

**Minutes of the Town of Johnsburg Regular Board Meeting August 21, 2012  
Held at the Tannery Pond Community Center, North Creek, NY. Including the Public Hearing on the Proposed All Terrain Vehicle Road Usage Law and the Bid Opening for the Playground Equipment Bid**

Minutes of the regular meeting of the Town Board of the Town of Johnsburg held on Tuesday, August 21, 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 Arsenaault, Katharine Nightingale, Peter Olesheski, Jr, Arnold Stevens; 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 in the North Creek News-Enterprise edition of August 11, 2012. Bid packets were requested by the following companies: Pro Grade Online, John P LaRue, Inc., American Recreational Products, Reed Construction Data, MRC Recreation, Inc. Two bids were returned by John P LaRue, Inc. and American Recreational Products. The proposals were opened and read aloud as follows:

John P LaRue, Inc	\$18,179.00
American Recreational Products	\$24,936.00

**PUBLIC HEARING**

The Public Hearing on the proposed All Terrain Vehicle Road Usage Law was called to order at 7:07pm by Supervisor Vanselow. Supervisor Vanselow asked that all persons having input please raise their hand and wait to be called upon and then identify themselves to allow for completeness of the record. Supervisor Vanselow said that this was not a time for a back and forth discussion with the Town Board, it is a time for the Town Board to receive information from the public. Supervisor Vanselow added that later in the meeting following the closure of the public hearing that Town Board will discuss the local and may take action at that time. Supervisor Vanselow asked that the Town Clerk read the legal notice and noted that Mr. Olesheski would give some remarks detailing the local law to open the public hearing.

The Town Clerk read the legal notice as it appeared in the August 4, 2012 edition of the North Creek News – Enterprise. The Town Clerk noted that there had been received 42 letters in favor of the proposed law and 21 opposed; the letters will be made a part of the record. Supervisor Vanselow asked for comment from either the Town Board or the public. Secretary Cherie Ferguson noted that in the Facebook poll the count was 62 in favor and 18 opposed at about 6:30pm.

Mr. Olesheski thanked those individuals who came to public hearing to give the Town Board their input; then read the following prepared statement:

I would like to take a minute to give a brief synopsis of my proposal and some back-story on why this is important to me. (There are copies of the whole proposal here on the table, if anyone wants to thumb through it.)

As some of you already know, this proposed law would NOT open all Town roads in Johnsburg to ATV travel, nor would it be a giving ATV riders license to operate in a manner inconsistent with State law or in a reckless, dangerous or unsafe manner. The intent of the proposed law is to grant lawful ATV operators use of portions of designated Town roads in order to make a connection between two ATV trails adjacent to that particular road, when, in the opinion of the Board, it is otherwise impossible to make said connection without using the road.

State law is clear, it is within our right as a local government agency to designate and open sections of any roads under our jurisdiction for ATV travel and I feel strongly that we must do this for our residents. Since 2007 the Town Board has had several requests to pass such a local law, but nobody has followed through. I am committed to answering the call and working to ensure that this law is passed, so that the Johnsburg Town Board does not stand in the way of landowners who wish to lawfully use their properties for recreational purposes.

I know that there are concerns about safety and potential damage to public and/or private property, which may cause some people to take up opposition to my proposal. However, we must remind ourselves that ATVs are currently travelling on many Town roads across the State. After talking with Town officials and members of ATV enthusiast groups from across New York, it is pretty apparent that the majority of riders understand that riding on a public highway is a privilege and NOT a right. This is proven by the very limited reports of increased accidents or road destruction in areas where ATVs are allowed on Town roads. In this case, I would argue that any risks that the Town assumes will be outweighed by the benefit to our residents who want to see this law passed.

Finally, I want to mention the potential that ATVs possess in terms of bringing both visitors and revenue to our small community. At the moment there are groups working hard in southern Warren County, as well as Saratoga County to create a network of trails, which would allow ATV riders to travel long distances in a similar fashion to snowmobilers. Some may say it is farfetched, but I strongly believe that passing this proposed law could be the first step to bringing a system of ATV trails through Johnsburg and in turn boost our local economy. Perhaps there is someone in Johnsburg who wants to start an ATV or enthusiasts club or even a business to cater to visitors seeking an alternative recreational experience to hiking, bicycling, etc. I really believe that they sky is the limit here.

I also believe that the Johnsburg Town Board has a responsibility to promote any and all forms of legal recreational land use, especially when our residents request that of us. So, I conclude by asking my fellow Board members and all others in attendance at tonight's public hearing, to keep an open mind. Let us have a reasonable, adult discussion and see if this proposed law makes sense for Johnsburg and our residents. I think it does. Thank you.

Mr. Peter Heid delivered approximately about 25 letters in favor of the proposed local law.

Mr. Olesheski said that this would make the count about 67 in favor to 21 against.

Mr. Gordon Oehser asked if all ATV's would have to be licensed and insured and said that it was reprehensible of the Town Board to consider Face Book responses.

Mr. Paul Heid said that there was a lot of support for the proposed local law from the business community; he added that it was possible that the speed of ATV's may be slower if the road use is legal. Mr. Paul Heid said that it would give the Town a more enforceable law and he noted that the 13th Lake Road area of North River would not be a good area for ATV use as there are private parcels backed up by state land which is not available for ATV use. Mr. Paul Heid said that he has travelled to areas where ATV's are allowed on public roads and there does not appear to be much if any damage and the ATV riders can share the road well with automobiles.

