

**Minutes of the Town of Johnsbury Regular Board Meeting July 3, 2012
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 3, 2012 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: Supv. Ronald Vanselow; Town Councilmen/ Eugene Arsenault, Katharine Nightingale, Peter Olesheski, Jr, Arnold Stevens; Town Clerk/ William Rawson.

Guests: On attached list

RESOLUTION NO. 154

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Arsenault, to accept the minutes of the June 19, 2012 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 "Save the Date" regarding the Walk-Bike New York/Encouraging Sustainable
2. A letter from the Town of Johnsbury Youth Committee recommending pay rates for the 2012 Summer Youth Program employees.

Supervisor Vanselow said that raises for the Summer Youth Program employees had been discussed last year and that Sherrie Williams had started to look at this, but could find little so far; he added that some received raises last year and it was not broken down and it is unclear as to whom the rates apply. Supervisor Vanselow said that some clarification will have to be made and noted that the employees are not yet working. Mr. Olesheski asked if the Town Board had not approved the hires previously; Supervisor Vanselow agreed that the hires had been approved. Supervisor Vanselow said that he expected that this would be able to be sorted out by the July 17, Town Board meeting.

COMMITTEE REPORTS:

OLD BUSINESS:

Supervisor Vanselow explained that seven years ago the Town Board had looked into a law to allow ATV (All Terrain Vehicle) use on Town roads; he added that he has asked the Town Attorney to look at this proposed local law. Supervisor Vanselow recognized Mr. Olesheski to present the proposed local law to allow ATV use of Town roads which are designated for such use.

Mr. Olesheski said that he has been asked by a group of longtime residents to look into the passage of a local law to allow the use of some designated Town Roads by ATV. Mr. Olesheski said that he has looked at local laws in other Towns and has spoken with Town Clerks in other Towns as well regarding their laws. Mr. Olesheski said that he believes that it would be legal for the Town of Johnsbury to pass a local law to designate portions of Town roads for ATV use if it

can be shown that it is impossible, not legally possible, to get from one section of private trails to another by some other way. Mr. Olesheski based his proposed law on those of other Towns in New York State and especially that of the Town of Chester; he said that he has spoken with officials and highway personnel of that Town and that there do not seem to be any problems with their law which was filed in March 2008. Mr. Olesheski said that the law would not label any roads as ATV roads, but would create the process to allow ATV riders to ask the Town Board to allow sections of Town roads be designated for ATV use. Mr. Olesheski said that there are issues with the safety of ATV and said that while they are inherently dangerous that they may not be as bad as earlier reported or suggested. Mr. Olesheski said that he would hope that auto drivers would treat them as bicycles or pedestrians on Town roads. Mr. Olesheski said that he believes that ATV are well regulated by New York State and that there are requirements and responsibilities for the ATV riders built into the proposed law. Mr. Olesheski would like to move forward to a public hearing at this time.

Supervisor Vanselow said that he had a modest list of questions including some for the Highway Superintendent and would like the Highway Committee (Nightingale, Olesheski) to speak with the Highway Superintendent about the condition of the shoulder of Town roads, the suitability of the Town roads for ATV use and the potential damage to Town roads as a result of ATV use. Supervisor Vanselow also wants to look into the NYS Department of Environmental Conservation (DEC) laws regarding the use of ATV on roads and other public property. Supervisor Vanselow also noted that the file on the 2007 proposed local law to allow ATV use on Town roads was available at Town Hall.

Mr. Olesheski said that he had reviewed several local laws on to allow ATV use on Town roads and that the requirements came from NYS laws. Supervisor Vanselow said that the requirements could be strengthened; Mr. Olesheski said that he had lowered the allowable speed limit to twenty miles per hour and that the Town Roads should be stable enough for ATV use.

Mr. Arsenault asked who is responsible for the enforcement of the law; Mr. Olesheski any local, state or DEC officers could enforce the law. Mr. Olesheski said that he hopes to encourage land owners to make their lands available for recreational purposes in a responsible manner. Mr. Arsenault asked if this was an attempt to manage the process; Mr. Olesheski said that it was a way to try to do that. Mr. Arsenault asked if any training was required; Mr. Olesheski said that NYS makes training available, but it is not required. Mr. Arsenault asked if there was any liability to the Town; Mr. Olesheski said that all negligence is to the ATV owner. Mr. Arsenault asked if most ATV are registered and insured; Mr. Olesheski said that he would hope so. Mr. Arsenault asked if there was any idea of the amount of roads to be used. Mr. Olesheski said that currently the focus was on the seasonal portion of River Road; he added that he hopes this will encourage responsible use of Town roads by ATV owners. Mr. Olesheski said that he has spoken to ATV enthusiast groups from Thurman and Hadley about the possibility of developing a trail system like that for snowmobiles. Mr. Arsenault asked how many Towns have such local laws; Mr. Olesheski said that at least three Towns in western New York and the Town of Chester. Mr. James Jones said that he believes that possibly the Towns of Indian Lake and Wells have such laws.

