

## **Minutes of the Town of Johnsburg Regular Board Meeting August 18, 2009**

### **Held at 7:00pm at the Town of Johnsburg Library, North Creek, NY; also Bid Opening**

Minutes of the regular meeting of the Town Board of the Town of Johnsburg held on Tuesday, August 18, 2009 at 7:00pm at the Town Library, North Creek, NY Supervisor Goodspeed called the meeting to order at 7:00pm and the pledge to the flag was led by Councilman Frank Morehouse, Jr.

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

#### **BID OPENING:**

The Town Clerk read the Legal Notice for the Playground Equipment Bid as it appeared on August 15, 2009 in the North Creek News-Enterprise and August 10, and 11, 2009 in the Glens Falls Post Star. The Clerk noted that five copies of the bid had been sent out to probable bidders from a list supplied by Mrs. Kelly Nettle, grant administrator. One bid envelope was received from Universal Play Systems, Inc. on August 12, 2009 and a second from J.P. LaRue, Inc on August 17, 2009; the bids were opened and contained all appropriate forms. Universal Play Systems, Inc. did not submit a bid and J.P. LaRue, Inc. bid \$38,621.00.

Supv. Goodspeed asked Mrs. Kelly Nettle, Ski Bowl Park Grant coordinator, for a comment on the bid from J.P. LaRue, Inc. Mrs. Nettle replied that the company has a good reputation. She has discussed their product along with that of others to whom bid packets were mailed to individuals who have climbing experience and received favorable comments. Mrs. Nettle also said that the product should be very durable and long lasting. Mr. Vanselow asked to what acceptance of the bid would commit the Town; Supv. Goodspeed replied that acceptance would commit the Town to purchase and installation of the product. Mrs. Nettle said that only a little of the match for this bid would come from volunteer labor, mostly from cash. Supv. Goodspeed asked Accounts Clerk Candace Lomax for an estimate of funds available; Accounts Clerk Lomax replied that there was about \$15,000.00 in Recreation fees and possible another \$1500.00 to \$2000.00 coming soon. Supv. Goodspeed asked Accounts Clerk Lomax for a comfort level; she replied that she was somewhat comfortable. Mr. Paul Heid asked if it was a requirement that climbing walls require supervision; Mrs. Nettle replied that this climbing wall would be lower than the height which triggers the supervision requirement. Supv. Goodspeed asked if the Town Board wished to accept the bid from J.P. LaRue, Inc. in the amount of \$38,621.00, for the Playground Equipment Bid (climbing wall).

#### **RESOLUTION NO. 153**

Mr. Arsenault presented the following resolution, and moved its passage with a second from Mr. Morehouse, that as bids for Playground Equipment were opened earlier in the meeting, to accept the bid of J.P. LaRue, Inc., in the amount of \$38,621.00 for said Playground Equipment contingent upon the approval of Catherine Jepson, Regional Director of NYS Office of Parks, Recreation and Historic Preservation. With 4 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Goodspeed) Nays – 1 (Vanselow)

#### BID OPENING:

The Town Clerk read the Legal Notice for the Skate Park Equipment Bid as it appeared on August 15, 2009 in the North Creek News-Enterprise and August 10, and 11, 2009 in the Glens Falls Post Star. The Clerk noted that five copies of the bid had been sent out to probable bidders from a list supplied by Mrs. Kelly Nettle, grant administrator. One bid was received from Anderson & Son Specialty on August 12, 2009, a second from Rampage, on August 17, 2009, and a third from American Ramp Company, Inc on August 17, 2009; the bids were opened and contained all appropriate forms. Anderson & Son Specialty bid \$9750.00, Rampage bid \$20,464.00, and American Ramp Company, Inc bid \$15,760.63.

