

**Minutes of the Town of Johnsbury Regular Board Meeting July 7, 2009  
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, July 7, 2009 at 7:00pm at the Wevertown Community Center, Wevertown, NY Supervisor Goodspeed called the meeting to order at 7:00pm and the pledge to the flag was led by Councilman Arnold Stevens.

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

Guests: On attached list

The Town Clerk asked that in addition to accepting the minutes of the June 16, 2009 regular Town Board meeting to authorize the correction of the date in the heading and first paragraph of the minutes of the June 2, 2009 regular Town Board meeting which were incorrectly typed as April 2009.

**RESOLUTION NO. 127**

Mr. Vanselow presented the following resolution, and moved its passage with a second from Mr. Morehouse, to accept the minutes of the June 16, 2009 regular Town Board meeting as written and further, to authorize the correction of the date in the heading and first paragraph of the minutes of the June 2, 2009 regular Town Board meeting. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

**CORRESPONDENCE:**

1. Copies of the liquor license applications of bar Vino Cellar and the bar Vino LLC for the tavern to serve as notification of the re-application by bar Vino to the Town Board.

**COMMITTEE REPORTS:**

**OLD BUSINESS:**

As Mr. James Hutchins, P.E could not be present, Supv. Goodspeed read a letter from Engineer Hutchins to the Town Board explaining his review of the Department of Environmental Conservation (DEC) permit for the plan submitted by Mr. Robert Nettle to fill the swimming area by using a pipe in the creek above the swimming area and allowing gravity to transport the water to the Town Beach, Adirondack Park Agency (APA) Jurisdictional Determination J2009-347 and also his review of a "Water Flow Estimate for Replenishment of the Swimming Hole at Ski Bowl Park". Engineer Hutchins explained that the DEC permit clearly expressed the need to submit the project to the Army Corps of Engineers (ACOE); Engineer Hutchins had discussed the project with officials at the local ACOE office and they stated that there was no application on file yet. Engineer Hutchins recommends filing an application with the ACOE. Engineer Hutchins said that while he was somewhat surprised that the APA did not require wetlands mapping that the Jurisdictional Determination seemed to be clear. Engineer Hutchins said that the estimate summarizes the options being considered for filling the swimming area. Engineer Hutchins noted that he believes that the trenching project should use contracted labor, which would require competitive bidding, and he believed that the project would cost about \$30,000.00 to \$40,000.00. Supv. Goodspeed added that Town Attorney Jordan was concerned over

