

**Minutes of the Town of Johnsburg Regular Board Meeting February 19, 2013
Held at the Sodom Community Center (Scout Hall), Bakers Mills, NY.**

Minutes of the regular meeting of the Town Board of the Town of Johnsburg held on Tuesday, February 19, 2013 at 7:00pm at the Sodom Community Center (Scout Hall), 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: Supervisor Ronald Vanselow; Town Councilmen/ Eugene Arsenault, Katharine Nightingale, Peter Olesheski, Jr, Arnold Stevens.; Town Clerk/ William Rawson

Guests: On attached list

RESOLUTION NO. 34

Mr. Arsenault presented the following resolution, and moved its passage with a second from Mr. Stevens, to accept the minutes of the February 5, 2013 regular Town Board meeting. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

CORRESPONDENCE:

1. A letter from Superintendent of Highways Daniel Hitchcock requesting that the Town Board authorize the Town Clerk to advertise the posting of the Town roads to protect them from damage as the frost comes out.
2. A letter from Mr. James H. Smith expressing interest in being appointed to the Town of Johnsburg Board of Assessment Review.

Supervisor Vanselow asked if the Town Board members if they wished to act upon the letter of interest from Mr. James H. Smith and appoint him to the Board of Assessment Review for a term ending September 30, 2017.

RESOLUTION NO. 35

Mr. Arsenault presented the following resolution and moved its passage with a second from Mr. Olesheski that the Town Board of the Town of Johnsburg appoints Mr. James H. Smith as a member of the Board of Assessment Review for a term ending September 30, 2017. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

COMMITTEE REPORTS:

Mr. Stevens reported that the Personnel Committee (Nightingale, Stevens) were asked to present a choice for a person to clean the Town buildings. Mr. Stevens explained that both he and Ms. Nightingale had received a description of the duties and an estimate of the time to perform the duties. Mr. Stevens reported that the Personnel Committee had discussed the potential candidates and after speaking with Supervisor Vanselow and his office staff accepted his recommendation to hire Mr. Dreu Briggs, who has been hired and is at work. Supervisor Vanselow added that the Town has had three cleaners within the past year and are going to try Mr. Briggs and see how it goes.

Supervisor Vanselow said that he has come to realize that no formal hiring procedure exists

for these part-time positions and that there were several work applications on file with the Town and that if the positions were advertised and interviewed for that the Town would probably not have been able to fill the position for another two weeks. Supervisor Vanselow said that the Town Board may want to look into setting up a formal policy for such positions.

Mr. Arsenault asked if there was any consideration given as to whether the hours and the coverage are sufficient for the job. Supervisor Vanselow said that it appeared so and that the individual who was hired has a flexible schedule to allow for varied building usage.

Mr. Olesheski said that he would like there to be some uniform policy as opposed to the willy-nilly hiring of people we know and think will do a good job without advertising and interviews. Mr. Olesheski said that he was unclear about which positions can be hired without a resolution from the Town Board. Mr. Olesheski said that at the previous meeting the Personnel Committee was asked to look at the position and to make a recommendation, but he was surprised to find out at this time of a hiring when he has received no e-mails or telephone calls to notify him of the hiring recommendation or action. Supervisor Vanselow asked Mr. Olesheski if he had been sent the job description; Mr. Olesheski said that he had not received that. Supervisor Vanselow said that he had lost track of who had been notified of that. Mr. Olesheski asked which Town positions require board action and which positions were at the discretion of the Supervisor or other Town Board members. Supervisor Vanselow replied that the full time civil service positions generally need to be advertised. Mr. Olesheski asked, for example, if a temporary person was needed at the transfer station could the Solid Waste committee hire someone without discussing it with the other members of the Town Board. Supervisor Vanselow replied that the committee could recommend an individual for the position. Mr. Olesheski asked who actually made the hire. Supervisor Vanselow replied that he did on the recommendation of the Personnel Committee. Supervisor Vanselow said that basically there were three Town Board votes in favor of the hire between himself and the Personnel Committee. Mr. Olesheski said that in the year that he had been on the Town Board that discussions seemed to be mostly open, but lately that things seemed to be discussed without his being informed and this impacts his ability to serve the people of the Town of Johnsbury and this was frustrating. Supervisor Vanselow said that he endeavors to inform the Town Board about issues frequently and that he sees Ms. Nightingale and Mr. Arsenault in town on a regular basis and that Mr. Stevens calls once or twice a week or sometimes Supervisor Vanselow runs into him around town as well. Supervisor Vanselow said that with Mr. Olesheski working out of town that it is less likely that he will run into him; he said that he is not intentionally leaving Mr. Olesheski out of any discussions.

