Laws of the Johnsbury Youth Committee, approved by that committee on August 26, 2008 as written, (a copy of the By-Laws is attached as pages 3a. And 3b.). With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenaault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Supv. Goodspeed informed the Town Board of issues regarding the plowing of three Town roads. Supv. Goodspeed began by stating an opinion from the Town Attorney that if a Town Road exists, and if it cannot be legally be abandoned, it must be plowed and maintained. Supv. Goodspeed noted that Abbey Lane had been accepted by the Town Board, the possibility of Pasco Road being upgraded from a seasonal road to a year round road had been discussed by both the Town Board and then Highway Supt. Fred Hitchcock, Stork Road has a turnaround, however, the property owner at the end of the road often uses the turnaround for overflow parking. Also there are questions on the possibility of the Town accepting roads in a subdivision off Thirteenth Lake Road. The discussions on Pasco Road being upgraded had centered on an adequate turnaround for the plow truck. High. Supt. Daniel Hitchcock said that the turnaround is not usable due to equipment being parked and supplies being stored in that area; the result is that a plow truck has to back out over a narrow bridge to return to the state road. High. Supt. Hitchcock said that he would not object to plowing Pasco Road if a safe and adequate turnaround existed. Regarding Abbey Lane, Supv. Goodspeed said that he say no reason to plow a road with no residence or business on it. Mr. Vanselow asked if the Town could abandon Abbey Lane; Supv. Goodspeed replied that he would defer to the Town Attorney, but he doubted that it could be abandoned. Supv. Goodspeed, noting that a property owner in the subdivision wants to get to his lot, suggested plowing on an as needed basis. High. Supt. Hitchcock asked about the plowing of Stork Road; he alleges that the owner of the residence on the road parks vehicles in the Town turnaround and that this makes the turnaround unusable by the plow truck. High. Supt. Hitchcock added that the plow truck then has to back out the road and onto State Route 28. Mr. Arsenaault said that the owner needs to allow the turnaround to be available for use by the plow truck or the road should not be plowed. It was mentioned that possibly there would be a method of abandoning Stork Road. Supv. Goodspeed said that he would contact the town Attorney for answers to the turnaround issue and the question of plowing an unoccupied road; he added that possibly a letter from the Town Attorney explaining the Town's options if the turnarounds are not made available could be forthcoming as well. Regarding the roads in the subdivision off Thirteenth Lake Road, Highway Supt. Hitchcock noted that he had asked a NYS Department of Transportation engineer to look at the roads and give him an opinion on whether the Town should take them over; he said that the engineer said that the Town should not accept the roads as they are too steep, have boulders in them, and are clearly not up to town design standards.

Supv. Goodspeed explained to the Town Board that Mr. Joel Beaudin will be unable to continue as the coordinator of the Ski Bowl Park Grant, due to his private business commitment

with the Copperfield Inn. Supv. Goodspeed announced that Mrs. Kelly Nessle would replace Mr. Beaudin and thanked Mr. Beaudin for his service to the Town. Supv. Goodspeed added that the tennis court resurfacing portion of the project is ready to begin as soon as possible in the spring.

Supv. Goodspeed told the Town Board that it appeared that well houses and pumping stations may be under insured and that he had hoped to be able to explain more and have a quote for additional insurance; the insurance carrier had not yet responded. Supv. Goodspeed noted that the North Creek Water District pays for this insurance.

Supv. Goodspeed noted that there had been no letters of interest in the vacancy on the Zoning Board of Appeals and that the Mr. James Jones, the member whose term had expired was interested in continuing on as a member of that board; he requested that the Town Board appointment of Mr. Jones to fill the vacancy and continue in that position.

RESOLUTION NO. 30

Supv. Goodspeed presented the following resolution and moved its passage with a second from Mr. Vanselow that the Town Board authorizes the appointment of Mr. James Jones to fill a term on the Town of Johnsbury Zoning Board of Appeals effective immediately and ending on December 31, 2012. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Supv. Goodspeed next updated the Town Board on the NYS budget crisis; he told the Town Board that there was a “truly scary” revelation at the meeting last week of the Warren County Board of Supervisors. As of January 15, the estimated shortfall of the NYS budget is at least fourteen billion dollars and is possibly even worse. Supv. Goodspeed informed the Town board that he will continue to follow this issue throughout the year and will continue to update the Town Board.