Mr. Thomas Asktens asked if the people of Coulter Road don't deserve the same rights as those of 13th Lake Road.

Mrs. Irene Kohn, 13th Lake Road, said that as well as herself she was representing the Garnet Hill Property Owners Association which represents 100 property owners. Mrs. Kohn read a statement of opposition to transforming the Town of Johnsburg into a mecca of ATV use; she added that there were concerns about safety issues for both the riders of ATV's and the drivers of automobiles when sharing the Town roads and also, maintenance issues regarding the roads and shoulders of the Town roads. Mrs. Kohn added that the Garnet Hill Property Owners Association believes that it will also increase the responsibility for those enforcing the laws and add to liability for the Town as a result of accidents. Mrs. Kohn said that there are environmental issues associated with ATV use as well. Mrs. Kohn delivered her statement to the Town Board.

Mr. Rusty Heath, Fort Ann, he said that he sits on the executive board of VASA, which represents 22 ATV clubs, with over 800 miles of trails. Mr. Heath said that each club has its own officers and oversees its trails and checks to see that its members have licenses and insurance. Mr. Heath added that the ATV clubs and ridership provided an economic boost to the surrounding communities and that they also operate maintenance programs to help upkeep the roads on which they ride. New York State should do something for the ATV riders.

Mrs. Barbara MacNaughton, River Road, North Creek, she said that the road is very narrow between her house and the North Creek and that the current ATV riders don't have helmets and seem to be driving at speeds of 40 mph or faster and go on both sides of the road and down the middle of the road.

Mrs. Anne Morse, The Glen, asked how many of the letters and Face Book entries were from residents; Supervisor Vanselow replied that no count had been kept of that although as public records they are available for review by anyone. Mrs. Morse said it was possible that the letters could have come from ATV clubs anywhere in or even out of the state, not just Town residents. Mrs. Morse asked if the right to use the Town roads is to connect trails open to the public; Supervisor Vanselow replied that this is correct. Mrs. Morse said that she was strongly opposed to ATV's using Town roads for all the reasons previously mentioned; she added that there are lawful ATV riders, but most of the riders she sees are not attempting to be legal.

Mrs. Kelly Nettle wondering where were the public ATV trails in the Town of Johnsburg; Supervisor Vanselow replied that there are none. Mr. Olesheski replied that the mindset is that there are property owners with trails which could be opened to the public, but it does no good for

individuals to open trails at different ends of River Road when ATV riders can't go from one end to the other. Mr. Olesheski said that the property owners ask why create the trails if the Town won't allow road use to go between the trails; imagine the amount of work to be done by property owners when the use of the Town roads may not be allowed.

Mr. Rick Morse, The Glen, said that the ATV riders could trailer their ATV's from one site to another.

Mr. Robert Towne, SAFE ATV Club, Thurman, said that in 2003 a trail program was begun and currently about 80 miles of trails and the Town Board allowed use of the Town roads to access trails; a new Town Supervisor has shut down the use of the Town roads and he doesn't believe that it is fair. Mr. Towne said that it would be better to have the law authorizing the Town road use so that it couldn't be easily shut down.

Mr. Lyle Dye, North Creek, said that there have always been ATV riders going up and down the hill on East Holcomb Street where he lives and also causing damage to the private road upon which he lives; he added that the owner of the private road refuses to repair the road although there are several handicapped residents, a home for disadvantaged children and a nursery.

Mr. Ken Whitney, Johnsbury, said that he has questions about who would be enforcing the proposed local law; he added that there is currently a great deal of abuse by the ATV riders and who would stop that if the proposed local law was passed.

Mr. Hawk Millington, North Creek resident and property owner on River Road, he said that everyone rides on River Road; as a taxpayer he believes that he should be able to ride ATV's on Town roads. Mr. Hawk Millington asked who enforces the laws about wearing helmets while bicycling.

Mr. Keitan Millington, North Creek business owner, he said that he has a twelve year old son who says "Dad, I want to be a criminal and ride an ATV on the road"; his grandfather owns about two hundred acres and would like to use ATV for hunting and berrying. Mr. Keitan Millington said he doesn't want to incur the added expense of moving his ATV by trailer. Mr. Keitan Millington said that ATV's don't need to do damage. It would be good for the Town of Johnsbury to become a connecting link for surrounding communities.

Mrs. Barbara MacNaughton, River Road, asked if as a homeowner and taxpayer we have no rights to protect our property.

Mrs. Amy Cleveland, Bakers Mills resident and ATV owner, said that she doesn't like to be treated as a criminal for riding ATV's safely and according to the current laws with her granddaughter. Not everyone in the Town of Johnsbury wants to ski; she added that she owns a snowmobile and sees many snowmobiles going past to Speculator and Indian Lake which could stop here and spend money in Town because the trails in town aren't open.

Mr. Randy LaFountain, North Creek, said that he was concerned about the Face Book poll and asked for a new count to get a total; Mr. Olesheski replied that the total between the Face Book poll and the correspondence would be about 139 against and 120 in favor. Supervisor Vanselow said that if we want to play the number game that there is a letter from the Chatiemac Village Association representing about 60 individuals. Supervisor Vanselow said that emails were also counted.

