

Town of Johnsbury
Public Hearing on Prior Written Notice of Defects Law
Organizational Meeting and Regular Town Board Meeting
January 4, 2022

Join Zoom Meeting <https://us02web.zoom.us/j/2172603617>
By telephone 888 788 0099 US Toll-free 877 853 5247 US Toll-free
Meeting ID: 217 260 3617

PRESENT: Andrea Hogan – Supervisor
Eugene Arsenault – Councilman
Arnold Stevens – Councilman
Peter Olesheski – Councilman
Justin Gonyo – Councilman
Jean Comstock – Town Clerk

Supervisor Hogan called the Public Hearing to order at 7:00PM and the Pledge of Allegiance was led by Peter Olesheski.

Public Hearing re: Prior Written Notice of Defects Law – posted on website; Jean Comstock read the Article numbers. No questions or concerns. Public Hearing adjourned at 7:06PM.

Supervisor Hogan called to order the Organizational Meeting at 7:06PM.

3. Appointments:

RESOLUTION #01-22

Mr. Stevens presented the following Resolution and moved its passage with a Second Motion from Mr. Olesheski, to approve following Appointments, which will be one-year term:

With all Town Board Members voting in favor, the resolution is declared carried. Ayes-5 (Hogan, Stevens, Olesheski, Arsenault, Gonyo) Nays- 0

3.1 - **Town Board appointments for one year term:**
Zoning Enforcement Officer – Colin Mangan
Animal Control Officer – William Mosher
Legal counsel to the Town, Planning and Zoning Board – Miller, Mannix,
Schachner and Hafner, LLC
Safety Officer – Ernie Dunkley

RESOLUTION #02-22

Mr. Gonyo presented the following Resolution and moved its passage with a Second Motion from Mr. Arsenault, to approve following Appointments, which will be two-year term:
With all Town Board Members voting in favor, the resolution is declared carried. Ayes-5 (Hogan, Stevens, Olesheski, Arsenault, Gonyo) Nays- 0

- 3.2 - **Supervisor appointments for two-year term:**
Budget Officer – Andrea Hogan
Deputy Supervisor – Katharine Nightingale
2nd Deputy Supervisor – Arnold Stevens
Registrar of Vital Statistics – Jean Comstock
Petty Cash Officer – Andrea Hogan
Town Historian – Deana Wood

RESOLUTION #03-22

A Motion was made by Mr. Gonyo, seconded by Mr. Arsenault to approve the appointment (for one year term) of:

With all Town Board Members voting in favor, the resolution is declared carried. Ayes-5 (Hogan, Stevens, Olesheski, Arsenault, Gonyo) Nays- 0

- 3.3 - **Town Clerk Appointments for one year term:**
Deputy Town Clerk – Joann Morehouse
Deputy Registrar of Vital Statistics – Joann Morehouse

All appointments completed.

- 3.4 - **Standing Committees for 2022:**
Highway – Gene Arsenault, Peter Olesheski
Solid Waste and Sewer – Peter Horvath, Arnold Stevens, Justin Gonyo
Fire & EMS – Justin Gonyo
Planning and Zoning, Johnsburg Garage – Eugene Arsenault
Buildings, Parks & Recreation, Tannery Pond Center, Ski Bowl Drainage Mitigation Project, Highway Relocation – Peter Olesheski, Eugene Arsenault
Personnel – Justin Gonyo, Peter Olesheski
Marketing & Economic Development, Comprehensive Plan Update – Eugene Arsenault, Laurie Arnheiter;
Marketing/Tourism sub-committee – Daphne Taylor, John Stafford, Sharon Taylor, Dick Carlson
Occupancy Tax – Aimee Azaert, Dwayne Spitzer, John Stafford, Patricia Conner
Water and Water District Repairs – Arnold Stevens
All in favor of assignments

Kelly Nettle – Justin Gonyo wanted to sit in on the Clarkson project can he do this?

Andrea Hogan – he absolutely can.

Arnold Stevens – can Board Members sit in on other committees?

Andrea Hogan – less than three Members can.