Supv. Goodspeed explained that the Occupancy Tax requests and the Occupancy Tax Committee recommendations for funding are in their packets. It was pointed out that the Xtravaganza at the Ski Bowl Park is scheduled for February 7 and 8; to allow for reimbursable expenditures the request would have to be approved at this meeting. Supv. Goodspeed asked if the Town board wished to approve this request at the funding level recommended by the Occupancy Tax Committee.

RESOLUTION NO. 31

Mr. Stevens presented the following resolution and moved its passage with a second from Mr. Vanselow to approve the Occupancy Tax funding for the “Xtravaganza” request from the Ski Bowl Park Committee in the amount recommended by the Occupancy Tax Committee. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Supv. Goodspeed recognized Mr. Peter Olesheski to continue discussion of Occupancy Tax request issues. Mr. Olesheski suggested that the application form include a minimum meaningful amount to be reviewed by the committee; he suggested this in an attempt to lessen subjectivity in the decision making process. Mrs. Kelly Nessle, chairman of the Occupancy Tax Committee replied that subjectivity will always be a part of the process. Mr. Stevens said that if a minimum amount was requested that the minimum would probably be the only amount

reviewed. Supv. Goodspeed said that the Town of Johnsbury review system involving the Occupancy Tax Committee is the most objective in the towns of Warren County. Mr. David Bulmer asked if it was possible for an organization to request Warren County funding as well as town funding; Supv. Goodspeed replied that there was a mechanism for this at the county level. Mr. Vanselow noted that he was unimpressed with the Warren County kiosks at Lake George which were funded with Occupancy Tax money and in his opinion are too small to be of benefit to the town. Mr. Joel Beaudin asked if the recommendation listing was available to the public; Supv. Goodspeed replied that the lists could be copied and distributed to the public following the meeting.

Supv. Goodspeed informed the Town Board that he expects that the deed for the Kellogg (Waddell) property will be transferred to Warren County by mid to late February. Among the specifically listed uses are farmers' markets, music festivals and public access to the Hudson River. Retail use is limited to support of the main uses listed in the deed agreement. Mr. David Bulmer noted that for safety additional lighting was needed for the night events. Supv. Goodspeed said that this was a possibility; he added that Warren County Parks and Recreation was very supportive of the farmers' market plans.

NEW BUSINESS

Supv. Goodspeed read a resolution from the Adirondack Association of Towns and Villages which opposes the proposed cap of Forest Preserve Taxes at the 2008 levels; he added that the planned cap is expected to cost Warren County \$200,000.00 in one year. All local municipal, public and private groups, including environmental organizations, are joined in opposition to this portion of the governor's budget proposal. Supv. Goodspeed asked that the Town Board pass this resolution in support of the Adirondack Association of Towns and Villages.

RESOLUTION NO. 32

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

Opposition to Amending Section 544 of the Real Property Tax Law

WHEREAS, the State Legislature created the Adirondack Forest Preserve in 1886 to conserve ecologically and recreationally significant tracts of land for watershed protection and ultimately the benefit of all New Yorkers, and in creating said Preserve, legally obligated the State of New York to pay full local property taxes, "as though privately held", on all Forest Preserve lands, and

WHEREAS, the legitimacy of the State's tax payments on the Forest Preserve was upheld by the NYS Supreme Court's Appellate Division earlier this year, in the case of Dillenburg vs. NYS, in which the outcome in that case gave all Adirondack and Catskill communities assurance that state land taxes on the Forest Preserve were neither arbitrary nor capricious and that these taxes are based on the State's legitimate powers granted to the State Legislature to waive its sovereign immunity from taxation in specified places such as the New York State Forest Preserve, and

WHEREAS, while we all understand the economic difficulties that the State is facing, the Town of Johnsbury is appalled by the idea that the Division of Budget would confuse their obligation to pay ad valorem property taxes with state aid to local communities by proposing a cap on state

property tax payments on Forest Preserve lands to Adirondack towns, counties and school districts, when it would be far more constructive for state government to work cooperatively with local governments and school districts to reduce state mandates and help reduce property taxes for everyone, and