Mr. Ted vonCzoerning, Johnsbury, said that he believes that he doesn't want to disrespect to people from out of Town that the Town Board should only be counting the people from in Town

as those are who being represented by the Town Board.

Mr. Steven Hayes, North Creek, said that the problem he has with emails and letters is that there could be duplication. Mr. Hayes asked if the Town Attorney has been contacted about liability to the Town if the proposed local law is enacted. Supervisor Vanselow said that the Town had received legal advice about the language of the proposed local law; the law is based on what the state law allows. Supervisor Vanselow said that the proposed local law will not open a foot of Town roads to ATV use.

Mr. Donald Walp, Johnsburg, said that Cleveland Road has finally been put in good shape and he believed that allowing ATV riders to use Town roads will cause damage and create expense for the taxpayers; he added that it will destroy the serenity of the area and asked that the Town Board not even consider the proposed local law.

Mr. Gene Lashway, SAFE and NCATV Association, said that his ATV club has volunteers to assist law enforcement in policing the roads and trails.

Mrs. Helen Miner, North Creek, said that she believes that the process is moving too fast. Mrs. Miner asked on what roads is ATV use being requested? Mrs. Miner said that River Road is often damaged by ATV riders going at high speeds following its repair by the Highway Department. Mrs. Miner raised questions of enforcement and said that without knowing which roads are being requested that the issue can't be tackled. Mr. Olesheski replied that the proposed local law sets the foundation for residents to come before the Town Board to ask for use of a Town road to connect publicly accessible trails; he added that there would be public hearings for each request to access Town roads. Mr. Olesheski said that there are sections of Town roads which should not be opened for ATV use; he added that he found it hard to believe that there are no Town roads which could be opened to allow ATV use.

Mr. Thomas Forrest, North River, said that he doesn't think that allowing ATV's on Town roads is a good idea. Mr. Forrest said that if the area becomes a mecca for ATV use that there will be a great deal of use of Town roads by non-residents and therefore, increased damage to citizens on Town roads and many of the riders will leave and the Town will have to repair the roads. Mr. Forrest said that there was no available law enforcement, there is a possibility of injury to auto users and there is an increased possibility of liability to the Town as a result of accidents. Mr. Forrest said that frequently kids as young as 10 years of age are using ATV's and serious injuries result. Mr. Olesheski replied that the proposed local law says that operators need to be at least 18 years of age.

Mr. Ken Mulvey, Bakers Mills, identified himself as an avid ATV rider and said that any activity can be dangerous, he noted the ambulance calls to Gore Mt. during ski season and as far as road dangers Peaceful Valley Road is dangerous during ski season. Mr. Mulvey said that ATV riders can generate a lot of revenue as well. Mr. Mulvey agreed that the machines need to be registered and insured; he believes that it would be a good thing if fully explored and not rushed into.

Mr. Paul Heid, Garnet Lake, made the point that there is no legal operation on any Town roads at this time; he added that he works in a business which sells and services ATV's and noted that he has called the authorities when he has seen illegal use. Mr. Heid said that he believes that this will give the Town a way to get a handle on the problem of illegal ATV use.

Mr. Peter Heid, Bakers Mills, said that currently only the illegal riders are seen on the roads,

not the responsible drivers which should be encouraged. Mr. Heid said that the state law left the issue of travelling between public trails purposely vague and would allow travel between private properties. Mr. Heid said that responsible ATV use does not hurt the roads, but helps get rocks off the dirt roads. Mr. Heid said that possibly the number of signatures on the letters should be counted. Mr. Heid said that he spent his vacation in the Tug Hill plateau area and that ATV use is allowed in the parks as there are many responsible riders.

Ms. Mary Flad, Chatiemac Road, said that over the past ten years that she has seen a lot of ATV use on a trail that connects to state land and includes underage children using the ATV's. Ms. Flad says that she understands the desire for recreational activity and that recently the speeds seem to be reasonable, but very young children ride above thirty miles per hour. Ms. Flad said that she was concerned when her grandson was playing near the trail due to ATV use. Ms. Flad and would hope that there will be a way to arrive at where ATV's should be allowed and where they should not be allowed. Ms. Flad added that she believed that ATV's should not be allowed on Town roads as late as 10:00pm as the proposed local law would allow.

Ms. Judith Harper, Johnsburg, said that this is an issue of grave concern to her due to a group of ATV riders who tore up Coulter Road and when the Sheriff said that there would be no enforcement since the ATV's needed someplace to go. Ms. Harper asked if the Sheriff would begin enforcing the law and asked if the Town Board cared about enforcement. Mr. Olesheski said that Ms. Harper seemed to be looking at him particularly and asked if she was asking him specifically. Ms. Harper said that she was looking at the entire Town Board.

Mr. Robert Towne, SAFE ATV Club, Thurman, said that he and his wife ride ATV's and they go to the Tug Hill plateau area where there are 600 miles of connected trails. Mr. Towne said that he had a map which he could show the Town Board of the Lewis County trails. Mr. Towne said that the clubs help patrol the trails and the state police and sheriff do come in and enforce the laws. Mr. Towne added that the residents are very pleased to see the ATV riders due to the economic boost they give the area.

