

Caroline Town Board Meeting Minutes of September 9, 2008

The regular meeting of the Caroline Town Board held in the Town Hall was called to order on September 9, 2008 at 7:00 p.m. by Supervisor Don Barber.

Attendance:

Don Barber, Supervisor
Dominic Frongillo, Councilman
Linda Adams, Councilwoman
Toby McDonald, Councilman
Pete Hoyt, Councilman

Recording

Secretary: Debra DeAugustine, Town Clerk

Privilege of the Floor

Supervisor noted that each speaker has three minutes; speakers should address the board, not each other. Comments to the planning board should be directed to the PB at their next meeting.

James Burlitch, Ellis Hollow Road: why recommendation to the PB has come forth to natural areas and trails committee? Why worry about a trail? Quoted from "Healthiest Hometowns," an article from AARP magazine. What makes a city healthy? If you live near a hiking and biking trail and neighbors use it, you will use it too. Article listed 10 towns, and Ithaca is at the top, given the reasons stated in the article. He wants to support recommendation of the natural trails committee.

Sara Barker, Valley Road: supports trail, thanked trail committee for great work they've done; great endeavor for community.

Karen Edwards, Park Lane: in favor of the trail

Elliott Swarthout, Valley Road: in huge favor of trail, commutes most days to downtown, and riding on Coddington Road is scary.

Glen Robertson, Valley Road: Supports the trail.

Erin Bohman, Brooktondale Road: Bikes a lot, thinks trail would be a great asset.

Sara Myers, Caroline Depot Road: trail would run right in her yard; she opposes trail.

Cindy Smalt, Caroline Depot Road, along trail: Risks to family liability-wise greater with trail, better ways to spend taxpayer money. Conceptually great, but not great for landowners, but those in support don't have to live next to it.

Elisa Evett, Bald Hill Road: Bikes a lot on area roads; even if we had shoulders, would not make for a safer ride. Sees trail potential as a community building measure. People who use cars don't know neighbors -- only those next door; with trail would meet neighbors farther afield.

John Haines, Vandemark Road: Has a 4-member, 1-car family. Will often take 79 to Burns rd to get to South Hill Trail. Respects concerns of people on the route, and would like to talk to people on South Hill Trail to see how we could make this trail accessible.

Richard Weiner: In support, has seen influx of traffic on roads and sees it as dangerous. Being in a place that's safe will naturally make this region more accessible to people.

Doug Stauffer, Burns Road in Ithaca, right at end of South Hill Trail. Always people parking nearby. 3 or 4 times per year people throw a soda can in yard, but not a big problem. He and wife ride bike trail and wife runs it every day.

Tim Murray, Slaterville Road: Very much in support of the trail, very avid biker previously in B'dale and the traffic has become too dangerous. Lives 15 ft off route 79, a heavy traffic public road, for 25 years without a single problem.

Mary Joe Bower, Coddington Road (section of Coddington with a railroad bed behind it): Every day she puts her

dogs in car and go to South Hill Rec Way, and would love to see trail extended.

Sara Friga, Landon Road: Household of 5, variety of hikers and bikers, excited about possibility of trail.

Renate Ferro, Slaterville Road: Elisa and Sara both mentioned community building, which our town could really use. Strongly supports trail. Also hopes that people would be sensitive to neighbors who live along the trail and thinks there's a way it can work out.

Kathryn Seely, Burns Road: Agree with many of people who spoke; is in support of trail. Joined trails committee because she trucked her daughters to South Hill to learn to ride bikes; another reason is she has horses and would love to have trails to ride horses. Also strongly committed to working with people who live along trail because their privacy would be invaded; thinks it could be worked out.

Chris Payne, Belle School Road: Strongly in support, both for recreational use, and for getting bikers off Coddington Road, which is a hazard to bikers.

Sam Phillips, Lackawana Road: Votes for paving shoulders.