Supv. Goodspeed asked Mrs. Kelly Nettle, Ski Bowl Park Grant coordinator, for a comment on the bids. Mrs. Nettle replied that the companies have good reputations and that there should be some in kind services and volunteer labor in the match for this bid. Supv. Goodspeed asked Accounts Clerk Candace Lomax for an estimate of funds available; Accounts Clerk Lomax replied that the Town can ask for up to twenty-five percent of the grant up front and that the cash flow could possibly do the grant. Mr. Vanselow noted that there were some insurance questions associated with the skateboard equipment such as: supervision, a lock able gate, and possible premium increases. Mrs. Nettle said that the insurance provider had suggested a premium increase of \$330.00 annually for the skate park and added that municipalities with skate parks don't supervise and that the provider only required that the gate lock and not that it be kept locked. Supv. Goodspeed asked about storage of the skate park equipment in the winter; Mrs. Nettle replied that the equipment could be left in place over the winter. Supv. Goodspeed asked if the Town Board wished to accept the bid from Anderson & Son Specialty in the amount of \$9750.00, for the Skate Park Equipment.

#### RESOLUTION NO. 154

Supv. Goodspeed presented the following resolution, and moved its passage with a second from Mr. Stevens, that as bids for Skate Park Equipment were opened earlier in the meeting, to accept the bid of Anderson & Son Specialty, in the amount of \$9750.00 for said Skate Park Equipment contingent upon the approval of Catherine Jepson, Regional Director of NYS Office of Parks, Recreation and Historic Preservation and also, contingent upon the ability of the Town Board to arrange the local match. With 4 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Goodspeed) Nays – 1 (Vanselow)

#### RESOLUTION NO. 155

Mr. Morehouse presented the following resolution, and moved its passage with a second from Mr. Arsenault, to accept the minutes of the August 4, 2009 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 Town Attorney J. Anthony Jordan, explaining that the Town can sell personal property, including sand so long as the Town receives fair value for the property; Attorney Jordan recommends that Highway Supt. Hitchcock present the terms of the deal to the

Town Board for their action.

2. A letter from Ann Arsenault, Race Director of Race the Train thanking the Town Board, the Johnsbury Emergency Squad and local volunteers for helping to make this year's race a success.
3. A letter from Mr. Kevin O'Neil, President of Okemo Log Homes explaining that his company can only donate materials that the company deals in for concession stand and dug out repair.
4. A letter from Melinda Scott, Chief of Grants of NYS Office of Parks, Recreation and Historic Preservation advising that the wording of the Resolution for Authority to Sign Legal Documents must be adopted in whole as written (copy attached) from that office; if the resolution was not adopted exactly as written, then the resolution must be passed at the next Town Board meeting and included in the grant report or payment will not be made by the grantor.

Supv. Goodspeed noted that there were letters and e-mails from Mr. Peter Heid and that these communications will be addressed and discussed during the New Business portion of the meeting. Supv. Goodspeed added that he would put the Ski Bowl Park Committee in contact with Mr. Kevin O'Neil regarding the repairs to the dugouts and concession booth.

#### COMMITTEE REPORTS:

Mr. Vanselow reported that he had been investigating a Stimulus Grant for solar "green" power installation on the Town Hall and the Tannery Pond Community Center. Mr. Vanselow said that he had met with a representative of the Gro Solar Company which installs solar power systems to supply power. The company estimated that the cost for a typical system installed on the Town Hall would be \$146,250.00; the local match would be \$14,625.00 if the grant was awarded to the Town. It was estimated that the annual electrical cost at the Town Hall was \$5000.00; under these estimates the payback would occur in about four years. The company estimated that the cost for a typical system installed on the Tannery Pond Community Center would be \$190,400.00; the local match would be \$19,040.00 if the grant was awarded to the Town. It was estimated that the annual electrical cost at the Tannery Pond Community Center was \$12,000.00; under these estimates the savings would be about \$6000.00 annually; payback would occur in about three years. Mr. Vanselow added that NYS Energy Research and Development Authority had an ongoing grant program with a slightly higher local match if the Stimulus Grant was not awarded to the Town. Mr. Stevens asked what the Town would be committed to if an application was filed for the Stimulus Grant funding; Mr. Vanselow replied that the Town would only be committing to the application until a grant was awarded. Mr. Vanselow added that the completion date for the project is the fall of 2011. Supv. Goodspeed asked if the Town Board wished to authorize an application for this grant.

