

Caroline Town Board Meeting Minutes of June 1, 2010

The Town Board agenda meeting held on June 1, 2010 at the Caroline Town Hall was called to order at **7:04** p.m. by Supervisor Don Barber.

Attendance:

Don Barber, Supervisor
Dominic Frongillo, Councilman
Linda Adams, Councilwoman
Toby McDonald, Councilman
Pete Hoyt, Councilman (arrived at 7:59 p.m.)

Recording

Secretary: Sandie Baker, Deputy Town Clerk

Also present: Pete Hoyt, Craig Schutt; Barry Goodrich

Reports

Toby McDonald, Town Board

In contact with representative from Department of Labor Marc Smaur regarding citation. Contact information for representative to be obtained at a future time.

Dominic Frongillo, Town Board

Email list transfer is successfully transferred to Google Groups. Plan is to send out email with basic instructions of how to run this to those concerned.

Council of Governments meeting, Katie Borgella, from Tompkins County Planning Department gave information about bills being presented to the State Assembly and Senate to allow local municipalities for property assessed financing for clean energy and energy efficiency. Opportunity for Caroline to increase residential efficiency \$1m savings if plan were retrofitted; would create 47 local jobs; one barrier is financing may be an issue as retrofit is expensive, five to ten thousand dollars per house. Participating municipalities could write a check for payment to State then receive payment back via property tax and tax assessment over time. Buffers any risk that if the homeowner were to sell the home the benefits of the retrofitting would go with the sale of the home. There is a draft resolution in process; Tompkins County applied for federal funding to set up; program would exist across the country. Balance stays with the property; important to note that this is all strictly voluntary. Would like consideration in passing this resolution in support; Timing is critical and should be passed within the month of June. City of Binghamton has been in the federal funds program for and L-1 has been going for several years; program had special legislation to be started. Housing would be more efficient and all community homeowners would be reaping this benefit. Weatherization is primary; (1) air sealing, (2) insulation, (3) upgrades to heating systems; Wide range of where funds would be allocated; (unsure if dollar to dollar matched funding, belief is a 50-50 match) 80% or more of median income eligibility. Program is not income contingent.

Linda Adams, Town Board

Watershed committee NS4 report due June 1; was previously unknown that a storm water program plan was needed. Other townships were putting a plan together; Dryden shared their plan model, Dryden had asked the State for more information on what was needed in the plan; response expected for midmonth.

On June 4, Japanese Knot-weed eradication in Barille II restoration site; hope is to treat it; some plants are within the easement 3 possibly 4 homes involved, were given information on what was to be used. Unanimous that residents would like to have it all removed.

Easement status for Barille II; Bob Novick has meeting with lawyer; Pete Hoyt has yet to sign.

Town Business

Subject

Dental Insurance Don: Cindy Whittaker wants health insurance to stay with the Teamsters with dental benefit of

\$195 per month; Don checked with Town Ithaca, theirs is \$46 for dental; possibility of joining the Town Ithaca group to supply dental to Town of Caroline employees. Is presented to the board to decide if this is a feasible alternative. There is a call in to the Teamsters and a dental plan is not obtainable on its own. Toby: Teamsters decision or ruling was that if a dependent has access to coverage as an employee and declines enrollment is yet covered regardless of reason; threshold is more than 5% of plan needs to be paid in. Questioned if the cost threshold was in existence; If highway superintendent has passed that cost threshold would she then be covered by that plan?—the board will obtain more facts and then decide. Toby believes Cindy would be happier with the coverage available with the Teamsters policy.

Short-term Disability Benefits (*section 804 in Employee handbook*) Available for part-time people but not seasonal or temporary. The Insurance company determines eligibility; town does not currently have this type of policy, Teamsters policy is currently only one in existence; The town is not required to collect insurance for elected officials, however, it is requirement for town employees. Monthly payment will be between \$170 weekly or ½ of 8-week average wage; Disability benefits would be paid outright to recipient. Quote needs to be obtained for local company is Zurich-is \$20 per year per male \$45 per year per female. Policy would cover court clerk, court typist, highway typist, code enforcement officer and deputy clerk; is favor to sign these positions up for disability insurance; disability would start eight days after the time the employee leaves for disability. Town needs to pass a resolution for employee contribution to disability costs as well; contribution estimate is ½ of 1% up to 60 cents per week. Town keeps proceeds and puts these funds toward the disability payments. In question as to whether this would be feasible for the town. Opposition is that funds would not be available. Decided previously that Town would pay 100% of health insurance, currently due to health care costs this is costing the Town a tremendous amount of funds. Belief is that deductions should be made to offset the cost of the healthcare; these funds would be available to help out during times of disability; Type and company coverage to be decided; Town is not required by law to supply disability insurance of any type; The Town currently pays SSA expenses as well. Resolutions to be made at the Business meeting.

