

Caroline Town Board Agenda Meeting Minutes of August 7, 2018

The Town Board Agenda meeting held on August 7, 2018 at the Caroline Town Hall was called to order at 7:02 p.m. by Supervisor Mark Witmer.

Attendance:

Mark Witmer, Supervisor
John Fracchia, Councilmember
Irene Weiser, Councilmember
Cal Snow, Councilmember
Megan Barber, Councilmember

Recording Secretary:

Jessica L. Townsend, First Deputy Clerk

Also present were 24 members of the public

Agenda

Salute to the Flag (7:00)

Information Session on Proposal to Change of Highway Superintendent and Town Clerk Positions from Elected to Appointed (7:05)

Privilege of the Floor: Opportunity for citizens to bring forward matters of concern. *Please plan your comments not to exceed three minutes in length*

Resolution authorizing the Town to sign the collective bargaining agreement by and between Teamsters Local 317 and the Town of Caroline for the term January 1, 2017 through December 31, 2021

Resolution authorizing the Supervisor to sign the contract with Public Sector HR Consultants, LLC to update the town's employee handbook

Approval of minutes of July 3 and July 11, 2018

Committee Reports (7:45)

Discussion and Agenda Items for August 15 Town Business Meeting (8:30)

Adjourn

Information Session on Proposal to Change Highway Superintendent and Town Clerk Positions from Elected to Appointed

Mr. Witmer started by giving a brief presentation on the proposed change of the Highway Superintendent and the Town Clerk positions from elected to appointed. He gave a power point presentation that was based on a Superintendent position, but it would parallel for both positions. The information was provided by Lori Mithen Demasi, Counsel of the Association of Towns of the State of New York and it contrasts the elected v. appointed and the pros and cons of each. A slide showed that approximately 90% of Town Highway Superintendent are elected and 10% are appointed.

Bob Spaulding asked: what are the numbers for the Town Clerk?

Mark Witmer responded: I was just going to say, I think that's about 91 out of 432 Superintendents are appointed, and I think the Clerk is about 51?

Audience Member asked: Percent or people?

Bob Spaulding responded: 942 Towns.

Mark Witmer responded: Ok, thank you, Bob. Do you have the numbers you wanted? 51 out of 942.

Mr. Witmer then went back to his presentation and began providing information to the public regarding the term of office. The term of office is a two (2) year term and we (the Town of Caroline) have a town law that extends them to a four (4) year term, we have done that for both the Town Clerk and Highway Superintendent. Next was information on qualifications. At the time of the election and throughout the term of office, the elector must be a resident of the town.

Linda Adams asked: So it is not possible for anyone to run for either of these positions if they are a non-resident?

Mark Witmer responded: Correct.

Linda Adams asked: And that's based on.... what?

Mark Witmer responded: Town Law. New York State Town Law.

An audience member questioned if one of the slides said appointed or elected. Mr. Witmer started looking for the slide that was in question. Once found he explained that for an appointed position, a town can supersede New York State Law and allow residents outside the borders of the town to serve.

Back to his power point presentation, Mr. Witmer began discussing qualifications and salary of these two positions. The salary of these positions is fixed by the Town Board during budget time

Linda Adams asked: Can they get raises?

Councilmember Irene Weiser responded: Only during budget season.

Ron Spada asked: Why or what has happened that you are determining this has to happen, after all these years of having them elected? I want to know what the reasoning is.

Mark Witmer responded saying: now is a good time to do it because now both the Town Clerk and the Highway Superintendent terms are finishing at the end of next year.

Ron Spada – Am I understanding that the current situation isn't working? Because as far as the roads go, the roads are excellent, and I have had no issues with the Clerk so I'm curious as to why this is coming forward.

Mark Witmer responded saying: I'm proposing this as a town policy not a personnel issue. So, as you know Cindy Whittaker (Highway Superintendent) will be retiring at the end of her term and her position is such a high skilled position, I think an appointed system gives us a much better ability to set qualifications and vet applicants and expand the applicant pool and we haven't done it yet but I would like to open that up so that residents in adjacent towns can apply. Dryden, Candor are neighboring towns that are right there.

Audience Member: How is someone outside of town going to the needs any better than someone inside this town? There has to be a reason why it was set up that you had to be a resident of the town in order to get the job. They live here so they know what needs to be done.

Mark Witmer: I'm sure that was the justification but, in this day, and age, there could be a very qualified applicant that lives right over on Ellis Hollow Road where it's considered Dryden and it's just a few miles up the road. They could then be eligible to apply.