WHEREAS, the proposed tax cap would set a dangerous precedent by creating two separate ad valorem tax rates, one for the State and another for private property owners, and by doing so would shift the State's financial responsibility unequally to local taxpayers, hitting hardest those towns and districts with the fewest residents and the greatest amount of state land, which is often 60 to 70 percent of their property tax base,

NOW, THEREFORE, BE IT RESOLVED, that the Town of Johnsbury, which views the payment of taxes on Forest Preserve lands as a permanent, essential and inviolate commitment from the people of New York State, who benefit so greatly from the Preserve, is hereby adamantly opposed to any plan that shifts State spending by amending Section 544 of the Real Property Tax Law by adding a new subdivision 3, which in effect, would cap the State of New York's legal obligation to pay full local property taxes, "as though privately held", on all Forest Preserve lands, and, be it further

RESOLVED, the Town of Johnsbury respectfully requests the Governor to eliminate this injurious proposal to cap property taxes on the Forest Preserve and rescind the amendment to Section 544 of the Real Property Tax Law, paragraph 3, within the thirty day amendment period of his proposed executive budget and thus provide for the economic survival of our small rural communities which depend on his leadership to dispense "shared sacrifice" equitably, and, be it further

RESOLVED, that a certified copy of this resolution be forwarded to the Honorable Governor David Paterson and Adirondack legislators: Honorable Senator Elizabeth Little, Honorable Hugh Farley, Honorable Joseph Griffo, Honorable James Seward, Honorable Assemblywoman Teresa Sayward, Honorable Marc Butler, Honorable Tony Jordan, Honorable Janet Duprey, Honorable Dede Scozzafava and Honorable David Townsend.

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

Supv. Goodspeed, in regard to the letter from the North Country Ministries explaining their financial hardship incurred in assisting area residents in need, proposed that the Town of Johnsbury enter into an agreement with the North Country Ministries to aid area residents in need. Supv. Goodspeed proposed that the Town of Johnsbury authorize the expenditure of \$1000.00 of contingency funding for general support of the North Country Ministries operations to assist those residents of the town who are in need. Mr. Vanselow stated that his wife is an employee of the North Country Ministries; however, none of the funds under discussion at this time would impact her salary as those funds are from a grant. Mr. Joel Beaudin, Co-Chairman of the Upper Hudson Festivals Inc. added that this organization would donate North Country Ministries an additional \$500.00, if the Town Board approved the support. Mrs. Sonja Sprague asked if there is a screening process on assistance funds to see that they are being used for the requested purpose; she added that she had seen some questionable purchases with North Country

Ministries' assistance funds. Supv. Goodspeed replied that there was some screening; Mr. Vanselow added that it was difficult to follow up on the exact purchases.

RESOLUTION NO. 33

Mr. Stevens presented the following resolution and moved its passage with a second from Mr. Arsenault that the Town of Johnsbury enter into an agreement for general support of the North Country Ministries in the amount of \$1000.00, from the Contingency Fund Balance, with the purpose of aiding Town residents in need. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Supv. Goodspeed informed the Town Board that NYS Senator Little has been trying to facilitate an off road parking area for rafting buses at the take out point in North River, on State Route 28 just across the county line in Hamilton County. Supv. Goodspeed noted that the current practice of parking the rafting buses on State Route 28 results in clients of some companies crossing this busy road is not as safe as one would want it to be. The NYS Department of Transportation supported plan is to construct a parking area off State Route 28 on the river side of the road; there are two private property owners involved in this project and it is hoped that both will sign-off on the project soon. If the plan proceeds as hoped, the parking area should be finished by August of 2009, for the fall rafting season. Mr. David Bulmer asked the source of the funding; Supv. Goodspeed replied that the funding would be from a NYS Department of Transportation grant.

Supv. Goodspeed informed the Town Board that he waiting for an opinion on council regarding the fire company issue listed on the agenda.