Supervisor Vanselow said that he believes that a significant educational effort will need to be made and noted that a few nights earlier there had been a personal injury and property damage incident involving an ATV in the hamlet of Johnsburg. Mr. Olesheski said that it was a tragic,

but preventable accident resulting from a mixture of alcohol or drugs, speed and a motor vehicle. Mr. Olesheski said that he did not believe that the possibility of violations of the law were a reason not to pursue it. Mr. Arsenault said that it would be good to have a community conversation, but that other aspects may be brought up as well.

Supervisor Vanselow asked about the legality of amending a local law by resolution; Mr. Olesheski said that the NYS law says that the designation can be made by local law or an ordinance. Secretary Cherie Ferguson asked if the trail systems could be private as it had been stated in the 2007 discussions that they had to be public systems; Mr. Olesheski said that the NYS law did not say that it had to be public trail systems.

Supervisor Vanselow said that he believed that the issue should be discussed again in two weeks at the next Town Board meeting. Mr. Stevens asked that a clarification regarding the question of whether the trail systems could be private or needed to be public be requested from the Town Attorney. Mr. Olesheski said that he would like a determination of what would make a connection between trail systems impossible.

Supervisor Vanselow asked Ms. Nightingale to give a report on the asbestos testing at the "Scales Building" at Riverfront Park (Kellogg Property). Ms. Nightingale reported that the result of the testing is that there is no asbestos contamination of the "Scales Building". The Riverfront Park Committee would like to have the building removed; grant money cannot be used to demolish the building and out of the total grant money of approximately \$260,000.00 approximately \$160,000.00 is dedicated to rehabilitating the "Scales Building". In order to use this money in any other portion of the property the reallocation of the money associated with the "Scales Building" would require an application to the NYS Department of State. Supervisor Vanselow asked if the amount of money necessary to stabilize the building was about \$140,000.00; Ms. Nightingale agreed and that was only to stabilize not improve the building. Ms. Nightingale said that that it seemed to be a lot of money for little result.

Ms. Nightingale asked what the procedure would be to proceed with the removal of the "Scales Building"; Supervisor Vanselow replied that he was not sure of the method and that it would be best to speak to the Warren County Planning Department. Supervisor Vanselow said that a public hearing may be required. Mr. Arsenault said that he believed that it would be a good idea to have a public discussion as there is a lot of historical sentiment about that property; he added that he believes that the Riverfront Park Committee has done a thorough job of researching the alternatives and believes that it would be the correct plan. Ms. Nightingale would like to speak to some local contractors for an estimated cost to remove the building; she added that some of the labor may be donated as some of the contractors are in favor of having the building removed. Mr. Olesheski asked if there was a cost to remove the building. Ms. Nightingale said that she was hoping that if the labor was donated, the wood and metal could be handled by the Town. Supervisor Vanselow said that the metal could go to the transfer station, but the wood would have to be disposed of by another method. Supervisor Vanselow said that if \$140,000.00 of the \$160,000.00 was used to stabilize it, then there would be the need for more than \$20,000.00 to bring it up to a useful standard; Mr. Olesheski said that there would also be the ongoing maintenance costs as well. Mr. Olesheski also said that the question of how to pay for the removal will probably come up as well. Mr. Arsenault asked if there was a timetable for moving forward to reapply for the funds if they aren't used in the "Scales Building"; Ms. Nightingale said that she has been waiting for a response from Wayne LaMothe of the Warren

County Planning Department. Ms. Nightingale said that the committee is looking toward placing a pavilion with toilets on the site if the building is removed.

Supervisor Vanselow updated the Town Board on the current state of the Town building repairs. Supervisor Vanselow said that Martin Fitzgerald of the Warren County Codes Enforcement had looked over the Wevertown Community Center side door and it was his opinion that the door can be blocked off or removed if the "exit" sign is moved and one or two minor modifications in the doorway are made. Supervisor Vanselow said that he believes that it is the consensus of the Town Board that the door will be removed as well as the concrete steps which are an obstruction to plowing.