Ron Spada: I totally disagree and I'm sorry for getting into this, I just thought there'd be an answer as to why now?

Mark Witmer: I really do think this is an opportunity to improve our process.

Mark Witmer: Went back to his power-point presentation and began discussion on work hours, sick/vaca/OT, etc. The elected official is not restricted or regulated in the time of official duties. The elected official is not restricted to the amount of vacation or sick time used. The elected official cannot be disciplined or suspended or terminated. If the positions were appointed the Town Board may set reasonable work hours, provide paid leave, and could set and approve vacation and sick leave as well as possibly authorize overtime compensation. If we did go to an appointed system, we would develop job descriptions that are very similar to what you see in civil service jobs, job functions and qualifications.

Audience Member asked: if he would put all the information online so people have a chance to review. Supervisor Witmer agreed to do so.

Mark Witmer: I explicitly explained at the last meeting the way this works is if we pass this Local Law, it doesn't mean anything because it doesn't go into effect until it goes on the ballot and is voted on by you, the voters. So, it won't be our decision, it will be our decision to vote on it and if it goes to the ballot, but the vote is ultimately yours, the voters.

Frank Yaple: It's been tried once or twice before, and it didn't work. A bunch of Republicans were sitting where you are sitting now.

Mark Witmer: I understand that. I knew of one other time this was tried but I really do think it's makes a lot of sense and I want to put it out again for your consideration.

Audience Member asked for clarification when Mr. Witmer stated that about 90% of Towns elected their Highway Superintendents, is it the same ratio for the Town Clerks?

Mark Witmer: No, I think its 51 out of.....

Irene Weiser: It's about 5%.

Audience member asked if it goes to referendum, will there be one for each office?

Irene Weiser: Yes.

Mark Witmer: As the Town Board, we will vote on these separately. They are two separate laws so thank you for clarifying that.

Audience Member: When you are choosing, is it the majority of the board or a unanimous board?

Linda Adams: Simply majority

Mark Witmer: Let me just finish what I was saying, the other thing we would have to decide is whether to make this a civil service appointment or a term appointment if we adopt it.

Pete Hoyt: Would that be written into the Local Laws before it's put out there?

Mark Witmer: I believe so.

Paulette Rosa: It's my understanding you may be confusing two things. Maybe I'm wrong but I'm a civil service appointee, I'm an appointed Town Clerk for the Town of Ithaca. I am not protected by civil service, I am what's called exempt and that there just for retirement, tracking hours and such. I was also under the impression because I also wanted to get the residency requirement removed because I would have loved to have lived right over the border of the town and that had to go in front of the State Legislature to get approved. So, some of the stuff I've been reading here and, on your website, has been a little misleading. I think there's a little more involved to remove the residency requirement, and it's more involved to remove somebody from office.

Mark Witmer: So, from what I have read, you can do either a two (2) year term appointment or a civil service appointment which wouldn't be a term appointment.

Paulette Rosa: It would be open ended.

Mark Witmer: My understanding was that we could supersede our Local Law, but I will check on it. Thank you for bringing that

Paulette Rosa: Yeah because when I was appointed, I had X amount of days to move into the Town of Ithaca. So, I would investigate that.

Frank Proto: It sounds like there is not enough... all of the "issues" if you can call them that, are not persuasive enough for me to want to put this forward even for a vote and I'm going back to something that Ron Spada asked what precipitated the action on either of these positions? Was somebody insubordinate? Was somebody cheating?

Mark Witmer: I just explained that with Cindy's retirement...

Frank Proto: Excuse me, no no, that's a timing issue. That is not a reason for doing this.

Mark Witmer: But you're asking why now.

Frank Proto: Yes, why now? You could do it five (5) years from now too. Because it will come up for re-election again then.

Mark Witmer: But that's far beyond when we will need to find someone for Cindy's position.

Frank Proto: How can you protect against nepotism in a case like this, if you go appointed. Right now, both of those positions are answerable to the public and the voters and because a lot of us know from over the years who the Highway Superintendents have been and the Clerks have been. Sometimes we've had wonderful ones and sometimes we've had horrible ones. Frankly, I think you should move with caution.

Laurie Spada: This is too apolitical. That's why I don't come to these meetings. You can have all these people here saying they don't want it and it's up to the 5 of you to decide. I think you are just taking it out of the voters' hands.

John Fracchia: Noted.

Mark Witmer: Thank you.

Irene Weiser: May I suggest that we draw a line if there are more questions, we take questions, if not, shall we turn to privilege-of-the-floor?

Mark Witmer: Great idea. Questions?