Supv. Goodspeed noted that the 2008 Cash Books of the Town Clerk, the Town Justices, and the Town Accounts Clerk were available for review and would be reviewed by the Town Board

Supv. Goodspeed noted that the Town Board had received copies of proposed 2009 Budget amendments in their packets; the amendments are to cover cell tower costs, costs associated with tubing and skating at the Ski Bowl Park and the re-appropriation of engineering funds held in escrow. Supv. Goodspeed asked that the Town Board approve these amendments to the 2009 Town Budget.

RESOLUTION NO. 34

Mr. Arsenault presented the following resolution and moved its passage with a second from Mr. Morehouse that the Town Board of the Town of Johnsbury authorizes the following amendments to the 2009 Town Budget:

Budget Amendments January 20, 2009

Transfer between accounts:

FROM:		TO:	
Contingent A1990.4	589.86	Engineering A1440.4	500.00
		Ski, Skate & Tube	A7978.41 89.86

To cover cell tower costs and costs associated with skating & tubing.

Increase Appropriated Fund Balance (A599) Increase Appropriations (A960)

		2416.44	2416.44
Engineering Deposits			
Front Street Mt. Develp.	A8020.41	143.13	
Tall Timbers	A8020.43	2273.31	

To re-appropriate engineering fees held in escrow.

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

Supv. Goodspeed distributed the monthly report of the Zoning Enforcement Officer Mr. Edward Tuttle, for the month of December 2008, to the members of the Town of Johnsbury Town Board.

Supv. Goodspeed informed the Town Board that he had received the fourth quarter Sales Tax report from Warren County; he noted that the Town of Johnsbury payment was up eleven percent while most towns in the county were up one or two percent and some had shown a decrease. Supv. Goodspeed believed that this resulted from the new businesses in Town.

Supv. Goodspeed distributed the Annual Report from the recently retired Town Historian, Mrs. Doris Patton, for the year of 2008, to the members of the Town Board.

Supv. Goodspeed asked if the Town Board wished to accept by signing the annual Agreement to Expend Highway Funds (Item 1 Agreement) presented by Highway Supt. Daniel Hitchcock and dated January 20, 2009. The agreement stated that the sum of \$50,000.00 to be spent in general repairs to the roads and \$50,000.00 for culvert repair; the Town Board signed the Agreement.

PRIVILEGE OF THE FLOOR

Accounts Clerk Candace Lomax reminded the Town Board that a resolution to approve and execute the Third Party Collateral Agreement was needed, and had not been added to the agenda. Supv. Goodspeed asked the Town Board for approval to execute the Third Party Collateral Agreement; this agreement sets the value of the collateral guarantee to be provided by the depository which backs the deposits made by the Town to the depository bank.

RESOLUTION NO. 35

Mr. Stevens presented the following resolution and moved its passage with a second from Mr. Vanselow to approve of the Third Party Collateral Agreement between the town of Johnsbury and the depository bank and further, to authorize the supervisor to execute said agreement. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Mr. Vanselow commented that the first Town of Johnsbury Martin Luther King celebration, which he hoped would become an annual event, seemed to go well; there were approximately thirty attendees, good presentations and a lively discussion at the end. Supv. Goodspeed agreed and added that the connection with Johnsbury Central School and the student attendees made for a successful event.

RESOLUTION NO. 36

Mr. Arsenaull 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 #2G/Claims #12-52; Highway Fund- Warrant #2H/Claims #4-17; North Creek Water Dist.- Warrant #2W/Claims#2-8; Johnsburg Fire Protection District- Warrant #1JFPD/Claim #1; Library Fund-Warrant #1L/Claims#1-7. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenaull, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

The Town Board examined and signed the Town Justice's cash book, the Town Clerk's fee book and the Town Accounts Clerk cash books for the year 2008.

A motion to adjourn the meeting was presented by Mr. Arsenaull with a second from Mr. Morehouse at 9:05pm. With 5 members voting in favor the motion is carried. Ayes-5 (Arsenaull, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

The next regular Town Board meeting will be held at 7:00pm on February 3, 2009 at the Wevertown Community Center, Wevertown, NY.

Prepared by William Rawson, Town Clerk