4. **Designations:**

RESOLUTION #04-22

Mr. Gonyo presented the following resolution and moved its passage with a Second from Mr. Olesheski to approve the following designations:

With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0

All Designations for Regular Town Board Meetings read, all will begin at 7:00PM And will be held at Tannery Pond Center and via a virtual platform; links to virtual participation will be posted on the Town Website.

Tuesday, January 18, 2022
Tuesday, February 1, 2022
Tuesday, February 15, 2022
Tuesday, March 1, 2022
Tuesday, March 15, 2022
Tuesday, April 5, 2022
Tuesday, April 19, 2022
Tuesday, May 17, 2022
Tuesday, June 21, 2022
Tuesday, July 19, 2022
Tuesday, August 16, 2022
Tuesday, September 6, 2022
Tuesday, September 20, 2022
Tuesday, October 4, 2022
Tuesday, October 18, 2022
Tuesday, November 1, 2022
Tuesday, November 15, 2022
Tuesday, December 6, 2022
Tuesday, December 20, 2022

- Polling places in the Town of Johnsburg - District # 1 (Wevertown) for all districts.
- Official Newspapers for the Town of Johnsburg, 2022- Sun Community News and The Post Star.
- Banks as official depositories for 2022– Community Bank, Glens Falls National Bank and New York Cooperative Liquid Assets Securities System (NYCLASS).
- Designate Andrea Hogan as delegate and Jean Comstock as alternate to the Association of Towns annual meeting to be held virtually February 20-23 and approve expenses for all attendees.
- Designate Andrea Hogan as delegate to Adirondack Association of Towns and Villages

Peter Olesheski asked about the Youth Bureau?

Andrea Hogan – not really sure what’s happening with it right now, but will check on that.

5. **RESOLUTION #05-22**

Mr. Stevens presented the following resolution and moved its passage with a Second from Mr. Olesheski to approve the following project for 2022 which were submitted by Highway Superintendent Comstock for agreement of the Board (commonly labeled 284 Agreements): NOTE: no need to re-claim any roads this year, which will save the Town a substantial amount of money.

With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Steens, Olesheski, Gonyo) Nays - 0

6. **RESOLUTION #06-22**

Mr. Gonyo presented the following resolution and moved its passage with a Second from Mr. Stevens to approve setting mileage compensation for Town business for 2022 to match the IRS rate of 58.5 cents per mile.

With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0

7. **RESOLUTION #07-22**

Mr. Arsenault presented the following resolution and moved its passage with a second from Mr. Olesheski to approve scheduling the 2023 Organizational Meeting for Tuesday, January 3, 2023 at Tannery Pond Center or virtually at 7:00PM.

With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0

8. **RESOLUTION #08-22**

Mr. Stevens presented the following resolution and moved its passage with a Second from Mr. Arsenault to approve Bonding and Authorization.

With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0

10. **RESOLUTION #09-22**

Mr. Olesheski presented the following resolution and moved its passage with a Second from Mr. Gonyo to Review and Adopt the Town Procurement Policies.

With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0

11. **RESOLUTION #10-22**

Mr. Arsenault presented the following resolution and moved its passage with a Second from Mr. Stevens to accept the Annual Review of Court Records and Dockets. With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0.

12. **RESOLUTION #11-22**

Mr. Gonyo presented the following resolution and moved its passage with a Second from Mr. Olesheski to adjourn the Organization Meeting. With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0

Supervisor Hogan called to order the Regular Town Board Meeting at 7:24PM

Approval of Minutes of Regular Meeting December 21, 2021.

2. Correspondence – none.

3. **New Business:**

Safety Employee of the Quarter – Supervisor Hogan announced that this is Joann Morehouse, she does a great job on this Committee. Congratulations to Joann. Thank you to Ernie Dunkley for his work on the Safety Committee as well.

