

**Minutes of the Town of Johnsbury Regular Board Meeting November 20, 2012  
Held at the Tannery Pond Community Center, North Creek, NY.**

Minutes of the regular meeting of the Town Board of the Town of Johnsbury held on Tuesday, November 20, 2012 at 7:00pm at the Tannery Pond Community Center, North Creek, 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, Arnold Stevens; Town Clerk/ William Rawson. Town Councilman Peter Olesheski, Jr was absent.

Guests: On attached list

**RESOLUTION NO. 250**

Mr. Arsenault presented the following resolution, and moved its passage with a second from Ms. Nightingale, to accept the minutes of the November 8, 2012, regular Town Board meeting including the opening of the Wevertown Community Center ceiling repair RFP opening and the Public Hearing on the proposed 2013 Town of Johnsbury Preliminary Budget as written. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 0

**CORRESPONDENCE:**

1. A email from Mr. Philip D. Goodman Jr. informing the Town Board of his interest in being reappointed to the Town of Johnsbury Zoning Board of Appeals at the expiration of his current term.
2. A letter from Mr. Vincent Schiavone expressing his interest in being appointed to fill the soon to be vacant Town Justice position. (A similar letter from Mr. Drew Hayes was read and hand delivered to the Town Board during the meeting by Mr. Hayes.)

Supervisor Vanselow explained that there are currently two vacancies on the Zoning Board of Appeals and asked if the Town Board wished to reappoint Mr. Philip D. Goodman Jr. as he was willing to be reappointed to the position.

**RESOLUTION NO. 251**

Mr. Arsenault presented the following resolution, and moved its passage with a second from Mr. Stevens that the Town Board of the Town of Johnsbury reappoints Mr. Philip D. Goodman Jr. as a member of the Zoning Board of Appeals for a term ending December 31, 2017. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 0

**COMMITTEE REPORTS:**

OLD BUSINESS:

Supervisor Vanselow noted that interviews have taken place for the Town Assessor position; he added that no decision has yet been made as of yet. Supervisor Vanselow said that it was possible that one more interview may be held and that the issue will be discussed at the next Town Board meeting on December 4, 2012.

Supervisor Vanselow to the Town Board that as a result of the date of the letter of retirement from Justice French that the municipal justice training courses will be beginning on Monday, November 26 and if the Town Board wishes to appoint an individual to fill the position then the Town Board must act tonight. Supervisor Vanselow said that as a result of telephone conversations with Judge V. Caruso of the Unified Court System, Fourth Judicial District, that it is apparent that Judge Caruso would prefer that the Town Board appoint an individual to fill the position.

Supervisor Vanselow said that he had mixed feelings about the timing of the process as he had hoped to have a more open and long term process than would now be the case if the Town Board wishes to act tonight. Supervisor Vanselow asked Mr. Drew Hayes a resident of North Creek in the Town of Johnsbury if he was still interested in being appointed to the position of Town Justice. Mr. Hayes said that he was and that he had his letter of interest with him; Mr. Hayes read the letter and delivered it to the Town Clerk. Mr. Hayes said that he was waiting for the position to be posted to deliver it to the Town Board. Supervisor Vanselow explained that there was another individual who had expressed interest in the position; he noted that if the Town Board appointed an individual to the position that the term of the appointment would expire on December 31, 2013 and that the position would be on the ballot in the November 2013 general election.

Supervisor Vanselow invited Mr. Hayes to make a presentation to the Town Board. Mr. Hayes said that he was interested in being appointed to the position and that he had graduated from Johnsbury Central School in 1995 with an advanced Regents Diploma; he added that while he was young, he was hard working and eager to learn and that he had been instrumental in getting water bottle return legislation presented in Youth and Government and that the legislation was enacted by the NYS legislature. Mr. Hayes said that he was an Eagle Scout and that he had training from the Boy Scouts in setting up a conflict resolution court. Mr. Hayes added that he has worked on the Youth Committee and taught a tennis class under the Youth Committee. Mr. Hayes said that he has lived in the Town of Johnsbury since he was five and that he has been very involved in volunteering in the Town and that he is very interested in law and the legal system.

Mr. David Bulmer asked if the current Justice would be willing to extend his resignation date. Supervisor Vanselow said that he was quite sure that there would be no extension by the current Town Justice.