excavation regulations covering workers in a trench. Supv. Goodspeed said that the water level is down even with the unusual amount of rain; he added that Parks Supt. Matt Olden estimated the water depth to be about five to six feet. Mr. Roger Mosher asked if there was an estimate of the amount of water necessary to keep the level deep enough for diving; Mr. Zach Monroe, an associate of Engineer Hutchins replied that approximately 327,000 gallons would be added by the pipeline and that approximately 900,000 gallons would be needed to raise the water level to about eight feet. Mr. Mosher said that he does not believe that the water level can be reached. Mr. Paul Heid asked the reason for the pond being built with a permeable berm; Supv. Goodspeed replied that it was to help keep the water temperature higher. Mr. Stevens added that also it was to limit the need to dredge the area every three to five years. Mr. Paul Heid said that if the berm was not permeable that the swimming area could have water quality issues. Mr. Peter Heid asked if the pond could be made deeper; Mr. James Jones, the contractor who built the berm, replied that it could be made deeper at a high cost. Mr. Vanselow suggested that a deeper hole would simply fill up as well. Ms. Cherie Ferguson asked if dredging would clear the springs; Mr. Paul Heid said that the springs were likely runoff water from the capped landfill which could be an added hazard. Supv. Goodspeed said that the landfill is tested quarterly. Mrs. Kelly Nettle said that when Mr. Robert Nettle checked the water last year that it consistently was about eight feet and she does not believe it to be lower; she added that she believed that the Red Cross requirements for diving are five feet. Mrs. Nettle also said that she does not believe that the pipeline needs to be ten to twelve feet in depth. Mr. Vanselow asked if the line avoids the wetlands; Mrs. Nettle said that it does. Mr. Vanselow asked if the project has ACOE approval; Mr. Nettle said that it does. Mr. Peter Heid asked if the ACOE understands that there will be no direct return of water to creek. Mr. Peter Heid, Mr. Paul Heid and Mr. Mosher all said that they do not believe that the pipeline will replenish the lost water. Supv. Goodspeed asked Mr. Monroe for comment; Mr. Monroe said that Engineer Hutchins did not evaluate the amount of water which will flow into the swimming area and that the area for entry of the line into the creek was a little different from that of Mr. Nettle. Mr. Nettle said that the pipe would be about 350' in length and would be buried at about four and one-half to five and one-half feet. Mr. Paul Heid said that the pipe will have to be laid very precisely and, therefore, would need frost protection and footings which will require a deeper trench. Mr. Vanselow agreed that the pipeline will need both precision laying of the pipe and grading of the line. Mr. Peter Heid asked Mr. James Jones if he had any experience with gravity feed; Mr. Jones replied that he did and that they worked well in general. Mr. Stevens asked Mr. Nettle if he still had faith in his plan; Mr. Nettle said that he did. Mr. Stevens said that he would be willing to gamble the \$3,000.00 to \$4,000.00 of funding on the project; Mr. Mosher asked him if he gambled with his own money on a frequent basis. Mr. Peter Heid suggested trying the pump to see if the water level could be raised; Supv. Goodspeed replied that Warren County Soil and Water could not supply the pump that it had believed that it would be able to allow the town to use and also the North Creek Fire District pump required some repairs before it can be used. Mrs. Nettle said that the costs of the pipeline could be added to the Ski Bowl Park grant for the \$3000.00 in materials and labor for \$4000.00; Accounts Clerk Candace Lomax asked if Mrs. Nettle had anything in writing to allow the change to the grant. Mrs. Nettle said that she could get a notice from the NYS Parks, Recreation and Historic Preservation. Supv. Goodspeed said that he was very nervous about using volunteer labor and that the town would probably need to pay Workman's Compensation on any volunteer labor. Supv. Goodspeed said that the questions of working in "confined spaces" and the possible liability can be a problem; there are additional federal and state regulations regarding working in "confined spaces". Mr. Roger Mosher suggested asking several

of the local fire companies to try pumping water into the swimming area in an attempt to determine if the area can be filled by pumping. Mr. Peter Heid asked if the pipeline was to be dug by hand or machine; Mr. Nessel replied that it was to be dug by machine. Mr. Morehouse said that the Town Board should ask Engineer Hutchins to produce water flow figures using the entry points in Mr. Nessel's plans; he added that he also was concerned with the issue of "confined spaces" in laying the pipe. Mr. Vanselow asked if there were arrangements for equipment in the materials costs; Mr. Nessel replied that he would donate the use of his equipment. Mr. Nessel said that he could not work with Engineer Hutchins as he, Mr. Nessel, was an unpaid volunteer and Engineer Hutchins was being paid by the town. Mr. Vanselow asked if the DEC and the APA were in agreement with Mr. Nessel's plan; Supv. Goodspeed replied that both agencies had issued permits to allow the work. Mr. Vanselow added that he also was not comfortable with the "confined spaces" issue; Mr. Arsenault asked how the Town Board was to determine the depth of the trenching. Supv. Goodspeed suggested having Engineer Hutchins look into the depth required and also the regulations and address the item at the next meeting. Mr. Morehouse noted that the liability to the Town worried him. Mrs. Nessel said that the Town Board was telling volunteers that our efforts are going to have to be reviewed; he added that volunteer efforts may need to be ended. Supv. Goodspeed said that there is a big difference in the track of the pipeline between the plans of Mrs. Nessel and Engineer Hutchins and that this needs to be resolved, as does the liability issue before proceeding with work on the pipeline. Mr. Morehouse, Mr. Vanselow, and Supv. Goodspeed expressed concerns; Mr. Stevens wished to move forward now; Mr. Arsenault wanted more information regarding the liability and to decide at the next meeting. Mr. Nessel said that he would resubmit the flow design information. Supv. Goodspeed said that the Town Board will look to take action at the next Town Board meeting.