#### RESOLUTION NO. 156

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Arsenault, that the Town Board authorizes the Town Supervisor to execute all necessary application documents for American Recovery and Reinvestment Act of 2009 funds for the installation of solar energy panels on the Town Hall and the Tannery Pond Community Center. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

## OLD BUSINESS:

Supv. Goodspeed explained that Resolution Number 51 of 2009 had given the Town Supervisor the authority to execute the grant documents for the supplemental grant for the Ski Bowl Park in the amount of twelve thousand dollars; Resolution Number 51 did not contain some language required by the NYS Office of Parks, Recreation and Historic Preservation according to the letter read during the Correspondence section of the meeting. Town Clerk William Rawson read the resolution which contains all language as required by that office (attached page 4a). Supv. Goodspeed asked that the Town Board rescind Resolution Number 51 of 2009 and to approve of the language required by the NYS Office of Parks, Recreation and Historic Preservation.

## RESOLUTION NO. 157

Mr. Arsenault presented the following resolution, and moved its passage with a second from Mr. Vanselow, to rescind Resolution Number 51 of 2009, adopted at a regular Town Board meeting held on February 24, 2009. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

## RESOLUTION NO. 158

Mr. Arsenault presented the following resolution, and moved its passage with a second from Mr. Vanselow, (text on page 4a. attached)

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

Supv. Goodspeed explained that he has been working with Town Attorney Jordan, and Zoning Enforcement Officer Chris May to solve and correct zoning issues relating to the Front Street Mountain Development breaking ground on their project. In one instance Front Street Mountain Development has plans which will cause a building to be built across a parcel line; both parcels belong to Front Street Mountain Development and the company has requested that the parcels be joined and the boundary line issue will not be a problem. The Front Street Mountain Development connection to the North Creek Water District under the supervision of James Suozzo and local representative Charles Rawson of Delaware Operations, the company contracted to operate the system. The Adirondack Park Agency (APA) decided that as Delaware Operations has performed some wastewater work for Front Street Mountain Development that there was a conflict of interest and a stop work order was issued. Engineer James Hutchins has looked over the connections and approved of the work; the stop work order has been lifted. The gatehouse first appeared as a square on the map; the APA has site plan authority. The Town has authority if the gatehouse is too close to Town property; Front Street Mountain Development has applied for a variance from the Town of Johnsburg Zoning Board of Appeals for relief and the application should be acted on at the September meeting of the Zoning Board of Appeals. A portion of the Front Street Mountain Development access road crosses Town property for a short distance. Front Street Mountain Development has an easement across Town property through the Ski Bowl Park near the Rabbit Pond Trail. Supv. Goodspeed would like the Town Board to authorize Attorney Jordan to explore a swap of easements between the Town of Johnsburg and Front Street Mountain Development. The Town needs some relief from possible liability regarding the road on Town property; Front Street Mountain Development has sent a letter to the Town listing their actions in that regard. Front Street Mountain Development will have the

Town named as an additional insured in the insurance liability policy covering this activity and Front Street Mountain Development agrees to indemnify and hold harmless the Town from any and all injury, damage or other items that occur on the Town property relating to Front Street Mountain Development crossing town land for access to Front Street Mountain Development property. Mr. Roger Mosher asked how long this will remain in effect; Supv. Goodspeed replied that it will be in effect until an easement agreement is worked out and Front Street Mountain Development will be liable for the easement area. Mr. Peter Heid asked about restrictions in the property conveyed to the Town from Father McMahon as parkland; Supv. Goodspeed replied that those were in force; the property which will transfer to Front Street Mountain Development was acquired from Warren Radcliff and had no such restrictions. Additionally, all costs of de-mapping park land will be borne by Front Street Mountain Development. Supv. Goodspeed asked that the Town Board authorize the Town Attorney to research a solution of the easement question and report back to the Town board.

#### RESOLUTION NO. 159

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 Town Attorney Jordan to research solutions on solving the easement swap issue with Front Street Mountain Development and to report back to the Town Board with proposals to solve the issue. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Supv. Goodspeed explained that there is a lack of authority in law for the Animal Control Officer to control cats; Agriculture and Markets law deals with the control of dogs. Supv. Goodspeed asked Town Attorney Jordan to explain more about this issue. Attorney Jordan explained that a better name for the Animal Control Officer under the law would be a dog control officer; the only officials with authority under the law to control cats are peace officers and directors of humane or animal protection societies. There are several laws protecting cats under animal cruelty sections. Mr. Paul Heid said that nuisance animal control is a big business and that there are no laws prohibiting the killing of cats; Attorney Jordan replied that there are new laws which would list killing of cats or dogs as aggravated animal cruelty. Mr. Vanselow said that while the local SPCA is authorized to control cats, it probably does not have enough funds to answer all calls. Supv. Goodspeed asked Attorney Jordan to seek to better define the Animal Control Officer position and to look into no-kill shelters and report back to the Town Board; he added that Secretary Cherie Ferguson has done some research into the shelters. Attorney Jordan suggested that in the meantime that individuals with cat issues be referred to the Warren County Sheriff as an authorized peace officer.