Ray Coleman, New York State resident and president of the East Rutland ATV Club, said that his club members do report illegal riders and has worked on trails and doesn't want to see illegal or dangerous riding and he believes that passing the proposed local law would cut down on illegal ATV use. Mr. Coleman added that the average age of the members in his club is about 50 years of age and it is not only kids riding ATV's. Mr. Coleman added that in Vermont the dirt roads are ridden a lot and not damaged.

Mr. Hawk Millington, North Creek resident and property owner on River Road, said that riding a bicycle without a helmet is as dangerous as riding an ATV and no one enforces that law.

Mr. Robert Nettle, Johnsburg, said that he wondered if the proposed local law would cover state or county roads; Supervisor Vanselow replied that it did not deal with either. Mr. Nettle said that the Town of Johnsburg is cut into zones by state and county roads and this would lock the ATV's into small self controlling zones. Mr. Nettle asked if Warren County would allow the use of county roads. Mr. Olesheski said that the Town does not have to govern the state and county roads as both the state and the county allow the crossing of their roads; not necessarily allowing travel along those roads.

Mr. Ralph Dubay, North Creek, explained that he served as a Town Justice for 28 years and has a reasonable knowledge of the law. Mr. Dubay said that to take a course to ride an ATV you

must ride with an adult up to the age of 16 years of age; riding double is illegal. Mr. Dubay said that he owns an ATV and belongs to a club where he pays 1200.00 per year to ride legally and trailer his machines 34 miles to do that.

Mr. Joseph Delczeg, Riparius, said that part of the negative feedback is because it appears to be opening the entire length of all Town roads to ATV use; he added that if there was more description of what roads would be used it might be better received. Mr. Olesheski said that the proposed local law is same as that used in other municipalities which allow the use of ATV's on roads. Mr. Olesheski said that without this law being passed that the Town board could not even entertain the possibility of opening a road to ATV use.

Mr. Scott Lorey, representing the Adirondack Council, listed a number of concerns over the opening of Town roads to ATV use. Mr. Lorey listed the following potential problems associated with allowing ATV use on the Town roads: environmental damage, access for trespass; potential damage to Town roads; there are more than just a few bad apples; the Town's insurance carrier, NYMIR, has concerns and expressed in a Spring 2006 newsletter, NYMIR said that allowing ATV use on municipal roads was not in the interest of the municipality. Mr. Lorey showed damage resulting in Lewis County from an ATV event and said that this could happen to Town of Johnsbury roads. Mr. Lorey presented the NYMIR newsletter and related documents to the Town Board and asked that the Town Board members consult the Town insurance carrier prior to taking action on the proposed local law.

NYS Trail Riders representative, he explained that the damage cited by Mr. Lorey happened an event attended by 4000 riders and said that while damage was done that it was repaired by the clubs themselves. The gentleman added that the proposed local law was the correct way to move forward and he said that this was allowable and could be added to the Town insurance at no additional expense.

Mr. Paul Heid, Garnet Lake, said that the while the Warren County Sheriff may not enforce, but the Forest Ranger does enforce. Mr. Heid said that responsible ATV riders should be painted with a black brush as many ride responsibly and do no damage.

Mrs. Barbara Delczeg, Riparius, said that she has no problem with her neighbors using River Road to access their property; she does object to the possibility of large numbers of riders from outside the area as the road is already in terrible shape and she believes that it will increase the garbage which is left in the back needing to be cleaned up. Mrs. Delczeg said that it would be better to limit the road use to residents.

Mr. John Wood, Hartford, NY, said that he is the president of an ATV club with 200 riders and have been in existence for 10 years and they do not tear up the roads and are not criminals and that he personally has never had a broken bone from an ATV accident.

Mr. Robert Towne, Thurman, said that he met with Jeff Tennyson, Warren County DPW Superintendent and he said that if landowners would open their property that he would be willing to seek the opening of Warren County roads to ATV use.

Mrs. Anne Morse, The Glen, wanted to reinforce the point that a large number of those speaking in favor of the proposed local law are not residents or taxpayers of the Town of Johnsbury.

Mrs. Gretchen Kirby, Johnsbury, said that she is a sixty year old ATV rider who would like to be able to legally go from one piece of property to another in the Town of Johnsbury; she added

that she has lived here her entire life.

Mr. Donald Goodspeed, North Creek, said that he both lives in and pays taxes in the Town of Johnsburg and has ridden ATV's for about 15 years. Mr. Goodspeed said that he doesn't cause road damage and that opening Town roads to ATV use would make for easier access and suggested beginning with the seasonal roads.

Mr. Peter Heid, Bakers Mills, asked who will pick up the garbage from the automobiles.

Mrs. Amy Cleveland, Bakers Mills, said that property owners as well as residents should have the right to be heard on this issue.

Mr. Randy LaFountain, North Creek, said that his main issue is do we want to become a mecca for ATV use. Mr. LaFountain said that the Town Board needs to look at what do we want the Town of Johnsburg to become long term.

Ms. Carolyn Bischoff, Sodom, came here looking for the quiet of the area and doesn't want this to become a mecca for ATV use. Ms. Bischoff said that she understands that not everyone wants the same thing, but both sides need to be heard.

Mr. Gene Lashway, SAFE and NCATV Association, said that the ATV's are quiet; Mr. Lashway said that he has never had a problem getting an enforcement response from the sheriff.

Mr. Peter Heid, Bakers Mills, said that ATV's are regulated for noise, although they can be modified and possibly that should be a part of the regulation. Mr. Heid added that if ATV's are operated responsibly they are no different from cars.