Andrea Dutcher, Besemer Road: in favor of trail

[did not catch name]: Currently lives in Dryden by trail which is used by dozens of hikers, bikers. Trail would be fantastic resource for community, strongly supports taxpayer dollars.

Bill Jablonsky, Middaugh Road: wife and himself foresee using trail.

Sara Fiorello, Middaugh Road: member of trails committee, hoping her child will be able to use trail when he gets older. She rides on Route 79.

Mary Arsenault, Beaver Creek Road: Opposed to trail for the sake of the horses she owns. Has seen this happen. Would worry that people might get hurt by the horses. Also opposed for neighbors, some of houses so close people could look into their windows, and their lawn goes through the trail. Big imposition for these people, and take away their lifestyle and reason they love where they live, and don't have to put up with that city style of living, and give so much of what they have and what they love and give it up so people can ride bikes and walk dogs.

Herb Engman, supervisor in town of Ithaca. Over 10 miles of trails in Town of Ithaca and are actively looking for more. People love the trails. When they first built South Hill Trail, there was fierce opposition. Trail in Eastern Heights was given by neighbors; town didn't spend a dime. For kids riding bikes, it is a safe place for people to recreate and commute. Our experience positive. Not one complaint in 4 years about trails. In one year as supervisor, not one complaint.

Molly Adams, Valley Road: In favor of the trail. Has had a little feedback from people who are really opposed. Think we should take the time to let people get comfortable with the idea; there's lots of fear, people thinking "what if?" Land has been owned by NYSEG since after 1955. Was previously used by the train. Early people gave up that land because of the convenience of it being used by trains. Think there are a lot of benefits; recognize the unhappiness of people; give it time to make adjustments, learn. Don't drop it yet.

Scott {last name?}: People who have lived here for years. He bought the land for hunting, etc. If people want to ride bikes in city, that's okay.

Bill Hilker, Town of Ithaca, along South Hill Trail: Was in fierce opposition. Driveway was leased by NYSEG. Reason there were no complaints in Ithaca was that they didn't listen. They were in opposition, and there have been incidents of crime, and people using it for criminal activity. Those who use the trail do not respect it; they go wherever they please onto private property. During hunting season, it's closed; people tear down the signs and go out there anyway, at great risk to themselves. If you think the people who use the trails are all very nice who obey the rules, think again. Had a person come on his private property last week and accosted him and would not get off.

Nick Vandam, White church Road: 10 years ago when his son was five years old, he drove him to the South Hill Trail to learn to ride. Was thankful for the Town of Ithaca for having it. Was on the trail many times, and never went off it. He's a bike commuter, and I doesn't have to address the safety issue – he's got a six inch scar from a [bike-car] accident along Coddington. Benefit for the local businesses: ask any B&B owner who would love to be near a trail to bring business. We have beautiful natural resources that would help local business. Caroline should

look to other towns for guidance.

Don Barber thanked everyone for speaking and listening. Introduced Susan Barr. Planning Board meets Thursday at 7 pm, and they invite residents to go to that meeting with further comments.

Planning Board presentation

Passed out packet of letters of support and a map. Copies can be got from clerk. She read the recommendation from planning board (attached). She took the following points of clarification:

Pete Hoyt: how many parcels in the Town of Caroline? Answer: thinks it's 7.

Kathryn Seely: could you reclarify section of the trail committee is proposing? Answer: area between Burns Road in Ithaca and Middaugh Road only. Listen for what don' said further about town board being conduit.

Bill Hilker: what is the plan now? Answer: vote next month. The reason we're coordinating it is so NYSEG doesn't have to talk to several different municipalities.

Pete Hoyt: Since other towns have more investment, doesn't it make sense for another town to take over? Mr. Barber agrees that it's a valid question. Linda Adams likes Caroline having control.

Toby McDonald: What effort will PB make to contact the residents along this section? Answer: They have already. One is indifferent; one is violently opposed; 14 in favor; and a couple need some work done. This inspection is only for walking, no digging, etc. Will walk the trail for inspection purposes.