Supv. Goodspeed explained that the Town of Johnsbury policy concerning paid leave of absence for employees responding to emergency calls was in the Town Board members' packets and ready to be acted on if the Town Board wished. Supv. Goodspeed added that the department heads had been asked for an opinion on the policy and all were in favor of implementing the policy possibly with a review period to see how it works. Mr. Morehouse thought that there were to be no time restrictions; Supv. Goodspeed replied that this could be amended during the review period if one was desired.

## RESOLUTION NO. 160

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Arsenault, that the Town Board authorizes the addition of the following policy, which was written, reviewed and approved by the Town Attorney be added to the Employee Handbook; and further, that the Town Board will review this policy for the purpose of evaluating its operation in one year:

### TOWN OF JOHNSBURG POLICY CONCERNING PAID LEAVE OF ABSENCE FOR EMPLOYEES RESPONDING TO EMERGENCY CALLS

5. During the time that an Emergency Call occurs, an employee of the Town of Johnsburg may request a leave of absence from his or her Town employment for purposes of engaging in the actual performance of duties as, (a) a volunteer firefighter, or (b) volunteer EMS/Ambulance attendant as part of the response to the event that gave rise to the Emergency Call.
6. Requests for such leave of absence must be made to the Department Head or designee before the absence. The absence may be granted by the employee's immediate Department Head or designated Deputy but only to the extent that such absence will not interfere with Departmental operations. No leave of absence shall be authorized without Department approval and absences will be limited to the time authorized by the Department Head or designee. The Department head or designee may require employees seeking leave to obtain a new authorization for each day or other period or interval of leave selected by the Department Head or designee. Absence without such authorization may result in disciplinary action or termination if provided for under any labor Collective Bargaining agreement.
7. In the event the Department Head or designee approves the leave of absence, the Town employee shall be compensated at his or her regular rate of pay for those regular hours during which the employee is absent from work without loss of any vacation, personal or sick leave accruals that the employee may be entitled to. No Town employee will be paid for hours volunteered outside their standard work hours in response to any emergency.
8. Any applicable leave shall not exceed twenty (20) hours per employee in any calendar year.

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

Supv. Goodspeed explained that in the Town Board member's packet there was a report from Parks Supt. Matt Olden regarding the experiment with pumping water into the swimming area from the North Creek; approximately 54,000 gallons of water were pumped into the swimming area each day without an appreciable rise in the water level of the area. Mr. Vanselow commented that it does not appear that adding water helped even with the equalization pipes closed. The only time at which the level did rise was on the day when it rained about one and three quarter inches in an afternoon. Mr. Paul Heid asked if the weir could be modified to impound more water; Supv. Goodspeed replied that Engineer James Hutchins had estimated the cost of such modifications to be approximately \$60,000.00. Mr. Arsenault said that although the berm had been in place since 2000, that the problem seems to have arisen since the center section of the weir had been lost; Mr. Robert Nessel said that he believed that his plan to pipe in water would raise the water level in the

swimming area substantially. Mr. Peter Heid said that the water pressure would not allow the plan to work as Mr. Nessle says it will. Mr. Paul Heid asked about dredging to make the area deeper; Supv. Goodspeed replied that the permitting allowed a specific depth by dredging. Mr. Arsenault asked that Engineer James Hutchins review Mr. Nessle's plan again as regards the depth of trenching needed. Mr. Peter Heid asked that his flow rates be checked, but he believes that Mr. Nessle's plan will not work. Supv. Goodspeed will check with Engineer James Hutchins again.