Supervisor Vanselow said that he has looked over the Sodom Scout Hall with Mr. Paul Loguerico and they have planned to replace four windows, entire assembly, and Supervisor Vanselow with Mr. Loguerico, volunteering his labor, and Matt Olden if needed will replace the window assemblies.

Supervisor Vanselow proposed painting the roof of the Senior Citizens' Meal Site with aluminum roof coating; Highway Superintendent Daniel Hitchcock said that he would have some men to put to work on the roof coating job. Supervisor Vanselow said that he has spoken to T. C. Murphy Lumber Co. about the availability of the coating and brushes for the roof. Supervisor Vanselow asked that the Town Board authorize the three projects discussed for Town buildings.

RESOLUTION NO. 155

Mr. Stevens presented the following resolution, and moved its passage with a second from Ms. Nightingale, that the Town Board approves of the following Town building projects: at the Wevertown Community Center, the removal and blocking of the side door and the removal of the concrete steps outside that door with all necessary actions to satisfy Warren County Building Code Enforcement; at the Sodom Scout Hall, the replacement of four damaged window assemblies with the labor of Supervisor Vanselow and Mr. Loguerico, volunteering his labor, and Parks and Buildings Superintendent Matt Olden if needed; at the Senior Citizens' Meal Site, the purchase of aluminum roof coating and brushes for the roof coat painting, with the work to be done by employees of the Town of Johnsbury Highway Department as agreed to by Highway Superintendent Daniel Hitchcock. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

Mr. Arsenault asked about the status of the repair of the Town Hall roof; Supervisor Vanselow replied that he was still looking into the warranty of the shingles and also getting T. C. Murphy Lumber Co. to send up an employee to look over the roof and put together an estimate of materials. Supervisor Vanselow said that it appears that this will become a 2013 project. Mr. Arsenault asked if there was likely to be an interior problem resulting from the condition of the roof; Supervisor Vanselow said that the problem of backup due to an ice dam seemed to be the main concern and that it is planned that timely roof raking will solve that problem. Mr. Arsenault asked if there was a problem with the Tannery Pond Community Center roof. Supervisor Vanselow said that there seems to be a problem with the drainage for the runoff from the roof of the Tannery Pond Community Center and some water gets in the basement area; he added that the problem was being looked into. Mr. Olesheski said that he had been approached by an individual asking about the possibility of replacing one half of the Town Hall roof.

Supervisor Vanselow said that he had received an email from a contractor offering his work crew to be hired by the Town to work on the roof; he added that in his opinion the NYS Department of Labor would probably not accept that as a solution.

Supervisor Vanselow updated the Town Board on the third cemetery mowing. Supervisor Vanselow explained that the Town has received three quotes or declinations of interest in the mowing project and informed the Town Board that Mr. John Helms has agreed to begin the third mowing soon, this week if conditions allow, at the same rate as the two mowings which were bid earlier this year.

Supervisor Vanselow updated the Town Board on the status of the transfer station rebuild project. Supervisor Vanselow explained that the operator building had been torn down and that additional fire damage had been discovered as a result of exposing the deck. A letter of explanation and update has been received from Cedarwood Engineering Services, LLC with the following information: There was fire damage to the deck and insulation, as well as hydraulic oil saturation to the plywood decking. The Contractor has been asked to provide an estimate for the additional costs of: (1) replacing deck, joists and insulation; and (2) replacing fire damaged and oil soaked materials and cleaning and sanitizing the remaining materials. The estimated cost for the additional damage received from the contractor, AB Construction & Environmental, LLC was \$5,922.50 for labor materials and disposal. Supervisor Vanselow said that the Town would file an additional recovery request with the insurance carrier.

Supervisor Vanselow explained that the second issue included in the report is the question of replacing the hopper into which the trash was dumped with a chute into which the trash could be dumped. The chute would be enclosed with a five foot by five foot opening for putting the trash into the compactor. The benefits of using the chute option are that it will eliminate the possibility of putting in items that are too large for the compactor, it will be available for delivery in approximately three weeks as opposed to the hopper which will require about thirteen weeks for delivery, it will be a safer option with no potential for falling into the compactor. The other issue with using the chute option is that it would prohibit the Town from taking garbage from vehicles such as the trash collection truck; Supervisor Vanselow said that he did not want to get back into the trash collection business. Supervisor Vanselow said that both the contractor and Cedarwood Engineering Services, LLC recommended the chute as the best solution.