Tammy [last name?]: If Town of Caroline is going to vote on it, all need to be contacted.

Bill Hilker: at first he was opposed that the town of Caroline would have the vote, now he wonders who represents him on the board. Mr. Barber: we have no right to make a decision of what goes on in the Town of Ithaca, no authority. Ms. Barr: we value the concerns of the residents.

Erick Smith: perhaps the largest landowner along the currently recommended section of the proposed trail is himself, and he strongly supports it.

Department, Committee, & Liaison Reports

Highway Superintendent

Don Barber met with the highway superintendent today. They want to put a lean-to off of Big Otis; anything that's not tied down is being lifted. He asked them to put together a proposal; they would do most of work with highway staff.

Supervisor's Report

1. Harford road opened up today
2. Beams for banks road; two were cast wrong, and they broke another
3. Office of Community Renewal, as a result of the CDBG grant audit has asked the Town for three things: a conflict of interest policy for future CDBG grants, a copy of paper trail for selecting subcontract for lead abatement, and an addendum to our contract with BHTC that includes Office of Community Renewal in indemnification clause.
4. Dog Control- proposal to TCCOG from 2 parties (SPCA and Pet Playhouse) neither is complete- a committee of supervisors is working with both parties to get clarification
5. Budget requests are out and due now. Please contact me with questions.

Correspondence of Note:

1. Letter for SEMO with offer for FEMA funding for Barrile II engineering Phase 1
2. Letter from Cayuga Lake Inter-municipal Organization for Bylaw changes

Barry Goodrich, Town Hall Office Building Committee

Committee has almost done a full the proposal packet. That should be completed by the end of the week and in the clerk's hands so she can get an advertisement out.

Dominic Frongillo

IT committee did a quick survey; polled departments, gave the results to Mr. Barber

Pat Brhel, Food Pantry

Numbers of people using the pantry have been going up lots lately. Did 703 people last month; picking up 10 to 20 new families per month. Will be asking for \$2000 for this year's budget. Pete Hoyt: what percentage of your operating expense is that \$2000. Ms. Brhel: 20%. Mr. Barber: we're the only town who contributes to its food pantry. Caroline has 15% of residents coming. Strictly emergency food. We deliver to Fountain Manor and to about 15 residents; this is using free gas. We accept anyone who comes in.

Transfers

By Mr. Barber; Seconded by Mr. McDonald

\$ 500.00 from General Account A 5010.2 Highway Supt EQ to
General Fund Account A 5010.101 Highway Supt Clerical PS

\$ 2,000.00 from General Account 5020.4 Highway Engineering CE to
General Fund Account A 5010.101 Highway Supt Clerical PS

Passed Barber: Aye; Frongillo: Aye; Adams: Aye; McDonald: Aye; Hoyt: Aye

Abstracts**Approval of General Fund Abstract**

A motion was made by Mr. Barber and seconded by Mr. McDonald to approve payment for the General Fund voucher numbers 277 through 296 in the amount of \$7374.78.

Passed Barber: Aye; Frongillo: Aye; Adams: Aye; McDonald: Aye; Hoyt: Aye

Approval of Highway Fund Abstract

A motion was made by Mr. Barber and seconded by Mr. McDonald to approve payment for the Highway Fund voucher numbers 186 through 190 in the amount of \$9846.99.

Passed Barber: Aye; Frongillo: Aye; Adams: Aye; McDonald: Aye; Hoyt: Aye

Approval of Streetlight Fund Abstract

A motion was made by Mr. Barber and seconded by Mr. Frongillo to approve payment for the Streetlight Fund voucher number 15 in the amount of \$420.72.

Passed Barber: Aye; Frongillo: Aye; Adams: Aye; McDonald: Aye; Hoyt: Aye

Approval of Community Development Fund Abstract

A motion was made by Mr. Barber and seconded by Mr. Frongillo to approve payment for the Streetlight Fund voucher numbers 16 and 17 in the amount of \$386.57.