Supv. Goodspeed informed the Town Board that on August 14, he met with several representatives from the Department of Environmental Conservation (DEC) and the Garnet Lake Homeowners Association to discuss the new regulations from DEC regarding dams which will soon be taking effect. The Garnet Lake Homeowners Association owns the Garnet Lake Dam and the Town has an easement for the town road which crosses the dam. One of the major requirements of the new regulations will be an Emergency Action Plan (EAP) which will require a professionally engineered inundation study to determine the effects of both an overflow of the dam or a complete failure of the dam. Another requirement is likely to be a more aggressive maintenance schedule. DEC is impressed with the current plan which is in place and it may need only to have some modification and the inundation study. The Garnet Lake Homeowners Association is frustrated since much of the land surrounding the lake is owned by New York State and the state will not reply to any requests for funding as a property owner. Supv. Goodspeed said that the discussions will continue and that he is hopeful that some federal funding may be found to assist in keeping the dam compliant with the forth coming regulations.

Supv. Goodspeed reminded the Town Board of the ongoing concerns regarding the beaver dams which are raising the level of Austin Pond through impounding water; the rising water also threatens Austin Pond Road. Research has determined that Executive Law and Highway Law do not apply to this situation; only threats to human life will allow actions under those laws. Supv. Goodspeed said that the only solution seems to be to trap the beavers with the consent of the property owners and to breach the dams in what is known as a dry breach at a time of low water. One property owner who was not at the meeting which Supv. Goodspeed recently had with the property owners is interested in meeting to discuss the issue, his notice was misdirected. Supv. Goodspeed said that this was good news as one of the larger dams is on this individual's property. Mr. Paul Heid asked how long the beavers have been in the area as they seldom stay longer than five years due to exhausting the food supply; Mr. Morehouse, whose father was a DEC officer, replied that the beaver had been there a very long time and keep expanding the dams to increase their feeding area. Mr. Stevens said that a dam burst could be life threatening downstream, as a previous failure washed out a Town bridge; Supv. Goodspeed replied that the threat must be imminent. Mr. Arsenault asked about sending a letter to the DEC about the situation; Supv. Goodspeed replied that he had written with little response. Mrs. Kelly Nessle asked what the potential liability risk was to the Town; Supv. Goodspeed replied that if the Town tries to assist with the problem and the dam bursts to fully release the over three acres of impounded water that the Town would be responsible. Mr. Roger Mosher asked if the landowner is liable if he refuses to work with the Town; Supv. Goodspeed replied not generally. Supv. Goodspeed said that he hoped discussions with the property owner who missed the meeting may lead to some solutions.

Supv. Goodspeed explained that the Highway Equipment item was mistakenly placed on the agenda.

Supv. Goodspeed informed the Town Board that the Adirondack Park Agency (APA) requests that the Town hold an informational meeting regarding the amendments to the Town of Johnsbury zoning map. The amendments had been developed by the Zoning Committee and Dr. Richard Lamb which had also drafted the 2007 Local Land Use Plan. Supv. Goodspeed noted that the amendments were not an all or nothing change so long as the ratio of building lots to land did not change substantially. There had been some opposition to increased density in the Edwards Hill area; however, other area changes had been better received. Front Street Mountain Development properties would stand to have increased density; while River Road would lose approximately one hundred and ninety acres of hamlet density. The Town Board planned to have an informational meeting during the regular Town Board meeting on October 20, 2009 and Supv. Goodspeed asked Secretary Cherie Ferguson to contact the North Creek News-Enterprise to ask for news items on this meeting. The time frame for action on the map amendments by the APA was believed to be the end of the year or later.

Supv. Goodspeed informed the Town Board that there have been additional washouts on Rogers Road in North River. Town Attorney Jordan is to contact the landowner involved and try to resolve the issue. Attorney Jordan explained that he will contact the Warren County Engineer to try and get an assessment of the cause and possible solutions for the washouts. Mr. Arsenault and Highway Supt. Hitchcock noted that Forest Ranger Steve Ovitt, Environmental Conservation officers and Warren County Soil and Water have visited the property; all say that the clear cutting of approximately fifteen or more acres of forest allow the water to run off through Rogers Road. Warren County Soil and Water suggested that the water be diverted through some forest on the property to break up the force of the runoff. Supv. Goodspeed suggested that the property owner may have a violation issued from one of the agencies previously mentioned. Mr. Vanselow asked if the costs of repairing the damage were recoverable as the amount spent on repairing the washouts was between \$15,000.00 and \$17,000.00. Supv. Goodspeed asked Attorney Jordan to look for possible violations which have already been issued.