Supv. Goodspeed explained that Mr. Mark Bergman asked about the status of map amendments to the Town of Johnsbury zoning map noted that the Town Board had approved moving forward with the map amendments in September 2007 (Resolution 265). Mr. Vanselow noted that the amendments impact property which he owns and he would recuse himself from the discussion. Mr. Bergman explained that the map amendments were mostly obvious inconsistencies caused by the lack of mapping technology available in 1973 compared to the present. The Adirondack Park Agency (APA) will handle the process which works better with an approved land use plan, such as the Town now has in place. Supv. Goodspeed said that he would contact the APA to restart the process.

Supv. Goodspeed asked Mrs. Kelly Nessel, as grant coordinator, for an update on the Ski Bowl Park grant. Mrs. Nessel said that she was not quite ready to proceed yet; she is planning on meeting with Accounts Clerk Candace Lomax tomorrow to discuss the grant. Mrs. Nessel has worked with the Merriam Agency and has spoken with other towns on insurance issues relating to skateboard parks and climbing walls. Supv. Goodspeed said that the Town Board has some questions about supervision and that he hopes to have some additional information soon. Mrs. Nessel explained that the work which is expected to be completed this year includes the tennis courts, the water pipeline and the playground and possibly the utility dock and the map.

Supv. Goodspeed noted that at the meeting on June 16 a new Zoning Enforcement Officer, Christopher May, had been hired and that he believed that the proposed list of duties of the Zoning Enforcement Officer for the Town of Johnsbury be adopted from the draft copy. (Mr. Arsenault left the meeting at 8:06pm and returned at 8:09pm)

Supv. Goodspeed noted that Zoning Officer May is currently in the Town Hall on Thursdays to assist the public. Mr. Roger Mosher asked how many hours the Zoning Enforcement Officer works weekly; sixteen hours are the weekly hours.

#### RESOLUTION NO. 128

Mr. Arsenault presented the following resolution and moved its passage with a second from Mr. Morehouse to approve the following as the Duties of the Zoning Enforcement Officer for the Town of Johnsburg;

##### Duties of the Zoning Enforcement Officer for the Town of Johnsburg

Obtain a thorough knowledge of the Johnsburg Zoning Ordinance and Subdivision regulations

All duties as outlined in the Zoning Ordinance

Enforce all provisions of the Johnsburg Zoning Ordinance, including representing the town in court proceedings as necessary.

Provide information and forms to applicants for Building, sanitary, and sign permits, subdivision and site plan applications, and other requested documents.

Attend all regular meetings of the Planning Board and ZBA.

Respond promptly to Planning Board requests re: site plan enforcement

Be available for some evening and weekend site visits.

Visually inspect septic installations prior to completion.

Provide detailed monthly reports of all official activities to the town board and planning board.

Town Hall hours to be set by town board.

and further, to authorize the rate of pay of the Zoning Enforcement Officer as Nine Hundred and sixty-one dollars per month and to allow the Zoning Enforcement Officer to request reimbursement for mileage at the rate authorized by the Town Board in Resolution Number 10, forty-five cents per mile. 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 he had sent out a memo explaining to all advisory boards, department heads and /or supervisors that any recommended new employee hires be made in writing to the Town Board and informing them that the town Board has final approval on hiring, except for vested statutory approval; the Town Board will set pay rates, and determine the official start date. Supv. Goodspeed asked that the Town Board approve new hires associated with the Summer Youth Program and the Zoning Enforcement Officer (page 4a attached).