RESOLUTION #12-22

Mr. Stevens presented the following resolution and moved its passage with a Second from Mr. Arsenault to accept the contract with CT Male for the Garnet Lake Dam engineering with the Town paying \$15,000 in engineering fees. With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0

AGFTC – possibility of 4-way intersection at Routes 28 and Route 28N, nothing moving forward at this time. No projects identified at this time for AGFTC at this time. Arnold Stevens asked if there is a time frame to apply. Supervisor Hogan noted that it's a two year time frame; do we want to forgo this year and wait for the next project solicitation? Arnold Stevens asked if Kelly Nettle had any input? Kelly Nettle stated ORDA will put in the road per Mike Pratt needed when the time comes; no point in putting in the round-about. Justin Gonyo – can will table this until the 1/18/22 Town Board Meeting if 1/28/22 is the deadline?

4. **Old Business:**

Presentation by Sewer Committee:

Matt Parobeck gave a very detailed presentation of the new sewer project including grant funding, fund raising. Ballpark figures per EDU. He will also be doing a presentation to the North Creek Business Alliance. It was noted by Board Members to remind the public to ask questions regarding this project. There seems to be a lot of misinformation out there and getting facts to the public is important. Several good questions and comments were also asked.

Tannery Pond Lease Agreement

Draft agreement reviewed by Town Board. Eugene Arsenault asked how we could have in the 50-year lease agreement – i.e. what will happen in the early years, financial operations, etc. There doesn't seem to be a lot of financial information available at this time, let's get a clearer document and then discuss. Justin Gonyo indicated it is a 501c(3) and financial information is public. Christian Holt indicated that it's all up and on-line. Supervisor Hogan asked if we should (could) limit how the building is used? Arnold Stevens agreed that this is a good question. Eugene Arsenault noted that conversations will need to take place between all parties so all are aware of the expectations. Supervisor Hogan – I'll check on insurance costs, have made several notes and feel this is a good start.

Intermunicipal Agreement with Warren County for Solid Waste and Recyclable Processing

RESOLUTION #13-22

A Mr. Arsenault present the following resolution and moved its passage with a Second from Mr. Gonyo to accept the Intermunicipal Agreement with Warren County for Solid Waste and Recyclable Processing.

With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0.

Supervisor Hogan indicated that we don't have a contract, but should have it soon.

RESOLUTION #14-22

Mr. Gonyo presented the following resolution and moved its passage with a Second by Mr. Stevens to accept the contract with Cedarwood Environmental for Water District Management for 2022.

With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0

Cedarwood Environmental Contract for Water District Management for 2022 (2% Increase over last year).

RESOLUTION #15-22

Mr. Arsenault presented the following resolution and moved its passage with a Second by Mr. Osesheski to adopt the Prior Written Notice of Defects Law.

With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0

RESOLUTION #15-22

Resolution of Adoption of Prior Written Notice of Defects Law (Resolution #15-22):

A LOCAL LAW REQUIRING PRIOR NOTICE OF ALLEGED DEFECTS

Be it enacted by the Johnsburg Town Board as follows:

ARTICLE 1 – Highway-related defects.

No civil action shall be maintained against the Town of Johnsburg (hereinafter referred to as the "Town"), the Town Superintendent of Highways or any other Town officer or employee or against any improvement district in the Town for damages or injuries to person or property, including those arising from the operation of snowmobiles, sustained by reason of any street, highway, bridge, culvert, highway marking, sign, device or any other property owned, operated or maintained by the Town or any property owned, operated or maintained by any improvement district therein being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such street, highway, bridge, culvert, highway marking, sign, device or any other property owned, operated or maintained by the Town or any property owned, operated or maintained by any improvement district was actually given to the Town Clerk or the Town Superintendent of Highways and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of. No such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow, ice, water or other material(s) or substance(s) upon any street, highway, bridge, culvert or any other property owned by the Town or any property owned by any improvement district in the Town unless written notice thereof, specifying the particular place and describing the unsafe condition, was actually given to the Town Clerk or the Town Superintendent of Highways and there was a failure or neglect to cause such snow, ice, water or other material(s) or substance(s) to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

ARTICLE 2 – Sidewalk defects.