Ms. Nightingale asked what was underneath the plywood and the floor joists; it is a cement vault. Mr. Olesheski asked if the repair was going to be submitted to the insurance carrier; Supervisor Vanselow said that he believed so. Mr. Olesheski asked if the chute was going to save money on the roof construction over the compactor; Supervisor Vanselow said maybe. Mr. Olesheski said that the replacement of the decking and insulation has no bearing on the chute versus hopper decision; Supervisor Vanselow said that was correct.

RESOLUTION NO. 156

Mr. Stevens presented the following resolution, and moved its passage with a second from Ms. Nightingale, to authorize the use of a chute on the compactor instead of an open hopper as the method of delivering trash into the compactor. 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 the Personnel Committee (Nightingale,

Olesheski) to meet with Ann Deppe, former Town Assessor, to discuss ideas on locating a replacement for Mrs. Deppe and report back to the Town Board. Supervisor Vanselow asked that the Town Board pass a resolution authorizing the rehiring of former Town Assessor, Ann Deppe, on a limited basis for the purposes of performing data entry and scheduled meetings to discuss assessment issues at the same rate of pay.

RESOLUTION NO. 157

Ms. Nightingale presented the following resolution, and moved its passage with a second from Mr. Olesheski, to rehire former Town Assessor, Ann Deppe, on a limited basis for the purposes of performing data entry and scheduled meetings to discuss assessment issues, and any other necessary assessment duties at the rate of pay received prior to her retirement. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

NEW BUSINESS:

Supervisor Vanselow explained that he had received a Local Law to allow for simple boundary line adjustments to be exempt from the subdivision approval review procedures. Supervisor Vanselow explained that the rather lengthy proposed local law was drawn up by the Planning Board legal firm. Supervisor Vanselow said that he would prefer to have this done in a simpler form; it seems to be cumbersome. Mr. Arsenault said that it was probably expensive to create. Supervisor Vanselow said that the Town of Chester law as their procedure is said to be less cumbersome and also, it would be APA (Adirondack Park Agency) approved. Supervisor Vanselow said that he would like the Town Board to review this local law and he will investigate the Town of Chester law with some degree of speed as the Planning Board has been seeking this for a period of time and he believes that it would be a serve to the people of the Town of Johnsbury as well. Supervisor Vanselow said that if this appeared to be the best solution, that it should be submitted to the APA for review and approval. Mr. Arsenault said that this was a good effort and that the procedure should in some form should be added to the Zoning Law as the current process is cumbersome and expensive. Mr. Olesheski asked if this was an ordinance or a local law; Supervisor Vanselow agreed that it was confusing. Mr. Arsenault asked why this was initiated without communication with Supervisor Vanselow; Supervisor Vanselow said that this was initiated in 2011 prior to his becoming the Supervisor. Mr. Arsenault said that going forward he thinks that such actions by the Planning Board should be preceded by discussion with the Supervisor or the Town Board.

Supervisor Vanselow noted that the monthly report of the Zoning Enforcement Officer, Danae Tucker, for the month of June, 2012, was in the Town Board members' packets.

Supervisor Vanselow noted that the monthly report of the Animal Control Officer, William Mosher, for the month of June, 2012, was in the Town Board members' packets.

Supervisor Vanselow distributed the Supervisor's Monthly Report, for the month of June, 2012, to the members of the Town of Johnsbury Town Board.

Supervisor Vanselow noted that he had received the sales tax information from Warren County on the collection for the first five and one half months; the collection is up about three

and one half percent over the same period in 2011.

Supervisor Vanselow asked for a retroactive resolution to approve the noticing of a special meeting and public hearing of the Town Board to be conducted on July 10, 2012 at 6:00pm at the Tannery Pond Community Center to: 1) solicit public comment regarding the use of CFA or CDBG Small Cities funds for community development. Warren County expects to apply for funds for eligible activities; and, 2) the purpose of the hearing is to enhance public accountability by: a) furnishing citizens' information concerning the eligible community development and housing activities; and, b) obtaining views of citizens concerning the activities of the proposed amendment. The procedure to be followed will be to: a) explain Federal and State Regulations; b) review eligible and proposed program activities; and, 3) review citizen comment and recommendations. The hearing will also include an overview of the local policy to minimize displacement of persons from their homes and neighborhoods as a result of proposed grant activities and the Community Development Plan covering the period of the proposed funding. Supervisor Vanselow asked that the Town Board retroactively authorize the Town Clerk's placing a legal notice in the North Creek News-Enterprise.