Audience Member: Asked for some more information so people are educated on the issue and that way make an informed decision, because it's an important decision, and we have a history of doing things like that. And the other thing was that someone was concerned about the decision being the Town Board's decision and many times there are committees, members made up by residents that have a role in the application process and perhaps drafting the job description too. Maybe that will make people feel like they are being heard and involved.

John Fracchia: That's a practice that a lot of organizations do. That makes a lot of sense to me.

Irene Weiser: It's basically the process we just used for hiring the Code Officer.

Audience Member: Is the Code Officer a resident of the Town?

Irene Weiser: No, he is just over the border into Danby.

Audience Member: was there no applicant from the town for that position?

Irene Weiser: That's correct.

Kathy Mix: I have a question or need clarification on something on the power point, there was mention about going to appointed opens the doors to allow for retirement and overtime and such. Have you looked at what the cost difference would be for the Town?

Mark Witmer: No. I haven't looked into that yet. In an elected system, it's a salary position and that's it. In an appointed position, you could provide the benefits that you just referred to.

Kathy Mix: And working with Cindy hand and hand on emergencies I know that there has been a lot of overtime so that ultimately could potentially hurt our pocketbooks. And I want people to think about that too.

Irene Weiser: I just want to offer a comment why for me this is a good time to do this. We have been extremely fortunate to have had Cindy and other Superintendents in the past. The Highway takes 65-70% of the town's budget. It is a big pot of money, it's a big responsibility, it's a very highly skilled position that requires management on many, many levels. Understanding the trucks, the roads, people's safety, road maintenance, it's huge. And the budgeting of all of it. There was in this town's history, a highway superintendent who was elected, who was not so good at managing the budget and if I can remember, I think it was sometime in November, he had spent through the budget. There was no more money left to pay the employees or maintain the roads. So, you can imagine what that must have been like from November through the end of that year was an enormous problem. I feel like this is a responsible option to consider. For elected positions the Town has no authority other than to appropriate money at the beginning of the year. That's it. Then, you're on your own to do what you do without any ways to supervise, manage, control particular direct ways. So, for me, it feels important that the Town Board have the kind of ability to manage more directly when it is needed.

Audience Member: Can't you stipulate that you give the money in quarterly payments?

Irene Weiser: No. The money is appropriated at during budget time.

Audience Member: So, it sounds like there's any qualified in the Town to do it. You're going to have good people and bad people. But, I still have to go back to why now, all the sudden is this an issue?

Irene Weiser: And this is my why now. This is a position of tremendous authority and responsibility and I want to ensure that we get as broad of a pool that we can.

Audience Member: People in the town as taxpayers want to be sure that their money is being spent wisely. But I think to say "I think we are going to appoint somebody because there isn't anyone qualified in town" I think that's kind of narrowminded.

Mark Witmer states: He thinks that justifies why we need to broaden the applicant pool, so we can get the best person.

Audience Member: Believes that being a Caroline resident would be the better way to go. Gives them more knowledge of the town and current conditions of the town. But agrees that if there isn't a qualified resident, opening up the applicant pool to nearby towns is a good idea to ensure that the job is done well.

Audience Member: You're appointed, aren't you? What would you say if we said we don't want you anymore and we are going to appoint someone, and you're done, you're out of a job. Every town official, at one time or another throughout time has had a bad experience with a clerk, or Superintendents but it's the same with the town board and the supervisor.

Marilou Harrington-Lawson: States that she has no intention of leaving when her term is up next year. Gave her qualifications as a Certified Municipal Clerk, a Registered Municipal Clerk, and a Master Municipal Clerk. What more qualifications are they looking for?

Mark Witmer states: that he grappled with the decision to propose this change for the Clerk position when it was brought up for the Highway Superintendent position. Doesn't mean to imply that she is not qualified and if it goes to an appointed system, certainly she can apply for the position.

Audience Member asked: why have so few townships adopted this plan if this is the best way to go? Every town that has adopted this way regrets it. Notoriously known as a bad decision, and that's why there are such few towns throughout New York that have changed to appointed.

Mark Witmer – Believes it to be a great hurdle for Towns to make a change but believes it to be a good change. Has given his justifications.

Audience Member: Are these appointed Towns rural? Would like more information.

Linda Adams asked the Town Board if the Town of Ulysses passed this change when it was up for vote in 2016.

Mr. Witmer and Ms. Weiser answered that it did not pass.

Audience Member: wondered why the positions were elected and not appointed in the first place. Spoke on favoritism of those who have been elected in the past.