Mr. Tom Asktens, Coulter Road, said that he doesn't like the selective opening of Town roads; he asked why not open the area near 13th Lake. Mr. Asktens said that all Town roads should be opened and then see what the reaction to the proposed local law would be. Mr. Olesheski said that state law would not allow opening Town roads to that extent.

Mr. Donald Walp, Johnsburg, said that this is an environmental issue as many ATV's are loud and there are the fumes from the machines and often they cause road destruction.

Mr. Robert Towne, Thurman, said that in Hartford that are specific regulations on mufflers and the operation of aggressive tires.

Mr. Gordon Oehser, Bakers Mills, said that he has never been a resident although his family has paid taxes for about 60 years and while he cannot vote he can talk with the Town Board members and that is part of the democratic game.

Mrs. Kelly Nettle asked if there was a way to curtail the use at certain times of the year as that may mitigate damage.

Mr. Robert Towne, Thurman, said that his club opens the trails in early May and closes them in early October and if ATV's are operating at other times then the sheriff gets called to enforce the laws.

Mr. David Bulmer, North Creek, asked if there had been specific areas discussed regarding ATV use. Mr. Olesheski said that what drove the request for the law was three residents asking to use a section of River Road between Vacar Road and the seasonal section.

Mr. Ted vonCzoerning, Bakers Mills, said that following the ATV's will probably come snowmobiles and where will it stop. Mr. Olesheski said that he doesn't know where it will stop or if it needs to stop.

Mr. Hawk Millington, North Creek resident and property owner on River Road, said that most of the roads get closed for mud season and he would expect that it would be the same for ATV



use.

Supervisor Vanselow asked for a motion to close the public hearing and to return to the regular portion of the meeting.

Mr. Olesheski presented the following motion and moved it forward with a second from Mr. Stevens to adjourn the proposed All Terrain Vehicle Road Usage Law at 8:30pm and to return to the regular portion of the meeting. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

The Public Hearing was closed at 8:30pm.

Councilman Arnold Stevens asked for a 5 minute break, Mr. Arsenault agreed and Supervisor Vanselow announced a break until 8:35pm.

#### RESOLUTION NO. 186

Mr. Olesheski presented the following resolution, and moved its passage with a second from Mr. Stevens, to accept the minutes of the August 7, 2012, regular Town Board meeting as written. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Olesheski, Stevens, Vanselow) Nays - 0 Abstained-1 (Nightingale)

(Mr. Olesheski left the meeting at 8:35pm)

#### CORRESPONDENCE:

1. A letter from Mr. Victor Sasse asking the Town Board contact Saratoga-North Environmental Conservation Law and to remove the dead vegetation which is a fire hazard.
2. Municipal Shelter Inspection Report from the New York State Department of

#### COMMITTEE REPORTS:

#### OLD BUSINESS:

Supervisor Vanselow noted that as Mr. Olesheski was absent that he would proceed with the discussion of the Town Assessor position before discussing the proposed ATV Law.

Supervisor Vanselow explained that Assessor Ann Deppe had retired on June 30, 2012; he added that Mrs. Deppe has offered to remain in the position to aid in transition and to train an assistant if the Town Board would agree to a wage of approximately \$1000.00 per month. Supervisor Vanselow said that both he and the Personnel Committee (Nightingale, Olesheski) have had discussions with Mrs. Deppe she will assist with the advertising for a replacement. All involved (Supervisor Vanselow, Personnel Committee, Mrs. Deppe) agree that it would be good to have someone in the office part time to answer basic questions and look up parcels on maps and it Supervisor Vanselow and Mrs. Deppe suggest that Deputy Town Clerk Jo Ann Smith be appointed to act as an assistant for a few hours per week.

(Mr. Olesheski returned to the meeting at 8:45pm)

Supervisor Vanselow would like the Town Board to authorize the rehiring of Mrs. Ann Deppe as

acting Assessor at a rate of thirty dollars per hour for one day per week. Ms. Nightingale said that \$30.00 per hour seems to be about average for an Assessor; Mr. Olesheski said that Mrs. Deppe will keep the assessment rolls updated, but does not plan to interact with the public as she had done in the past. Supervisor Vanselow said that in any given month the amount any be less than the \$1000.00 figure. Supervisor Vanselow asked if the Town Board wished to move to allow rehiring of Mrs. Ann Deppe as acting Assessor at a wage of \$30.00 per hour for approximately one day per week (8 hours per day).

#### RESOLUTION NO. 187

Ms. Nightingale presented the following resolution, and moved its passage with a second from Mr. Olesheski, to approve the rehiring of Mrs. Ann Deppe as Assessor at a wage of \$30.00 per hour for approximately one day per week (8 hours per day) at an estimated maximum cost of \$1000.00 per month. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

Supervisor Vanselow asked that the Town Board authorize himself to speak with Assessor Ann Deppe regarding estimated hours for an assistant to the Assessor and to make an offer to Mrs. Jo Ann Smith based on that conversation and at the same rate of pay as the Deputy Town Clerk. Ms. Nightingale said that she would like to see the Assessor's office to be accessible to the public on a standard basis. Secretary Cherie Ferguson said that the job load fluctuates during different times of the year and the hours may do the same.