RESOLUTION NO. 158

Mr. Arsenault presented the following resolution, and moved its passage with a second from Ms. Nightingale, to retroactively authorize the Town Clerk to publish notice for one week on June 30, 2012, in the North Creek News-Enterprise for a Special Meeting of the Town Board and a Public Hearing on the use of CFA or CDBG Small Cities funds for community development, and further, said Special Meeting/Public Hearing is to be held at the Tannery Pond Community Center, North Creek, New York on Tuesday, July 10, 2012 at 6:00pm. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

Supervisor Vanselow explained that the state and/or federal agencies involved with the First Wilderness Scenic Byway have said that some specific wording was not included in Resolution 89 of 2012 which was approved by the Town of Johnsburg Town Board to change the name from Dude Ranch Trail to First Wilderness Scenic Byway and so Warren County Planning and Development is asking that the Town Board approve a similar resolution with the correct wording. Supervisor Vanselow asked that the Town Board approve this corrected resolution provided by Warren County.

RESOLUTION NO. 159

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

Resolution of Support for the Corridor Management Plan and Establishment of the First Wilderness Scenic Byway

Whereas, the Town of Johnsburg is a participating community in the First Wilderness Heritage Corridor - a planning and development imitative - for the Hudson River communities of northern Saratoga and Warren Counties, and

Whereas, The 1984 New York State Highway Law declared a scenic touring route in adjacent

communities identified as the Dude Ranch trail, and

Whereas, The Town of Johnsbury in conjunction with the other communities of the First Wilderness Heritage Corridor desire to develop a Corridor Management Plan and Scenic Byway consistent with the federal Scenic Byway Program as managed by the New York State Department of Transportation, and

Whereas, Through the sponsorship efforts of the Adirondack North Country Association with technical assistance from the Warren County Planning Department and Corridor Management Plan Development Consultant Ann Holland, recommendations were made to extend the existing Dude Ranch Trail and change the name from Dude Ranch Trail to First Wilderness Scenic Byway, and

Whereas, The updated plan would be consistent with the strategies and initiatives of the First Wilderness Heritage Corridor Plan and will provide opportunities for federal funding under the Scenic Byway Program, and

Whereas, The revised scenic byway identification will expand the travelling publics' knowledge of the resources that promote tourism, recreation and local economic development while maintaining a recognized scenic byway in the Town, and

Now Therefore Be It Resolved That the Town Board of the Town of Johnsbury, Warren County, New York supports the First Wilderness Scenic Byway re-designation and it's Corridor Management Plan.

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

Supervisor Vanselow noted that the Town had received invoices from James Jones Excavating for work done for the North Creek Water District on the water service to the Stewart's Shop in North Creek and that there were some questions as to whether portions of the charges in the invoices were to be paid by the North Creek Water District or by Stewart's Shops. Supervisor Vanselow asked that the Town Board authorize payment of the invoices prior to the next Town Board meeting following review and determination of the responsibility for the charges by Cedarwood Engineering, the operator of the North Creek Water District and the Supervisor; monies for some of the charges may have been paid to the water district by Stewart's Shops and some may be the responsibility of the water district.

RESOLUTION NO. 160

Mr. Stevens presented the following resolution, and moved its passage with a second from Ms. Nightingale, upon review by Cedarwood Engineering, the operator of the North Creek Water District and the Supervisor that the charges on the invoices presented by James Jones Excavating which the North Creek Water District is responsible for be paid in advance of the next Town Board meeting. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

RESOLUTION NO. 161

Mr. Arsenault presented the following resolution and moved its passage with a second from Mr. Olesheski that the following certified bills which have been reviewed by the board members be paid: General Fund- Claims #2012-520 and #2012-522 through #2012-532 and #2012-543 through #2012-; Highway Fund- Claims #2012-520 and #2012-522 and #2012-532 through #2012-539 and #2012-546 and #2012-547; Capital Projects Funds Claim #2012-540 and #2012-548 and #2012-549; Johnsbury Fire Protection District - Claim #2012-525; North Creek Water Dist.- Claim#2012-522; Trust and Agency Claims #2012-520 through #2012-522 and Claim #2012-541 and Claim #2012-542; Library Fund- Claim #2012-520. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

PRIVILEGE OF THE FLOOR

None

A motion to adjourn the meeting was presented by Mr. Arsenault with a second from Mr. Olesheski at 8:20pm. 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 Tuesday, June 19, 2012 at the Ski Bowl Lodge, North Creek, New York.

Prepared by William Rawson, Town Clerk