Frank Proto states that he doesn't think that the Town Clerk can perform too many duties that can give favoritism. Can't change your taxes, etc. Believes that the Highway Superintendent probably does plow specific roads more for emergency personnel etc. Believes if she didn't she would be far more criticized for that then favoritism. Even if the positions stay elected, no reason why the Town Board can't scope out who may be qualified from neighboring towns and have them move into Caroline after their appointment.

Audience Member says: if a person is not doing their job, they won't get elected.

Linda Adams: I was previously on the Town Board and remembers one meeting that she and another board member needed clarification on something and had depended on the minutes for clarification. Stated that it is such an important job and thanked the Town Clerk and Deputy Clerk for the hard work.

Paulette Rosa: supports the idea of being a resident of the town in order to have the position. A Town Clerk is a buffer between the people and the town board. If the Clerk is appointed, the Town Board members are essentially their boss and maybe couldn't speak up to them in fear of their job.

Audience Member asked: if there will be a term offered if they go to appointed positions?

Mark Witmer: It has not been decided yet.

Audience Member: asks when will they know? Will it be before the vote in November?

Mark Witmer: Before. There is a lot to decide on in the next month.

Audience Member asks: if the Town Board reviews the monthly bills.

Councilmember Irene Weiser and Supervisor Mark Witmer both responded and clarified that the Town Board does indeed account for the money that comes in and goes out. The budget has many layers of staffing who review and sign the vouchers before they get paid every month. Further discussion about how the bills are paid for departments in the Town and how the Town budget works.

Barry Goodrich stated that the slide showed that if the Highway Superintendent position gets voted in to be appointed, it was shown that the Superintendent may decide to provide services or not. Meaning they don't have to perform such duties that the crew performs.

Audience Member: How would the appointed position answer to the Town Board?

Irene Weiser: The Town could have authority and oversight of their budget. That person required to abide. An elected position is not answerable to the Board. They run their own Departments. Cannot direct or oversee the Departments. If appointed, action can be taken.

Audience Member: You can't do that now?

Irene Weiser: That is correct.

Paulette Rosa: A Clerk whether appointed or elected has statutory requirements.

Edie Spaulding: Irene keeps referencing one time it happened. When?

Cal Snow: 1998-ish?

Privilege of the Floor

Mike Moran – Found the write-up in The Brooktondale Newsletter to be disingenuous. The numbers were incorrect, and information was left out. Opposes the proposed Local Laws. Thanks Mark and some Board members for being open and listening.

Pete Hoyt – Glad for the Information Session. Opposes the proposed Laws. Voters make mistakes. Voters get to correct their mistakes in the next election cycle.

Marilou Harrington-Lawson – Has been a resident in Caroline for 56 years, and the Town Clerk since 2009. Has helped residents by going to their home if/when needed and has enjoyed the job. Did not see this change coming, was blindsided. Believes that when it comes down to it that the people will vote this down.

Frank Proto – Would be helpful to make one more clarification, need to define referendum and vote interchangeably. Also, looking for an update on the streetlights and the maintenance of same. Asks for a mid-course check on where they are at with streetlights. Cost comparison of NYSEG vs. owning them? Spoke on the new Code Officer, Brooke Greenhouse. States he built the Town Hall and close to a Town resident (resident of Danby). Isn't a Caroline resident but has history here. Thanked the Board for the information session.

Linda Adams – Would like to see a full outline on what this is before voted on in November. Specifically, a term appointment? Full Civil Service position? Still needs to know about residency and job description.

Bob Spaulding – Opposes the proposed Local Laws. Voters have been electing the positions for many, many years. No reason why we would need to go outside of town residents. Questioned the reasoning for the change saying there would be better accountability if appointed. Both elected offices are accountable directly to the voters. He believes that the voters make them accountable when it's time to vote. The offices of the Town Clerk and Highway Superintendent need to remain elected.

Janice Burton – Lived here 12 years. Would like two things addressed. Would like to know what the population was 10 years ago to now and what are the expenses now compared to then? Would like to see the Highway Dept work for the residents (i.e. trim brush, install culverts, etc.