#### NEW BUSINESS

Supv. Goodspeed explained that the Freedom of Information Law (FOIL) is taken seriously by the Town of Johnsbury. The Town Clerk is the Records Officer and all FOIL requests should be addressed to the Town Clerk; he added that requests which do not contain the FOIL tag, but seem to be phrased in a like manner are treated as FOIL requests. Supv. Goodspeed said that the Town tries to be as transparent as allowed under the law. In regards to the FOIL request filed by Mr. Peter Heid, portions were delivered very quickly, some requested documents do not exist, while some items required review by the Town Attorney. Supv. Goodspeed explained that Town Attorney Jordan worked on the request in association with the Town Clerk for an extended period

and issued an opinion of denial on one part of the request following discussions with Mr. Robert Freeman of the Committee on Open Government. Supv. Goodspeed added that it was a large complicated request and he believed that it was in the appeal period. Supv. Goodspeed added that in addition there was a flurry of e-mails regarding the request. Mr. Peter Heid said that he was personally extending the grace period for response, but if he was denied he would file an Article 78 action to obtain the requested documents. Supv. Goodspeed replied that the documents that were requested were protected according to Mr. Freeman. Supv. Goodspeed said that he would be sending Mr. Peter Heid a letter on the subject soon. Mr. Peter Heid then asked if he would be receiving requested copies of e-mails between Attorney Paltrowitz and Supv. Goodspeed; Supv. Goodspeed said that he did not remember the e-mails, but would search for them. Mr. Peter Heid then asked for the documents on extraordinary repairs; Supv. Goodspeed replied that none existed following a search. Mr. Arsenault asked if this discussion would not be better held outside the Town Board meeting; Supv. Goodspeed replied that he believed that it needed some open discussion. Mr. Peter Heid said that unplanned costs, such as overtime work need to be handled as extraordinary repairs and not through the 284 Agreements. Town Attorney Jordan explained that if money is to be spent in a different way than agreed upon in the 284 Agreements that they need to be amended to reflect the changes and that there are other ways to handle problems outside the norm. Supv. Goodspeed added that the warrants are available to anyone and are placed for the public prior to each meeting. Mr. Peter Heid said that Supv. Goodspeed should check with the Comptroller's Office regarding section 264 of the law.

In a related issue Supv. Goodspeed referred to the letter from Town Attorney Jordan read earlier in the meeting regarding the topsoil for sand swap with Front Street Mountain Development. Supv. Goodspeed believes that there was no bad intent in this swap agreed to by Highway Supt. Hitchcock and he has spoken to Front Street Mountain Development and the swap has ended pending any action by the Town Board to allow it to proceed in a correct and lawful manner.

Supv. Goodspeed informed the Town Board that numerous geese have again appeared at the swimming area. Mrs. Kelly Nettle asked if the permit to dispatch the geese which the town obtained last year had expired; Supv. Goodspeed replied that he would check the expiration of the permit. Mr. Paul Heid said that there were many geese around the area.

Supv. Goodspeed informed the Town Board that the collection of sales tax in Warren County is down from last year. The monthly drops in collection are as follows: (all percentages are decreases) January 1.8%, February 9.1%, March 1.7%, April 7.4%, May 5.4%, June 6.0%, and July 13.1%. Supv. Goodspeed noted that these decreases will affect the 2010 budget forecasts. Mr. Paul Heid asked if the decreases will affect the 2009 budget; Supv. Goodspeed that the lower quarterly payments to the Town from Warren County will affect 2009 cash flow.

Supv. Goodspeed reported that the July 2009 monthly report from the Zoning Enforcement Officer was in the Town Board members' packets. Both Peter and Paul Heid said that they have heard that ZEO Chris May is doing a good job. Supv. Goodspeed noted that the three interviewees were all good candidates.

#### PRIVILEGE OF THE FLOOR

Secretary Cherie Ferguson asked if the Fire/Emergency Squad Response policy is an amendment to the Employee Handbook and also an addition to the Highway Contract. Town Attorney Jordan replied that the policy should be an amendment to the Employee Handbook until the end of the current Highway Contract. Supv. Goodspeed suggested asking the Highway Employees for approval in an informal manner; Attorney Jordan said that it would be better for the Highway Employees to take a formal vote. Secretary Cherie Ferguson asked if the Fire Committee (Arsenault, Morehouse) wished to set up a meeting with the Fire Chiefs to discuss the fire companies funding; Mr. Arsenault suggested meeting in mid-September following committee discussions with Supv. Goodspeed.