Ms. Nightingale asked what would have been done if Justice French had retired on December 31, 2012 without the option of available training. Supervisor Vanselow said that under that condition the Unified Court System would have to appoint a temporary Justice to fill the position. Ms. Nightingale asked if the case load was known. Supervisor Vanselow said that it was not

known.

Mr. Stevens asked if the normal way of filling this position would be through the personnel committee. Supervisor Vanselow said that it appears that in the past that the entire Town Board has handled interviews and discussions for elected positions. Mr. Stevens asked what if there were numerous applicants. Supervisor Vanselow said that it would still be the entire Town Board conducting the process. Mr. Stevens asked how the interview process would be held; in either executive session or open session. Supervisor Vanselow said that it would be at the Town Board discretion, but the questions would have to be carefully crafted to avoid any personal information if done in open session. Mr. Stevens said that he was not sure that there is adequate time or information for conducting an appointment discussion at this time. Supervisor Vanselow said that he agreed and that this was not his preferred method, but Unified Court System Judge Caruso was very strong in urging that the Town Board appoint an individual to fill the vacancy and that it be done tonight so as to allow that individual to take the training course beginning next week. Supervisor Vanselow added that he is worried that an individual who is appointed to fill the vacancy would have an advantage if they were to run for the position in the next general election. Supervisor Vanselow said that if the Town Board did not wish to appoint tonight that he would call Judge Caruso tomorrow and explain the situation to him and ask that he appoint a temporary Justice to fill in until the next training session in either March or April of 2013. Mr. Arsenault said that the temporary Justice would be in the position for about six months; Supervisor Vanselow agreed and added that that is what Judge Caruso wants to avoid.

Supervisor Vanselow said that he believed that there was a reciprocal agreement with the Town of Chester, but upon further examination the agreement only covers recusals on singular cases and is not a blanket agreement. Supervisor Vanselow said that he spoke with Judge McDermott from the Town of Chester and that Judge McDermott indicated that he was not interested in the additional work load.

Mr. David Bulmer asked what the time frame was and asked if a resolution to allow a portion of the Town Board to interview and move forward would work. Supervisor Vanselow said that there was no additional time with the class beginning on Monday and the Thanksgiving holiday in the middle.

Mr. Arsenault said that it appears from his resume that Mr. Vincent Schiavone has considerable court experience in his previous occupation. Mr. Stevens agreed and noted that Mr. Schiavone had served on Town committees in a volunteer capacity. Supervisor Vanselow said that he was impressed with Mr. Schiavone's court experience.

#### RESOLUTION NO. 252

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Arsenault, to appoint Mr. Vincent Schiavone to fill the position of Town of Johnsbury Justice for a term to begin following the resignation of Judge James French becoming effective as of November 30, 2012 and continuing through December 31, 2013. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 0

Supervisor Vanselow said that the Town Board appreciated Mr. Hayes offer and interest and urged him to consider running for the position when it is on the ballot next year.

**NEW BUSINESS:**

Secretary Cherie Ferguson asked that the Town Board pass a resolution to authorize the health savings account payments for the Town employees to be made during December 2012. Sect. Ferguson explained that a check in the total amount of \$19,687.50 will be made out to the Glens Falls National Bank and deposited into the health savings accounts of the Town employees as agreed during the 2012 Town budget discussions.

**RESOLUTION NO. 253**

Mr. Arsenault presented the following resolution, and moved its passage with a second from Ms. Nightingale that the Town Board authorized the Town Supervisor to make deductible payments to employee's health savings accounts in the Glens Falls National Bank in the total amount of \$19,687.50 prior to December 31, 2012. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 0

Secretary Cherie Ferguson explained that in addition to the resolution to approve the in house health saving accounts for Town employees who are not eligible to have health savings accounts and/or deposits made to them for the following reasons: two employees are not allowed to have health savings accounts due to having been or having spouses who were members of the military and one whose age being over 65 does not allow a deposit to be made in his health savings account. These payments will be retained in accounts for these employees by the Town of Johnsbury and will be in the total amount of \$4500.00. Sect. Ferguson asked that the Town Board pass a resolution to authorize the payment of these funds into the employee accounts.