Passed Barber: Aye; Frongillo: Aye; Adams: Aye; McDonald: Aye; Hoyt: Aye

Minutes**Minutes of July 1, 2008**

A motion was made by Mr. Barber and seconded by Ms. Adams to accept the minutes of July 1 as submitted by the deputy town clerk.

Passed Barber: Aye; Frongillo: Aye; Adams: Aye; McDonald: Aye; Hoyt: Aye

Minutes of August 12, 2008

A motion was made by Mr. Barber and seconded by Mr. Hoyt to accept the minutes of August 12 as submitted by the town clerk.

Passed Barber: Aye; Frongillo: Aye; Adams: Aye; McDonald: Aye; Hoyt: Aye

Town Business

Dog control contract

Mr. McDonald: Town of Caroline was priced differently among the two proposals. Mr. Barber: price differences of both proposals will be evened out by the Council of Governments. So the numbers are not hard and fast. The role of the CofG is for there to be one entity for negotiation; they can make a recommendation, but it is not binding. Both proposals, though, are for all towns; neither say all or nothing. If they contract with only some towns, how will the pricing change? Mr. Hoyt: seems Herb [Engman] said that the Pet Playhouse is not ready as far as infrastructure yet to handle all towns. Thinks it would be nice to be able to use a facility in Caroline, if pricing etc allow.

TG Miller on valley rd streambank stabilization

Proposal for \$25,000 to do the design work and oversee construction. Alternative is to try to find another engineering firm. These guys have done a lot of work for us. 75% is being paid for by someone else, and it is under the budget of \$30-\$40,000. Will vote subject to Guy Krogh's review.

Resolutions

Resolution 9-1of 2008

SEMO agreement for Phase I of Barrile II project

By Mr. Barber; Seconded by Mr. Hoyt

RESOLVED, the Town Board authorizes the supervisor to sign the agreement with SEMO for Phase I of Barrile II project.

Adopted Barber: Aye; Frongillo: Aye; Adams: Aye; McDonald: Aye; Hoyt: Aye

Resolution 9-2 of 2008

Addendum to contract with Better Housing for Tompkins County

By Mr. Barber; Seconded by Mr. McDonald

RESOLVED, the Town Board authorizes the supervisor to sign the contract addendum with Better Housing for Tompkins County.

Adopted Barber: Aye; Frongillo: Aye; Adams: Aye; McDonald: Aye; Hoyt: Abstain

Resolution 9-3 of 2008

Adopt Conflict of Interest Policy

By Mr. Barber; Seconded by Mr. Hoyt

RESOLVED, the Town of Caroline hereby adopts the following Conflict of Interest Policy for purchasing and procurement of goods and services and all potential recipients of assistance from CDBG funds to individuals, businesses, and other private entities. All subparagraphs referred to in this policy are located at 24 CFR 570.489. All requests for exceptions must be made to and approved by the State of New York.

Conflict of Interest Policy

There are two sets of conflict of interest provisions applicable to state administered NYS CDBG non-entitlement funds. The first set, applicable to the procurement of goods and services, is located at 24 CFR 570.489 (g). This section states:

“When procuring property or services to be paid for in whole or in part with NYS CDBG funds, the State shall

follow its procurement policies and procedures. The State shall establish requirements for procurement policies and procedures for units of general local government, based on full and open competition. Methods of procurement (e.g., small purchase, sealed bids/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability shall be specified by the State. Cost plus a percentage of cost and percentage of construction costs methods of contracting shall not be used. The policies and procedures shall also include standards of conduct governing employees engaged in the award or administration of contracts (Other conflicts of interest are covered by Sec. 570.489(h)). The State shall ensure that all purchase orders and contracts include any clauses required by Federal statutes, executive orders and implementing regulations.”