The Town Clerk noted that the Town Board usually approves hires by resolution. Supervisor Vanselow asked if any Town Board member wished to move to hire Dreu Briggs as cleaner for Town buildings.

RESOLUTION NO. 36

Mr. Stevens 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 hire Mr. Dreu Briggs as cleaner for the Town Buildings. With 4 members voting in favor, the resolution is declared carried. Ayes-4 (Arsenault, Nightingale, Stevens, Vanselow) Nays - 1 (Olesheski)

OLD BUSINESS:

Supervisor Vanselow informed the Town Board that the report on sandpit sites in the Town of Johnsbury from Cedarwood Engineering was in the members' packets and was available for the public. Supervisor Vanselow explained that there was a summary of sites and a recommendation on the site on Park Road.

Mr. Arsenault asked if Cedarwood Engineering was going to be performing further investigations and will the Town board be narrowing down the choices in some manner. Supervisor Vanselow said that Cedarwood Engineering is recommending further testing on one site to determine if the sand is acceptable for highway use; the other sites don't appear as inviting. Mr. Arsenault asked if the Town Board would be reviewing the report and making an action plan on how to proceed. Supervisor Vanselow replied that this was the process and possibly some additional properties would be brought to the attention of the Town as a result of this discussion. Ms. Nightingale said that it appeared that some of the sites were less desirable due to an additional level of permitting which would be required from the Adirondack Park Agency plus the Department of Environmental Conservation mining permits. Ms. Nightingale said that additional testing would need to be performed to determine the amount of sand available. Supervisor Vanselow added that at least one site was not appealing to Superintendent of Highways Daniel Hitchcock due to the amount of work needed to clear the site for extraction of the sand was too much for the available sand. Mr. Arsenault said that it was good to test the recommended site and to continue to move forward.

Mr. Olesheski asked if there would be a estimated number of years worth of sand from the site as this is the way which the Town Board would be determining the value of the site. Supervisor Vanselow said that the Park Road site appears to have sand enough to last for decades. Mr. Olesheski suggested that the Town Board authorize the expenditure of \$900.00 for gathering and having analyzed site samples and the expenditure of three grain size analysis tests at \$70.00 each (\$210.00) for a total of \$1110.00 for the site work by Cedarwood Engineering.

Mr. Curtis Richards asked the location of the Park Road site; Supervisor Vanselow replied that it was at the corner of Park Road and Garnet Lake Road. Mr. David Bulmer asked how much sand the Town currently has in reserve. Supervisor Vanselow said that the Town is earnestly looking, but when the state right of way property is finalized the Town should have enough sand to last for four to five years and currently the Town has about one year of sand remaining.

Mr. Olesheski said that at the last previous discussion of this issue there was a time frame which has passed and asked if Mr. Goodman is still interested in the sale. Supervisor Vanselow said that Mr. Goodman had approached him a short time ago and seemed to be still interested. Mr. Olesheski asked if Supervisor Vanselow planned to reach out to the public; Supervisor Vanselow said that he was still hoping for more input, but was ready to move forward as well. Mr. Olesheski asked if the testing would have to wait until the snow is gone. Ms. Nightingale said that it could be done now. Supervisor Vanselow said that he expected to wait until spring, but did plan to move forward soon.