**RESOLUTION NO. 254**

Ms. Nightingale presented the following resolution and moved its passage with a second from Mr. Stevens that the Town Board authorizes the Town Supervisor to continue to manage health insurance policy reimbursement funds for the two employees who are not eligible for a health savings account in the same amounts as would have been approved if they had been able to have health savings accounts created for them and further, that the Town Supervisor is authorized to create and manage a third health insurance policy for an additional employee reimbursement fund in the same amounts as would have been approved if he had been able to have health savings account deposit and further, that the total amount of these funds will be \$4500.00. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 0

Supervisor Vanselow explained that a new company is going to perform a fireworks display at the Gore Mountain Ski Center on January 20, 2013; this company is requesting that the Town of

Johnsburg issue a fireworks permit for the display. Supervisor Vanselow said that the company, Young Explosives Corporation, has given the Town copies of its insurances. Mr. Stevens asked what the reason for this apparently new policy was. Supervisor Vanselow replied that the Town had issued pyrotechnic licenses in the past for events such as the Fourth of July, but not recently.

#### RESOLUTION NO. 255

Mr. Stevens presented the following resolution, and moved its passage with a second from Ms. Nightingale to authorize the Town Supervisor to issue a permit authorizing the Young Explosives Corporation to detonate (set off) pyrotechnics (fireworks) at the Gore Mountain Ski Center on January 20, 2013. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 0

Supervisor Vanselow noted that the Zoning Enforcement Officer report for the month of October 2012 was in the Town Board members' packets.

Supervisor Vanselow asked that the Town Board authorize the Town Supervisor to execute the contract with Standard Medical Services for employee drug screening for the year beginning January 1, 2013 through December 31, 2013. The exam costs will be as follows: urine screening \$45.00 each, alcohol breath testing \$21.00 each and Department of Transportation physicals \$90.00 each; this is the same as the 2012 contract.

#### RESOLUTION NO. 256

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Arsenault, to authorize the Town Supervisor to execute a contract Standard Medical Services for employee drug screening for the year beginning January 1, 2013 through December 31, 2013; and further that by the contract the exam costs will be as follows: urine screening \$45.00 each, alcohol breath testing \$21.00 each and Department of Transportation physicals \$90.00 each and non-Department of Transportation physicals \$60.00 each. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 0

#### RESOLUTION NO. 257

Mr. Arsenault presented the following resolution and moved its passage with a second from Ms. Nightingale that the following certified bills which have been reviewed by the board members be paid: General Fund (Total 22,606.81) - Claims #2012-927 through #2012-942 and #2012-956 through #2012-962; Highway Fund (Total \$53,230.58)- Claims #2012-943 through #2012-948 and #2012-964 through #2012-970; North Creek Water Dist.(Total \$1438.44)- Claims #2012-938 and #2012-954 and Claim #2012-955; Library Fund (Total \$2038.18) - Claims #2012-949 through #2012-953; and Capital Projects Funds (Total \$53.88) Claims #2012-932; Johnsborg Fire Protection District (Total \$590.00) Claim #2012-962; Total all warrants \$79,957.89. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 0

PRIVILEGE OF THE FLOOR

None

Supervisor Vanselow asked that the Town Board now move into executive session to discuss pending litigation and contract negotiation regarding the Wevertown Vol. Fire Company. Mr. Mike Mender asked if any Town Board action was expected following the executive session; Supervisor Vanselow said that no formal Town Board action was expected to result from the executive session.

Ms. Nightingale presented the following motion, with a second from Mr. Arsenault to enter into executive session for the purpose of discussing pending litigation and contract negotiation regarding the Wevertown Vol. Fire Company at 7:30pm. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 0

Ms. Nightingale presented the following motion, with a second from Mr. Arsenault to adjourn the executive session for the purpose of discussing pending litigation and contract negotiation regarding the Wevertown Vol. Fire Company; and further, to reenter the regular session at 8:11pm. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 0

A motion to adjourn the meeting was presented by Ms. Nightingale with a second from Mr. Stevens at 8:12pm. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 0

The next regular Town Board meeting will be held at 7:00pm on December 4, 2012 at the Wevertown Community Center, Wevertown, New York.

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Prepared by William Rawson, Town Clerk