#### RESOLUTION NO. 188

Mr. Olesheski presented the following resolution, and moved its passage with a second from Ms. Nightingale, to authorize the Town Supervisor to speak with Assessor Ann Deppe regarding estimated hours for an assistant to the Assessor and to make an offer of hours to Mrs. Jo Ann Smith based on that conversation and at the same rate of pay as the Deputy Town Clerk and to hire Mrs. Jo Ann Smith if an agreement is reached. 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 Board had held a public hearing on the proposed All Terrain Vehicle Road Usage Law and noted that now was the time for the Town Board discussion of the proposed local law. Supervisor Vanselow said that he believed that there were two paths available at this time; the Town Board could either table the proposed law in order to digest the information provided during the public hearing or bring it to a vote at this time. Supervisor Vanselow said that he would leave it up to the other members of the Town Board which they would prefer to do. Mr. Olesheski said that it was pretty obvious that he is in support of the proposed law and is committed to getting this local law passed. Mr. Olesheski said that he is not opposed to tabling the discussion and vote on the proposed law if other members of the Town Board need more time to digest the information from the public hearing. Mr. Olesheski asked if any amount of time would be enough to change the minds of any of the Town Board members. If this law is not going to be moved forward, then it would be better vote now and let the supporters of the proposed law begin to work on other avenues of activity. Mr. Arsenault said that he was ready to vote now; he added that people seemed to be very forthright. Mr.

Stevens said that someone needs to do something; he made a motion to accept the law as drafted and Mr. Olesheski seconded it.

Supervisor Vanselow said that when Mr. Olesheski brought this issue forward last winter that he had looked over the folder on the 2007 proposed law and why the law wasn't accepted by the Town Board; he added that in the last six weeks especially that he had been waiting to hear of an actual place to use this law and no one has. Supervisor Vanselow said that people who have read the NYS law, including attorneys and other public officials seem to agree that the intent of the law was to link public trail systems together and that at least to have the trails open to the public. Supervisor Vanselow said that he sees a great deal of confusion over what the law would allow; the law would not open any roads, it only provides an avenue to open roads. Supervisor Vanselow said that he was worried that the passage of this law would further exacerbate the problem and that riders would leave believing that all the roads in the Town of Johnsbury were open for ATV use. Supervisor Vanselow said that he was not going to vote in favor of this law tonight; he does not believe it to be timely or useful at this time.

Mr. Arsenault said that he does not favor this law; he said that he respects the local riders' desire to access property and that he was not pleased by the expanded use. Mr. Arsenault said that retired Forest Ranger Steve Ovitt said that there could be liability issues to the Town and Highway Superintendent Daniel Hitchcock said that the potential road damage could cost a great deal to repair and upkeep; he added that it has been acknowledged that the Town is not able to enforce the law and the Warren County Sheriff may not either. Mr. Arsenault said that following the community discussion about the possible opening of Town roads that he does not believe that the Town and residents do not have the resources to help police and oversee ATV riders on Town roads as some of the individuals had spoken here as having done in other areas. Mr. Arsenault said that he believes the proposed law to be premature and said that he will vote no.

Mr. Stevens noted that he had made the motion to approve the proposed law. Mr. Stevens said that he had been approached by someone who asked if he owned an ATV and he had replied that he had owned one for about twenty-five years. The comment then came that he must ride on Town roads; he replied that he does not ride on Town roads and that he trailers his ATV between his properties. Mr. Stevens said that he sees this as a matter of convenience not necessity and that individuals, including him, are not owed the right to ride ATV's on Town Roads; he added that the lack of enforcement is a problem. Mr. Stevens said that he has issues with the wording of the proposed law and he expects the issue to be revisited. Mr. Stevens takes issue with the statement that in 2007 that the Town Board brushed aside the issue; the Town Board looked into the issue and held discussions on the issue and the Town Attorney gave the opinion that the Town roads not be opened to ATV use. Mr. Stevens said that he expects that Mr. Olesheski will bring this issue to the Town Board again. Mr. Stevens said that he would vote no at this time as well.

Ms. Nightingale said that she doesn't see ATV's as a recreational tool in her case, but as a tool. Ms. Nightingale said that she is concerned that many individuals don't seem to understand that their private trails would need to be opened to the public. Ms. Nightingale thinks that it could work, but believes that the proposed law is being rushed into.

Mr. Olesheski said that he appreciates everything that has been said by both the public and his fellow Town Board members; he added that his motivation in bringing this issue forward was to

serve the residents of the Town. Mr. Olesheski said that it appears that the Town Board is not ready to move forward at this time. Mr. Olesheski said that he would respect the decision on this issue. Mr. Olesheski said that there are some valid concerns and also some ignorance about the state laws regarding ATV's; to garner more public support will require more education of the public regarding ATV's. Mr. Olesheski said that he would work to try to improve on a proposed local law and to try again prior to the end of his term. Mr. Olesheski thanked everyone for coming and asked that the Town Board vote on the resolution.

#### RESOLUTION NO. 189

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Olesheski, that the Town Board of the Town of Johnsbury accepts the proposed All Terrain Vehicle Road Usage Local Law as Local Law #1 of 2012 as drafted (attached pages 1a through 1e). With 1 member voting in favor, and 4 voting opposed the resolution is declared not carried. Ayes-1 (Olesheski) Nays - 4 (Arsenault, Nightingale, Stevens, Vanselow)

Supervisor Vanselow noted that the next item on the agenda was to determine if the Town Board wished to award the bid for the Playground Equipment Bid which was opened earlier in the meeting. Mr. Olesheski said that he would move the acceptance of the bid by John P LaRue, Inc in the amount of \$18,179.00. Supervisor Vanselow agreed with the review of the bid by the Ski Bowl Park Committee and Ski Bowl Park grant administrator Nelly Nessle.