Mr. Robert Nettle said that it was great to see the Town Board taking a forward looking position and suggested that the Town Board plan on setting aside about \$10,000.00 annually for

five or six years for the reclamation of the current sand pit area by the Ski Bowl Park so as to create additional park land. Supervisor Vanselow said that he believes that there is a current reclamation plan on file; Ms. Nightingale said that she believes that there must be as a part of the mining permit. Supervisor Vanselow said that he would like to see the plan and that money must be made available for that project.

Supervisor Vanselow updated the Town Board on the Transfer Station rebuild project. Supervisor Vanselow said that the chute is completed and he believed that the training on the compactor use had been done as well. Supervisor Vanselow said that a temporary fence is in position and that the Town will install a permanent fence in the spring. Supervisor Vanselow said that there is a payment in the warrant to AB Construction & Environmental, LLC. Mr. Arsenault asked if Mr. Al Squires (AB Construction & Environmental, LLC) had performed to the request from the Town; Supervisor Vanselow said that the project is generally complete.

Supervisor Vanselow informed the Town board that he has spoken with Mr. Brian Towers of the Hamilton County Cable TV, Inc and Gore Mountain Cable TV Company regarding the extension of the cable television franchise. Supervisor Vanselow said that both he and Mr. Arsenault had requested the answers to some questions about the cable contract and some answers had been received. Supervisor Vanselow said that he had asked about the possibility of expanding the coverage area and the possibility of adding a broadband option to the package. Supervisor Vanselow said that Mr. Tower said that he did not see an expansion as financially feasible and that the broadband was a possibility within a three mile radius of the North Creek hamlet within approximately twelve months. Supervisor Vanselow said that a cable access channel may be made available; someone will be needed to update the information. Supervisor Vanselow said that Town meetings could be taped and played at intervals as well.

Mr. Arsenault asked when the contract is due and how long it lasts. Supervisor Vanselow said that the previous contract was for ten years, but this was for five years. Secretary Cherie Ferguson said that she believed that the previous contract had expired last December.

Mr. David Bulmer asked if there was competition over the contract. Supervisor Vanselow said that the Town has reached out to Time Warner and they had no interest in expanding from the Town of Chester into the Town of Johnsbury; he added that the cable operator in the Town of Minerva had left without notice. Mr. Bulmer asked about adding additional channels. Supervisor Vanselow said that that was discussed and that upgrades of digital upgrades were planned. Mr. Bulmer said that he believed that it was priced fairly, but that he did not like the channel numbers not lining up with the reference guide. Ms. Nightingale said that she had used the service for twenty years without a problem, but the service area does not include her new residence on Harvey Road.

Mr. Arsenault asked if there was any payment either to or from the Town. Supervisor Vanselow replied that there was no money either paid or received. Mr. Arsenault said that he would like the company to expand as he does not see this as serving the public and would like to encourage them to expand the service area. Supervisor Vanselow said that he could speak to Mr.

Tower again about that issue.

Ms. Nightingale asked how recent the contact with Time Warner had been and at what location Time Warner would enter the Town of Johnsbury. Supervisor Vanselow said that the entrance would be through Riparius and that he had spoken with Time Warner relatively recently.

Mr. David Bulmer said that he believed that the Chamber of Commerce would probably volunteer to staff the cable access channel when it was activated. Supervisor Vanselow said that the cable access was a scrolling list of community events. Mr. Stevens asked who monitors the content of the cable access channel. Supervisor Vanselow replied that it was basically a fixed loop playing repetitively. Mr. Stevens asked if this would be open to other organizations and who would decide on the time available to each organization. Supervisor Vanselow said that it could be open to the community at large through the operator. Mr. Stevens asked who would determine if content was appropriate for broadcast. Supervisor Vanselow said that he believed that it would be the Chamber of Commerce or the Tannery Pond Community Center director depending on who was appointed by the Town Board. Mr. Bulmer said that the Town of Stowe operates their cable access channel and sells advertising space on it and it is distributed to all tourist lodging sites in that Town. Mr. Stevens agreed that there is no tourist destination which doesn't have such a channel.