Resolutions

Resolution No. ____ authorizing the Town to sign collective bargaining agreement by and between Teamsters Local 317 and the Town of Caroline for the term January 1, 2017 through December 31, 2021

A motion was made by Mark Witmer and seconded by Irene Weiser to authorize the Supervisor to sign the NYSERDA grant application (contract) for clean energy in the Town of Caroline

Adopted: Witmer: Aye; Fracchia: Aye; Weiser: Aye; Snow: Aye; Barber: Aye

Resolution No. ____ authorizing the Supervisor to sign the contract with Public Sector HR Consultants, LLC to update the town's employee handbook

A motion was made by Mark Witmer and seconded by Cal Snow to authorize the Supervisor to sign the NYSERDA grant application (contract) for clean energy in the Town of Caroline

Adopted: Witmer: Aye; Fracchia: Aye; Weiser: Aye; Snow: Aye; Barber: Aye

Approval of Minutes

Resolution _____ of 2018

Minutes of the Agenda Meeting held July 3, 2018:

A motion was made by Mark Witmer and seconded by Cal Snow to accept the minutes of the July 3, 2018 Business Meeting as submitted by First Deputy Clerk, Jessica L. Townsend

Adopted: Witmer: Aye; Fracchia: Aye; Weiser: Abstain; Snow: Aye; Barber: Aye

Discussion on Resolution No. 111, 112 and 113 in connection to the proposed Local Laws. The Town Clerk pointed out that these Local Laws were numbered but should not have been because a proposed Local Law does not get a number until it becomes a Local Law. The Town Clerk has requested for those Resolutions to be rescinded. The Town Supervisor does not believe that is necessary. Ms. Weiser asks that the tape be reviewed and use the appropriate wording that was given. The Board will review the revisions and discuss at next week's meeting.

Committee Reports

John Fracchia, Councilmember – Mr. Fracchia referred the board to review his report and will answer questions next week when the room is less hot.

Cal Snow, Councilmember – None

Megan Barber, Councilmember – Ms. Barber's report is as follows:

Capital planning

- One interested citizen responded to request for committee members, but I was unable to make contact with him after his initial email.
- Deputy Supervisor Don Barber offered to be involved if needed.

Enslaved people's burial ground

- Working group met and determined that the first step needs to be to raise awareness and build relationships. The working group recommends kicking this off by holding a book group about the book, So You Want to Talk About Race, by Ijeoma Oluo. Proposed date of 10/17 or 10/18.
- Can book group meet at the Town Hall? Can we request that the library obtain multiple copies of the book?

Planning board

- Meeting on 8/6 was to be rescheduled.

Irene Weiser, Councilmember – None.

Mark Witmer – Heat pumps are moving forward, will get info to the Board ASAP. Brooke Greenhouse is filling in the (Code) Office and he noticed the air hammer in the pipes, and he suggested he investigate it and reached out to Jay Payton who came today to take a look. Believes that there is a break in a pipe underground. Also, waiting to hear back from Angel regarding the parking design and will update when he has new info.

Discussion and Agenda Items for August 15, Town Business Meeting

Mr. Witmer has invited Brooke (new CEO) to come speak at 8pm during the Business Meeting next week. Supervisor Witmer needs to speak to Cindy (Highway Superintendent) or Bob (ATV Riders) about Guy Krogh coming out in September to discuss the ATV Riders. Councilmember Weiser suggests doing it in a separate session (a Saturday or Sunday) assuming it will be a long meeting. Mr. Witmer opposes having a weekend meeting but agrees that it might be beneficial to have a separate session. Discussion followed about what time, day or the week to have it. Mr. Witmer will reach out to Bob Mix of the ATV Riders Group and find out what time works best.

Cal Snow asked for an update on the phones and faxes. It had been arranged that faxes would no longer be coming through the fax machine and would now be sent to a shared folder through everyone's email. Mark and Jessie described an issue with the faxes being sent to a folder on the Town Clerk's email rather than being sent to a shared folder for everyone to retrieve. Gary with Computing Center will review our issue with Comm-Core and Mr. Witmer will follow-up and update Mr. Fracchia on the status of same.

Russ Nelson had brought something into the Town Board and Councilmember Snow was looking for an update. John Fracchia said that he has been in correspondence with him but had not yet had the time to review all the material that was sent. Ms. Weiser states that she had heard it was extremely beneficial and believes it to be useful. Recommends it for the Town.

Megan Barber asked about using the Historic Town Hall or the new Town Hall Library space to hold a book group in October. She also asked for an update on Brighten-up Caroline. Mr. Witmer would like to seek a Project Director to help orchestrate the Brighten-up Caroline campaign. He will meet with the committee at an upcoming meeting.

Irene Weiser spoke about Brooke Greenhouse as he stepped into a little building and grounds issues and asked if he should be offered to step in as building and grounds. Will discuss at next week's meeting.

----Adjourn the meeting ----

The meeting adjourned on a motion by Mark Witmer and seconded by Councilmember Irene Weiser at 9:33 p.m.

Respectfully Submitted,

Jessica L. Townsend, Deputy Town Clerk

DRAFT