Grounds Committee: A place to store outside garbage cans and other items in a 4'x8'x8' structure on the far end of Town office building sitting between the two windows would not be attached to the building. This would be for trash, recycling, snow shovels, salt, etc.; would be \$800 for cost of structure; would need to be locked to assure security of items in the shed. Barry: building is built by Kennedy Hardwood with steel door for outbuilding to obtain security. Barry believes these are far superior to other vendors that would have a similar shed. Shingled roofing would be similar to current building, ensuring a blending “fit” with the siding of new office building so this shed would blend in with what is in place already. The outbuilding would be placed on a gravel pad foundation estimated as 4 inch thick with 8”x16” blocked corners; internal size would be estimated at 3’x6’. Trash cans would be picked up by Caroline’s Highway department. Shelving for storage above the garbage cans, for brooms, shovels etc. Barry believes that this would be a convenient size for what it is needed for. One shed with possibility for additional shed in the future. Not recommended to go any size larger at this time. The shed would be more accessible as well as functional than a dumpster type container.

Basement entrance door at 2260 Slaterville Rd, Town Court Building Door is weather damaged and needs replacement. The door has settled to the point that safety has become an issue. Board discussed that a more pleasant door would be better than a metalcore door. Durability is in question of the wooden door as opposed to the metal door—maintenance of the door would be about even with either choice. Door is located on west side of the building and would be in the elements continuously. Roof ventilation and icicle build up in the winter; Eaves would be incorporated into the roofing plan to divert the water away from this area. It is estimated that the door has not been changed in 15-20 years; suggested that alternatives could be sought out. However, “Bilcore” door would be a more feasible solution for the issue.

Road Construction Law Comments back from the Association of Towns. Copy will be sent out to board members, environmental assessment for SECR; the Local law will be discussed.

Dog Census A letter was sent by Don to the other board members for input into the construction of a dog census letter. Dryden had a census done in the past and the town paid a contractor \$2 per dog licensed; is felt that this was a thorough result and Dryden would be willing to suggest who this person was so that Caroline might use this services. Don had an example of pamphlet; other board members to help with editing changes of the dog-

licensing letter.

Privilege of the Floor

Pete Hoyt, Brooktondale N.Y. (*present as member of the public and not as council member*)

Craig Schutt: Easements At origination the belief was that the cost of bonding would prohibit this project. Assets have been evaluated and coverage found; Section 139 of NYS finance law deals with retainage of funds for these types of jobs. Unclear as to where this would fall under. Should there be no bond provided by the contractor than the state would retain \$2500. State retainage of funds until the (Region7) DEC signs off on the project. Gathering information on intended beneficiary clause, 5% of funds held for cleaning up debris, ground damages, etc.

Linda asked “Any examples of the DEC saying that all the information that is needed has been obtained and they can inspect and proceed as planned?” Project cannot proceed unless all signatures, including Mr. Hoyt’s, have been obtained. Toby has spoken with Mr. Hoyt and the issue is that he (Mr. Hoyt) needs to feel safe that if there is damage left afterward that it would be corrected at that time. Thought is that mechanisms should be instilled that should the “what if scenario” occur that clean up is done to expectations. Don stressed that the Third Party Indemnification Clause is more than clear in its entirety—states that Mr. Hoyt can work directly with the town to obtain the results sought should there be damage after the project is completed. A plan is being sought that if “anything” undesirable, or not specified by the contract, should happen that the Town will hold him (Mr. Hoyt) harmless, and the town would take steps to correct the solution to the damage sought by Mr. Hoyt.

Toby feels that since the project is at its zenith that a decision needs to be made. Addressed to Pete by Toby that accuracy of contract is in question, and that the whole project relies on compliance that all is well after the company pulls out from the fields that the property is intact and Mr. Hoyt is content with how the property looks. It is unclear as to what the extent of risk is and what inevitably will occur at the close of the project—unpredictability. Planting of 200 trees in property to replenish what is cut. Don stated that FEMA funding would not be accessible in another year. Pete wants indemnification to prevent or help with the unexpected expenses occurred during the project. Soil & Water and contractor agreement on how land is to be used and Pete is in question as to how the landowners fit in with this decision. Don: when stream work is done, stabilization has to be made from bridge to bridge, as you cannot just do work in one area without affecting additional areas. Aquifer issues were not foreseen before the work began. Pete has not been in favor of the project since its conception; bank boundaries/trees and where placement would be; legal issues are in question as to what is actually holding up the project. Pete: “suggestive issue is the asymmetry of ‘power’ for final decision”. Would like to know where the allocation of the power of decision is to be drawn legally into a checklist. Pete requested a signoff plan so that each stage or, “project management”, could insure that there are no mistakes made in the processes of the project. Don explained that the issue was to obtain an agreement between the town and Pete to find a level of agreement beneficial to each party involved.; also explained that Pete would be able to come to the town and have an avenue to place complaints as, for example a tree is cut in error; stated that town is intermediary between landowners and contractor. Pete stressed that community members have complained or questioned the boards decision making.