#### RESOLUTION NO. 129

Mr. Vanselow presented the following resolution and moved its passage with a second from Mr. Stevens to approve all new employee hires for the Johnsburg Youth Program at the pay rates listed with their names as attached page 4a. 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 Warren County plans to use grant funding to repair the washout on the railroad track bed 1 mile south of the station at Riparius. The exception being that the track must be tested, by a certified agent, which may cost up to \$10,000.00. Mr. Peter Heid asked if this was not just throwing away money and a waste of money; Supv. Goodspeed replied that we just continue to disagree on this point and added that there have been fifteen new businesses started in the last year. Mr. Paul Heid asked if all the money is to come from a grant; Supv. Goodspeed said he believed that to be correct. Mr. Paul Heid said that it would be irresponsible to use county funds for a money pit and said that he was in favor of a "rails to trails" program. Mr. Peter Heid said that the snowmobile riders in the winter help the economy more than the train. Mr. James Jones said that if the broken section of track is not repaired that the snowmobile riders will not be able to use the line in the winter; Mr. Vanselow added that the track would need to be repaired to allow the Upper Hudson River Railroad to remove its rolling stock. Mr. Mark Bergman asked why a county issue was being debated at the Town of Johnsbury meeting.

Supv. Goodspeed informed the Town Board that transfer of title from the Open Space Institute to Warren County on the Kellogg (Waddell) property has been delayed; he expects the transfer to take place in the near future. Mr. Vanselow remarked that the concert series has begun and moved to the further pavilion. Supv. Goodspeed asked Mrs. Barbara Thomas about the Farmers' Market; she replied that the previous Thursday's market had been busy and hoped more vegetables would be available at the market next week.

#### NEW BUSINESS

Supv. Goodspeed asked if the Town Board wished to act on the contract with the Glens Falls Animal Hospital for the boarding and disposal of stray dogs. Mr. Vanselow replied that he would prefer to contract with a no-kill shelter. Mr. Peter Heid asked the cost for a five day boarding; the cost is thirteen dollars a day plus the cost to euthanize and cremate the dog. Mr. Peter Heid said that this was expensive. Supv. Goodspeed said that he would look into this further for the next meeting.

Supv. Goodspeed explained that as a result of the annual inspection of the elevator at the Tannery Pond Community Center that the inspector told the town that there should be an emergency telephone in the elevator. Mr. Morehouse suggested having the line go directly to Foresight Electronic Monitoring for notification; Supv. Goodspeed said that he would look into that suggestion.

Supv. Goodspeed informed the Town Board that there was damage to a town road, Rogers Road, in North River which was caused by the actions of a private landowner and the repairs resulted in some substantial cost to the town Highway Department. Highway Supt. Hitchcock has spoken with Town Attorney Jordan regarding initiating contact with the owner of said property regarding the problem. Mr. Arsenault asked if the property owner was aware of the problem; Highway Supt. Hitchcock replied that Warren County Soil and Water and the Department of Environmental Conservation as well as himself had attempted to contact the owner and had discussed the problem with the manager of the property and suggested correction.

Supv. Goodspeed distributed the Supervisor's Monthly Report, for the month of June 2009, to the members of the Town of Johnsbury Town Board.

Supv. Goodspeed informed the Town Board that he had been contacted by residents who are concerned about the water impounded by beaver dams and the possible damage to town roads and private property. There are several such beaver dams in the town of Johnsbury and the Department of Environmental Conservation (DEC) does not wish to become involved in the situation. Supv. Goodspeed is arranging a meeting with property owners and interested individuals to discuss the problem and possible solutions. Mr. Paul Heid said that landowners cannot be held responsible for at least a first washout and that other landowners cannot enter the property to remove a dam. Mr. Roger Mosher said that the Town Highway Supt. can enter property to release a dam if it endangers town roads; Supv. Goodspeed agreed, but added that there are many technical points to the process and if not done exactly properly that the Town can become liable.

#### PRIVILEGE OF THE FLOOR

Mr. Stevens apologized to Mr. Roger Mosher for using the word “gamble” in association with proceeding with Mr. Robert Nessel’s pipeline plan. Mr. Stevens said that he should have said that he would agree with Mr. Nessel’s professionalism.