The Town of Caroline has elected to adopt the federal procurement standards implemented at 24 CFR part 85. Regarding conflict of interest issues, 24 CFR 85.36(b)(3) provides:

“Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The grantee’s or subgrantee’s officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee’s and subgrantee’s officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.”

These provisions prohibiting conflicts arising out of procurement activities permit no exceptions. The second set of provisions applicable to state administered NYS CDBG non entitlement funds is found at 24 CFR 570.489(h), which provides:

(1) Applicability

- (i) In the procurement of supplies, equipment, construction, and services by the States, units of local general governments, and subrecipients, the conflict of interest provisions in paragraph (g) of this section shall apply.
- (ii) In all cases not governed by paragraph (g) of this section, this paragraph (h) shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance with NYS CDBG funds by the unit of general local government or its subrecipients, to individuals, businesses and other private entities.

(2) Conflicts prohibited. Except for eligible administrative or personnel costs, the general rule is that no persons described in paragraph (3) of this section who exercise or have exercised any functions or responsibilities with respect to NYS CDBG activities assisted under this subpart or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(3) Persons covered. The conflict of interest provisions for paragraph (h)(2) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving NYS CDBG funds.

(4) Exceptions: Thresholds requirements. Upon written request by the State, an exception to the provisions of paragraph (h)(2) of this section involving an employee, agent, consultant, officer, or elected official or appointed official of the state may be granted by HUD on a case-by-case basis. In all other cases, the state may grant such an exception upon written request of the unit of general local government provided the state shall fully document its determination in compliance with all requirements of paragraph (h) of this section including the state's position with respect to each factor at paragraph (h)(5) of this section and such documentation shall be available for review by the public and by HUD. An exception may be granted after it is determined that such an exception will serve to further the purpose of the Act and the effective and efficient administration of the program or project of the state or unit of general local government as appropriate. An exception may be considered only after the state or unit of general local government, as appropriate, has provided the following:

- (i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- (ii) An opinion of the attorney for the state or the unit of general local government, as appropriate, that the interest for which the exception is sought would not violate state or local law.

(5) Factors to be considered for exceptions. In determining whether to grant a requested exception after the requirements of paragraph (h)(4) of this section have been satisfactorily met, the cumulative effect of the following factors, where applicable, shall be considered:

- (i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- (ii) Whether an opportunity was provided for open competitive bidding or negotiation;
- (iii) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- (v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (h)(3) of this section;
- (vi) Whether undue hardship will result either to the State or the unit of general local government or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- (vii) Any other relevant considerations".

To request an exception as authorized under 24 CFR 570.589(h)(4), the Town of Caroline must submit the following documents to the Office for Small Cities:

1. A written request which:
 - a. details the nature of the conflict; and
 - b. specifically addresses each applicable factor enumerated in subparagraph (5) of 24 CFR 570.489(h); and
 - c. is signed by the Recipient's chief elected official.
2. An opinion letter signed by the Recipient's legal counsel stating that the interest for which the exception is sought would not violate state or local law.
3. Minutes of the public meeting at which disclosure of the conflict was made.

Upon the receipt and review of the forgoing documents, Office for Small Cities will issue a written determination either granting or denying the requested exception.

Adopted Barber: Aye; Frongillo: Aye; Adams: Aye; McDonald: Aye; Hoyt: Aye

Resolution 9-4 of 2008**TG Miller contract for Valley Road Streambank Stabilization Project**

By Mr. Barber; Seconded by Ms. Adams

RESOLVED, authorizes the supervisor to sign the contract with TG Miller for design and construction oversight of the Valley Road Streambank stabilization project, subject to approval of the attorney for contract language.

Adopted Barber: Aye; Frongillo: Aye; Adams: Aye; McDonald: Aye; Hoyt: Aye

Adjourn

On a motion, the meeting adjourned at 9:11 p.m.

Respectfully Submitted,

Debra DeAugustine, Town Clerk