Mr. Robert Nettle would like to see additional expansion by the company. Mr. Nettle said that the cable operator is guaranteed a monopoly in the Town and should therefore be required to expand its service area throughout the Town. Supervisor Vanselow said that in the agreement there is language which says that this is a non-exclusive contract and there is no monopoly by this agreement. Mr. Olesheski asked why the contract has been changed from ten to five years ending on December 17, 2015. Mr. David Bulmer asked if the cable operator could raise the rates without any input from the Town Board or if it was like the Public Service Commission and an agreement was required. Supervisor Vanselow said that cable television is somewhat subject to the Public Service Commission. Mr. Arsenault added that there was language in the agreement which said that rates and fees are subject to approval by the municipality and the Public Service Commission to the extent of state and federal law. Mr. Bulmer said that possibly there should be some base points in order to be able to see what any rate increase is based upon. Mr. Arsenault asked about the company's finances; Mr. Olesheski said that the accounting records can be requested.

Supervisor Vanselow said that he will call Brian Tower of the Hamilton County Cable TV, Inc and Gore Mountain Cable TV Company and see about getting answers for the Town Board.

Supervisor Vanselow reminded the Town Board that Mr. Olesheski had requested the tabling of the request from NYS Assemblyman Michael Kearns (142nd District) for a resolution in support of his foreclosure bills which, if passed would require banks to provide local governments contact information for those responsible for upkeep of foreclosed properties. Mr. Olesheski replied that as a result of his research that there did not appear to be a local need for this type of legislation.

NEW BUSINESS:

Supervisor Vanselow asked that the Town Board retroactively approve the purchase of a snow blower for the Parks and Buildings Department which he had polled the Town Board for approval since the last Town Board meeting. Supervisor Vanselow added that the snow blower has cut the time for clearing snow at the transfer station in half following the last storm. Mr. Stevens asked the cost of the snow blower; Supervisor Vanselow replied that it cost approximately \$750.00.

RESOLUTION NO. 37

Mr. Stevens presented the following resolution, and moved its passage with a second from Ms. Nightingale, to retroactively authorize the purchase of a snow blower for the Parks and Buildings Department in the approximate amount of \$750.00. 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 retroactively authorize Superintendent of Highways Daniel Hitchcock to post the town roads to protect them from damage as the weather warms and to retroactively authorize the Town Clerk to advertise the posting of the Town roads the North Creek News-Enterprise for two (2) weeks.

RESOLUTION NO. 38

Mr. Arsenault presented the following resolution and moved its adoption with a second from Mr. Olesheski to retroactively authorize the Highway Superintendent to post Town Highways according to Subdivision II of Section 1660 of Vehicle and Traffic Law that all Town Roads will be temporarily closed upon posting to all vehicles having a gross weight of over four (4) tons. Further notice is hereby given that any person or persons violating this order shall be subject to punishment as provided in Section 1800 of the Vehicle and Traffic Law; and further that the Town Clerk is retroactively authorized to notice said posting in the North Creek News-Enterprise for two (2) weeks. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

Supervisor Vanselow informed the Town Board that the condition of the tables in the Sodom Scout Hall and the Wevertown Community Center is poor in some cases and Parks and Buildings Superintendent Matt Olden has worked to use the best parts from the damaged tables and has discarded those which cannot be salvaged. Supervisor Vanselow said that approximately ten tables needed to be replaced to equal those discarded; the cost is approximately \$109.00 per table. Mr. Olesheski asked if it was correct that the new tables would be both lighter and more durable than the existing tables. Supervisor Vanselow said that they would be and that the tables would be six feet in length and hopefully, this will help to standardize the tables. Supervisor Vanselow asked if the Town Board wished to act to authorize the purchase of the ten total tables at a cost of approximately \$1090.00.