Mrs. Kelly Nessel asked if the town planned to remove the weeds in the swimming area; Mr. Vanselow replied that it would depend on the type as some spread more quickly if pulled. Supv. Goodspeed said that he would speak to Parks Supt. Matt Olden tomorrow.

Mrs. Kelly Nessel noted that the swing at the tot lot was missing; Secretary Cherie Ferguson said that a swing to replace the damaged one would cost \$110.00.

Mrs. Kelly Nessel said that four barbeque grills could be added to the park if pedestals could be obtained. Secretary Cherie Ferguson asked if the pedestals could be created from salvaged scrap metal; Mrs. Nessel said that the pedestals need to be fitted carefully.

Mrs. Kelly Nessel informed the Town Board that three members of the Occupancy Tax Committee are not planning on returning for 2010; she would like to touch base with previous applicants to see if they are still interested. Accounts Clerk Candace Lomax asked if it would be beneficial for the Town Board to know who is leaving so as to retain a balance on the committee.

Mr. Peter Heid suggested that allowing dogs in the swimming area and the beach was adding to the weed problem; Mrs. Kelly Nessel said that the Ski Bowl Park Committee was looking into setting up dog waste stations.

Mrs. Kelly Nessel informed the Town Board that Youth Works had been in town for nine days and had performed substantial amounts of work in that period. Mr. Drew Hayes noted that the trenching around the tennis courts was not fixing the water problem.

Mr. Robert Nessel noted that the Independence Day celebration was terrific even with the inclement weather due to the work of Ms. Cherie Ferguson in organizing the event; Supv. Goodspeed added his thanks as well.

Mr. Roger Mosher asked if the town supplied health insurance for part-time employees; Supv. Goodspeed replied that part-time elected officials received health insurance but no other part-time employees. Mr. Mosher said that health insurance should come from the full time place of employment and not the taxpayer. Supv. Goodspeed replied that while no two municipalities operate in the same way; that most provide health care for town board members. Mr. Vanselow said that the budget committee may make a proposal. Mr. Mosher noted that the school board members get nothing, while the Town Board members receive pay and health insurance. Mr. Peter Heid said that this was approximately 2.5 percent of the budget.

Mr. Peter Heid said that in the interest of saving repair money in the Highway Department that the town should stop overloading trucks. Supv. Goodspeed replied that he assumed that the

Highway Department trucks were not overloaded. Mr. Roger Mosher said that the trucks should have overweight permits.

Mr. Peter Heid took issue with the Agreement to Expend Highway Funds; he said that to plan to expend fifty thousand dollars on an unknown amount of miles of highway was unacceptable and that culverts were listed in both general repairs and improvements. Supv. Goodspeed replied that the agreement had been reviewed by Town Attorney Jordan. Mr. Peter Heid noted that the agreement mentioned work on 13<sup>th</sup> Lake Road near the property of Mr. Peter Parker which is on Garnet Lake Road; how does anyone know where the work is being done. Supv, Goodspeed noted that the NYS Comptroller is not unhappy; that the town attorney has reviewed the agreements; and that the town books are open for inspection. Mr. Peter Heid asked where the money for repairs comes from. Mr. Roger Mosher said that there were no agreements for ten years. Supv. Goodspeed said that the money comes from current operations. Accounts Clerk Candace Lomax added that all monies expended go through the warrants and that these are available to the public.

#### RESOLUTION NO. 130

Mr. Arsenault presented the following resolution and moved its passage with a second from Mr. Morehouse that the following certified bills which have been reviewed by the board members be paid: General Fund- Warrant #13G/Claims #249-272; Highway Fund- Warrant #13H/Claims #129-136; North Creek Water Dist. - Warrant #13W/Claims#50-52; Capital Project Funds-Warrant #4CPF/Claims #6-7. 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. Arsenault with a second from Mr. Stevens at 9:00pm. 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 July 21, 2009 at the Town Hall (Library), North Creek, NY.

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Prepared by William Rawson, Town Clerk