#### RESOLUTION NO. 190

Mr. Olesheski presented the following resolution, and moved its passage with a second from Ms. Nightingale, to accept the bid of John P LaRue, Inc. in the amount of \$18,179.00, pending review by the Ski Bowl Park Committee and Ski Bowl Park grant administrator Nelly Nessle. 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 had received a request that the restrooms in the pavilion at the Ski Bowl Park be left open during the daytime due to the parents and children using the playground at the Ski Bowl Park. Supervisor Vanselow added that the restrooms had been left open during the daytime in the past and there had been some serious vandalism as a result. Supervisor Vanselow asked if the Town Board wished to allow the toilets opened for public use during daytime hours; he suggested having the employee at the transfer station open the doors when he goes in and lock it when he leaves for the day at about 5:00pm.

Mr. Olesheski asked what type of vandalism; Supervisor Vanselow replied broken toilets, lavatories and damage to doors and walls. Mr. Olesheski said that despite the fact that vandalism has occurred that rest rooms are necessary for children in the park and they should be open. Mr. Arsenault asked about the Youth Program; Supervisor Vanselow said that the Youth Program uses those rest rooms, but there is adult supervision at that time. Mr. Arsenault said that the request was for other times without supervision; Supervisor Vanselow answered that it was when no one was in charge. Supervisor Vanselow said that it was not reasonable to have the park open and no toilet facilities available; Ms. Nightingale agreed. Mr. Arsenault suggested that leaving the rest rooms open during the day be attempted; if vandalism occurrences happen then the issue will need to be revisited.

Mrs. Kelly Nessel suggested either cameras or portable toilets. Supervisor Vanselow said that cameras in rest rooms were a problem. Mr. Peter Heid suggested non-working cameras. Mr. Stevens suggested that possibly the Town Supervisor or Parks and Buildings Superintendent look in for spot checks at irregular intervals if near the park. Mr. Olesheski said that he was not sure of the camera suggestion; possibly put up a sign asking for respect of the public building. Supervisor Vanselow said that he hoped with the improvements being made in the park that there will be more legitimate use which will help stop vandalism and illegal use. Supervisor Vanselow asked if the Town Board would act to authorize the opening of the rest rooms in the pavilion at the Ski Bowl Park during the daytime closing at about 5:00pm. Mr. David Bulmer asked if the toilets would be serviced more frequently due to the added use; Supervisor Vanselow replied that they are cleaned regularly and he believes that if more paper products and service are necessary that it will be taken care of.

#### RESOLUTION NO. 191

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Arsenault, that the Town Board authorizes the opening of the rest rooms in the pavilion at the Ski Bowl Park during the daytime closing at about 5:00pm on weekdays and weekends with the exception of holidays roughly between the hours of 9:00am and 5:00pm. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

#### NEW BUSINESS:

Supervisor Vanselow informed the Town Board that he hasn't been able to work on the budget as much as would like to so far for a variety of reasons including the auditors from the Comptrollers' Office. Supervisor Vanselow said that from a preliminary look at the 2012 budget there are several significant gaps between anticipated revenue and the actual collected revenues. Supervisor Vanselow said that he was pretty confident that the gaps would not present a serious problem for this budget year barring a large emergency. Supervisor Vanselow in looking at numbers for the 2013 Town Budget there are some significant increases in the Retirement payment and the health insurance costs still have not come in and the Warren County Self Insurance and Workers' Compensation are going up by thirty percent due to Warren County reducing its support contribution to zero percent. Mr. Arsenault asked what the increased cost in dollars for the Warren County programs would be; Supervisor Vanselow said that it looked to be about four to five thousand dollars. Supervisor Vanselow said that Warren County Real Property Tax Services had been supplying a computer program to the Towns and now they will be charging for the use of the program; the cost will be about four to five hundred dollars. Mr. Arsenault said that Warren County was learning well from New York State on passing on costs to the Towns. Mr. Arsenault asked if there were any levels of government below us; Supervisor Vanselow said he was sorry, but no.

Supervisor Vanselow said that there were several budget amendments to be acted upon; he added that these were working on some of the gaps discussed earlier. Supervisor Vanselow said that the Planning Board had needed an increase of about \$5500.00 last year and he now wanted to increase the line by \$4500.00 at this time. Also included is \$300.00 for a computer for the

Town Historian; \$800.00 for salary for the Deputy Clerk who was assisting in getting information for the audit. \$2000.00 for funding to purchase supplies to the Personnel budget line. Also, there is a re-appropriation of Occupancy Tax funds, the appropriation of Planning escrow funds and the moving of the funds to pay for a plow truck from the appropriated fund balance to the machinery/equipment fund. Supervisor Vanselow asked that the Town Board accept the budget amendments.