No civil action will be maintained against the Town, the Town Superintendent of

Highways or any other Town officer or employee or against any improvement district in the Town for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Town or in consequence of the existence of snow, ice, water or other material(s) or substance(s) upon any of its sidewalks unless such sidewalks have been constructed or are maintained by the Town or the Superintendent of Highways pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow, ice, water or other material(s) or substance(s) unless written notice thereof, specifying the particular place and describing the unsafe condition, was actually given to the Town Clerk or to the Town Superintendent of Highways and there was a failure or neglect to cause such defect to be remedied, such snow, ice, water or other material(s) or substance(s) to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

ARTICLE 3 – Transmittal of notices.

The Town Superintendent of Highways shall transmit all written notices received by him pursuant to this Chapter to the Town Clerk in writing within 10 days after receipt thereof, and he shall take any and all corrective action with respect thereto as soon as practicable.

ARTICLE 4 – Record of notices.

The Town Clerk shall keep an indexed record, in a separate book, of all written notices which the Town Clerk has received of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of snow, ice, water or other material(s) or substance(s) upon, any Town street, highway, bridge, culvert or sidewalk or any other property owned by the Town or by any improvement district, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition, or the location of accumulated snow, ice, water or other material(s) or substance(s). The record of such notice shall be preserved for a period of five years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately notify the Town Superintendent of Highways in writing of the receipt of such notice.

ARTICLE 5 – Effect of Local Law.

Nothing contained in this Chapter shall be held to repeal, modify or waive any existing requirement or statute of limitations which is applicable to these causes of action but, on the contrary, shall be held to be additional requirements to the rights to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the Town, its officers and employees and/or any of its

improvement districts any greater duty or obligations than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

ARTICLE 6 – Authority; Supersedence. This Local Law is adopted pursuant to Municipal Home Rule Law Section 10 and is specifically intended to supersede the provisions of Town Law Section 65-a in their application to the Town and, in particular, the provision of Town Law Section 65-a which does not require actual notice if the condition existed for so long a period that it should have been discovered and remedied in the exercise of reasonable care and diligence.

ARTICLE 7 – Severability. The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

ARTICLE 8 – Repealer. All Local Laws or ordinances or parts of Local Laws or ordinances in conflict with any part of this Local Law are hereby repealed.

ARTICLE 9 – Effective Date. This Local Law shall take effect immediately upon being placed on file by the Department of State as provided in Municipal Home Rule Law.

5. **Committee Reports**

Justin Gonyo – just a comment, no report. The goal for the Solid Waste Committee is getting material to and from the transfer station without losing revenue at the transfer station; streamlining costs. Supervisor Hogan noted that several conversations have taken place and this is a great goal to work toward.

6. **Warrants**

Supervisor Hogan asked if the Board had reviewed the Warrants? All had.

RESOLUTION #16-22

Mr. Gonyo presented the following resolution and moved its passage with a Second from Mr. Arsenault to approve the Warrants.

With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0.

7. **Privilege of the Floor**

Christian Holt addressed the cannabis “opt out” concern. Supervisor Hogan noted that no one in the community offered any input, concerns or questions. Mr. Holt noted that there should be a discussion about buying, selling, consumption and he feels the Town Board ignored this concern. Supervisor Hogan applauded his passion. Mr. Holt noted that most neighboring Towns had open discussions re: this.

Kelly Nettle – asked for the Town Board/Supervisor Hogan to take a look at the Adirondack Explorer publication re: an article re: money for infrastructure. Supervisor Hogan noted she will take a look at this article.

RESOLUTION #17-22

At 8:37PM Mr. Gonyo presented the following resolution and moved its passage with a Second from Mr. Olesheski to adjourn the Regular Meeting of the Town Board.

With 5 members voting in favor the resolution is declared carried. Ayes – 5 (Hogan, Arsenault, Stevens, Olesheski, Gonyo) Nays – 0.

Next Town Board Meeting will be January 18, 2022 at 7:00PM at the Tannery Pond Center and via virtual platform – link can be found On the Town Website at <https://www.johnsburgny.com>

Prepared by:

Jean M. Comstock
Town Clerk