Mrs. Kelly Nettle informed the Town Board that the Occupancy Tax Committee had two new members to propose for approval by the Town Board; the proposed members are Mr. Michael Bowers (bar Vino) and Mrs. Barbara Thomas (Farmers Market).

#### RESOLUTION NO. 161

Supv. Goodspeed presented the following resolution, and moved its passage with a second from Mr. Vanselow, that the Town Board appoints the two new members, proposed by the Occupancy Tax Committee, Mr. Michael Bowers and Mrs. Barbara Thomas to the aforesaid advisory committee. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

Mrs. Nettle informed the Town Board that the Occupancy Tax Committee had redrawn the application for Occupancy Tax funds and asked if the Town Board would like to review the proposed changes; the Town Board wished to have Supv. Goodspeed review the proposed application. Mrs. Nettle asked that the application be included on the Town website for electronic reply to the committee; the Town Board agreed, but also wanted the committee to accept written applications from organizations without computer access. Mrs. Nettle said that the Occupancy Tax Committee plans to meet next month and asked if the Town Board had an idea of the amount of funds which may be available for 2010; Supv. Goodspeed suggested that the committee plan on one funding of \$30,000.00 and without any second payment this year. He added that a percentage plan may need to be worked out.

Mrs. Nettle informed the Town Board that some of the stones in the wall beside the fountain in the Ski Bowl Park had fallen and needed to be repaired; Supv. Goodspeed replied that he would look into the situation to see what repair was necessary.

Mr. Peter Heid asked the status of CHIPS funding; Supv. Goodspeed replied that there had been

long range planning discussions between the Highway Committee (Arsenault, Stevens) and Highway Supt. Hitchcock over the use of the funds; if the funds come through they may be used to purchase equipment. Mr. Peter Heid said that according to Highway Law that only 25% of the CHIPS funds could be spent on equipment; Supv. Goodspeed replied that it was the opinion of the state that CHIPS funds could be spent on equipment. Mr. Peter Heid said that according to state law only \$60,000.00 could be spent on equipment each year; Supv. Goodspeed replied that it depends on the interpretation of the law. Mr. Peter Heid asked that the town request an opinion from the NYS Comptroller.

Mr. Paul Heid informed the Town Board that a customer had told him of a near crash resulting from the Town use of dry stone on paved roads and that in the event of a crash that this could be a large liability issue. Mr. Paul Heid added that he was worried about the fisheries as well due to the runoff of the sand being used; Supv. Goodspeed replied that the Department of Environmental Conservation had not objected to the Town used of the stone/sand.

Mr. Robert Nettle informed the Town Board that quite a bit of debris has washed up against the weir and if there is another heavy rain it could cause serious damage to the weir; Supv. Goodspeed said that he would ask Parks Supt. Matt Olden to clear the debris. Mr. Paul Heid asked if the Town was allowed to repair the weir or if additional permitting was needed; Town Attorney Jordan replied that generally speaking any work on the weir requires permitting. Supv. Goodspeed explained that work on the weir would be in conflict with a fish habitat grant.

#### RESOLUTION NO. 162

Mr. Vanselow presented the following resolution and moved its passage with a second from Mr. Arsenault that the following certified bills which have been reviewed by the Town Board members be paid: General Fund- Warrant #16G/Claims #311-333; Highway Fund- Warrant #16H/Claims #158-170; North Creek Water Dist.- Warrant #16W/Claims#61-64; Capital Project Funds-Warrant #7CPF/Claims #10-11; Library Fund Warrant #8L/Claims #51-60. 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 9:40pm. With 5 members voting in favor the resolution is declared carried. Ayes-5 (Arsenault, Morehouse, Stevens, Vanselow, Goodspeed) Nays - 0

The next regular Town Board meeting will be held at 7:00pm on September 1, 2009 at the Wevertown Community Center, Wevertown, New York. Warren County

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Prepared by William Rawson, Town Clerk