RESOLUTION NO. 39

Mr. Stevens presented the following resolution, and moved its passage with a second from Mr. Arsenault, to authorize the purchase of the ten total tables at a total cost of approximately \$1090.00 for the Sodom Scout Hall and the Wevertown Community Center. With 5 members voting in favor, the resolution is declared carried. Ayes-5 (Arsenault, Nightingale, Olesheski, Stevens, Vanselow) Nays - 0

RESOLUTION NO. 40

Ms. Nightingale presented the following resolution and moved its passage with a second from Mr. Stevens that that the following certified bills which have been reviewed by the board members be paid: General Fund- Claim #2013-152 through Claims #2013-166 and Claims #2013-190 through Claims #2013-196 and Claims#2013-201 (\$43,451.23); Highway Fund- Claim #2013-167 through Claim #2013-179 and Claims #2013-190 and Claims #2013-202 (\$31,812.24); North Creek Water Dist.- Claim #2013-184 through Claim #2013-187 and Claims #2013-194 and Claims 2013-194 and Claims #2013-197 through #2013-199 (\$4,638.49); Library Fund- Claims #2013-180 through Claim #2013-183 and Claim #2013-190 (\$2,426.04); Capital Projects Funds Claims #2013-188 and Claim #2013-189 and Claim #2013-200 (\$12,927.43); and Johnsbury Fire Protection District- Claim #2013-190 (Total \$5182.39). Total all warrants \$100,437.82. 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. Robert Nettle asked why Supervisor Vanselow voted in support of the Warren County resolution against the 2013 SAFE Act (Firearms legislation) passed by the legislature at the behest of Governor Cuomo. Supervisor Vanselow responded that there were two parts to the resolution, the first was opposition to the use of the "message of necessity" to ram the legislation through and the second part was the gun control act which he believes has several problems itself. Supervisor Vanselow said that some of the points in the legislation don't seem to be well thought out and possibly not legal and certainly impractical. Supervisor Vanselow said that frequently he votes against the messages sent by the Warren County Board of Supervisors; but he voted in favor of this one.

Mr. Nettle asked if this Supervisor Vanselow saw this as a personal preference or with the interest of the Town and if the latter how do you discern the interest of the Town. Supervisor Vanselow said that you can't easily survey the populace on every issue and he added that he believes that while the Town is becoming more diverse that the majority of the residents would not approve of either the method of passage of the law or its contents. Supervisor Vanselow says that he tries to take the consideration of the populace into his thoughts. Mr. Nettle thanked Supervisor Vanselow for his explanation.

Mr. Olesheski suggested that the Town Board pass a resolution similar to that of the Warren County Board of Supervisors regarding the 2013 SAFE Act and showing displeasure at the method of passing the 2013 SAFE Act. Mr. Olesheski said that he believes that there were a number of

residents who would be pleased if the Town Board would pass such legislation. Mr. Olesheski moved such a resolution without a second. Ms. Nightingale said that she would need to see both the Warren County and Mr. Olesheski's suggested resolution before supporting such an action. Supervisor Vanselow said that he thought it would be better to bring a written resolution to the next Town Board meeting. Mr. Nessel said that he would not support anyone who would vote against the 2013 SAFE Act. Mr. Nessel said that legislation can be changed and most of the bill is good and should be part of the NY legislation. Supervisor Vanselow reiterated that while some parts of the bill are okay; overall it is not a good piece of legislation. Mr. Stevens said that while legislation can be changed it is easier to have it be right prior to passage than to correct it after passage. Mr. Nessel said that it was better to have a flawed law than no law. Mr. Olesheski said that he was upset at the idea that residents' opinion was not asked and there was no comment period and the outcry from people across the state will force a discussion.

A motion to adjourn the meeting was presented by Mr. Arsenault with a second from Ms. Nightingale at 7:55pm. 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 March 5, 2013 at the Wevertown Community Center, Wevertown, New York.

Prepared by William Rawson, Town Clerk