RESOLUTION NO. 192

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Olesheski, to accept and approve the following amendments to the 2012 Town Budget:

Budget Amendments August 21, 2012

1. Planning Board	A8020.4	\$4500.00	
Contingency	A1990.4		\$4500.00
Transfer from Contingency to Planning Board Contractual			
2. Historian	A7510.4	\$300.00	
Contingency	A1990.4		\$300.00
Transfer from Contingency to Historian Contractual for computer			
3. Town Clerk	A1410.1	\$800.00	
Contingency	A1990.4		\$800.00
Transfer from Contingency to Town Clerk for Deputy Salary			
4. Personnel	A1430.4	\$2,000.00	
Contingency	A1990.4		\$2,000.00
Transfer from Contingency to Personnel Contractual			
5. Appropriated Fund Balance	A599	\$51,108.88	
Appropriations	A960		\$51,108.88
Occupancy Tax	A6410.2	\$51,108.88	
Occupancy Tax Carryover from 2011			
6. Planning Contractual/Tall Timbers	A8020.4.7	\$242.12	
Planning Board Fees/Tall Timbers	A2115.7		\$242.12
Planning Contractual/Taylor Ledges	A8020.4.6	\$21.50	
Planning Board Fees/ Taylor Ledges	A2115.6		\$21.50
Planning Contractual/FSMD	A8020.4.5	\$4,362.49	
Planning Board Fees/ FSMD	A2115.5		\$4,362.49
2011 Balances of Planning Escrow Accounts			

7. Appropriated Fund Balance	DA599	\$193,213.77	
Appropriations	DA960		\$193,213.77
Machinery/Equipment	DA5130.4	\$193,213.77	

Transfer for purchase of plow truck as approved in December 2011, Resolution 254

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

Supervisor Vanselow noted that an estimate had been received from Jim Jones Excavating for the potable water service to be brought into the building underground to prevent freeze-up during winter weather; the existing water service piping was damaged during the fire, was not totally visible until building removal, and that damage has been documented to allow this work task to be submitted to the insurance company for project inclusion. There is a question as to whether this is a betterment, not required by Warren County code. The estimate from Jim Jones Excavating is in the amount of \$1510.00. Mr. Olesheski asked if this is absolutely necessary; he added that he doesn't want to spend taxpayer money if possible. Supervisor Vanselow said that the underground connection was recommended by the Town Engineer. Secretary Cherie Ferguson said that a water line freeze will usually require Building and Parks Superintendent Matt Olden to spend most of a work day in getting the water running again and it happens about two or three times per winter. Mr. Olesheski said that if it was absolutely necessary then do the work at the lowest possible quote.

#### RESOLUTION NO. 193

Mr. Arsenault presented the following resolution and moved its passage with a second from Ms. Nightingale that the Town Board of the Town of Johnsbury authorizes the Town Supervisor to accept the lowest quote received for connecting the water line to the transfer station below the grade so as to prevent freeze up of the water line into the building; and further that the cost be submitted to the insurance carrier for recovery. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

#### RESOLUTION NO. 194

Ms. Nightingale 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 board members be paid: General Fund (Total 17,068.15) - Claims #2012-672\* through #2012-685, and #2012-707 through #2012-711 and #2012-719, \*Claim #2012-672 already paid (National Grid \$19.87); Highway Fund (Total \$197,405.60)- Claims #2012-686 through #2012-696 and #2012-712 through #2012-716; North Creek Water Dist.(Total \$7065.79)- Claims #2012-673 and #2012-679 and Claims #2012-702 and #2012-704 and #2012-711; Library Fund (Total \$1594.57) - Claims #2012-697 through #2012-702; and Capital Projects Funds (Total \$6,561.55) Claims #2012-705 and Claim #2012-706 and #2012-717 and #2012-718; Johnsbury Fire Protection District (Total \$110.00) Claim #2012-681; Total all warrants \$229,805.66. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

PRIVILEGE OF THE FLOOR

Mr. Lloyd Burch said that the Town has lost an irreplaceable and valuable asset in the person of Town Assessor Ann Deppe due to overwork; to rehire her at \$30.00 per hour is cheap. Mr. Burch said that as a member of the Town of Johnsburg Board of Assessment Review if he does not see the Town Board moving to a reassessment immediately that he will be resigning and probably more of the members will be as well; he said that the system is crumbling and that it is indefensible and a reassessment must be done now. Supervisor Vanselow said that he discussed that issue with Mrs. Ann Deppe last week and included the issue of cost. Supervisor Vanselow reported that Mrs. Deppe said that it would be better to hire an outside firm and that some funding lines and help from Warren County have dried up. Supervisor Vanselow said that it hasn't been forgotten and that he is trying to find the money to move forward. Ms. Nightingale said that a reval was part of the discussion which the Personnel Committee (Nightingale, Olesheski) had with Mrs. Deppe and that they also want to move forward. Mr. Burch said that the crumbling assessment system is costing the Town a lot of money. Supervisor Vanselow said that the Town has made settlements and that there are more challenges being filed and that he wants to get this done.

Mr. Lloyd Burch said that as a member of the Upper Hudson Bluegrass Festival Committee that he would like to thank the Town Board for their support and the use of the Ski Bowl Park for the 9th Festival last weekend. Supervisor Vanselow said that the Upper Hudson Bluegrass Festival Co had put on a good show.

A motion to adjourn the meeting was presented by Mr. Stevens with a second from Mr. Arsenault at 9:25pm. 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 September 4, 2012 at the Wevertown Community Center, Wevertown, New York.

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Prepared by William Rawson, Town Clerk