Stressed that funds are not obtainable from FEMA and state unless measures are met within the plan. Guy stated a checklist and the legalities of what items are on the checklist. An example is needed. No legal way to write a contract to predict the unknowable. Instead, Guy explained that should an unforeseen incident occur than the landowner who feels violated should approach the town with the grievance. Toby asked again for the “arrangement” that would be pleasing to Pete to help facilitate a conclusion. Pete suggested an amount of money to be set aside for release at his decision. Dominic questioned who would sign off on the release of funds at the completion of the project. A number of agencies would have to sign off before the release of funds.

Guy explained a “beneficiary clause” first party and third parties, defines how beneficiaries can make claims on the funds. Third Party Beneficiary could be named as Pete in this context. Amount of \$10,000 was suggested, however, no definite amount as of yet. Toby stated that Section 139 of Article 9 of Laws of NY state Finance Law has to do with state contracts that if no bond is posted a retainage of 5% is held. Believed this only applicable if the state is the contractor. Believed that if the retainage was held to this law that the final amount would be

estimated at \$15,000. Posing to Pete if he would be willing to go along with a retainer of this amount? It is in question that this law may not pertain to the municipalities. More is needed to find a way to build the funds to retain. Don asked what type of mechanism would be needed. Toby questioned the concepts of the mechanism of how the contractor would perceive Pete being the sole person to sign off on the release of the funds. Don explained that contractors would not be paid until landowners for easement had signed off on the project; at which time the Town would be advocate for Pete. Reality was stated as “the contractor will be done on Hoyt easement before the project was completed.” Barry Goodrich interjected that should be stated if all was done to Pete’s specifications on his portion of the project, would the contractor continue on if there was a hold up? Pete stated that the biggest issue is if one of the long-standing trees were lost in the process of work being done on his land. Still in question as to what type of restitution would be available if one of these trees were taken down in error. Pete suggested that orange fencing be placed around those long-standing trees that he fears would be inadvertently cut down in the processes. Linda questioned how to handle the design of the fencing; Discussed if fencing is a more feasible idea to use as opposed to paint marks, or *ribboning* the trees that are to be saved during the project. Linda asked Pete to be more specific of what details are acceptable and which would not be acceptable to him.

Toby stressed that perhaps the contractor would not follow through with Pete being the sole entity to sign off. Asked how the plan can continue with Pete not being entirely comfortable with control/power issue. Guy: Stressed that a qualified third party independently obtained can be Pete’s voice in advocating for the landowner. Pete questioned where the funds would come from to pay this individual. Guy stressed that this would be less expensive than some of the alternatives. Pete will consult with his legal counsel to evaluate the idea of an escrow account and third party inspection before moving forward. Definition of what the inspector would need to do to fulfill this part of the plan. Guy stressed that no one can predict the future outcome of trees planted during the reforestation process and whether the trees would survive to year five after the plantings. Believed that the measure is in place that if the percentage of trees planted do not survive than there would be a replanting; Pete questioned if RFP for re-vegetation has been in place or no.

Indemnification implies that you have a direct right in the involvement, and indirect beneficiary has a right to make a claim as well. Retainage amount estimated at \$2500. Concessions are in place for physically protecting the trees and ensuring that if in error, the trees are cut down, the \$2500 would cover this loss. (Time line is roughly 2 months; Barry Goodrich would be onsite to ensure that these trees are not lost.) Proposed that a third party inspection be decided and hand picked by Pete, who meets mutually agreed upon specifications. Toby: vegetation plan is referred to in the contract held with the DEC; questioned can the vegetation plan be specified as the correct plan. Pete explained that he is in acceptance of the vegetation plan; Don stated that the indemnity for intended beneficiary is in contract with the tree planter and not with the contractor. Toby explained that the tree planting is not in question until the decision to accept the contractors plan is in acceptance. Pete declared that after speaking with his attorney, he would get back to the board. Pete stated that the \$2500 retainage would be acceptable to him. It is his question that if the funds are not needed on Pete’s land would the retainage be available to another landowner and those funds need to be used there for damages. Pete questioned if his land is used, or would be used, for staging area after his portion has been completed.

Agenda Items

- Bulleted List – get this from Don by email after meeting.
- Disability for Town Employees
- Grounds Committee
- Basement entrance door at 2260 Slaterville Rd, Town Court Building
- Road Construction Law
- Dog Census

Adjourn

On a motion by Dominic Frongillo and seconded by Toby McDonald, the meeting adjourned at 10:12 p.m.

Respectfully Submitted,

Sandie Baker, Deputy Town Clerk