

**Town of Caroline**  
**Meeting of the Town Board**  
**August 13, 2014**

Board Members Present: Barber, Weiser, Seely, Witmer, Fracchia

Also present: Debra DeAugustine, recording secretary

The supervisor called the meeting to order at 7:04 p.m.

**AGENDA ITEM**

Budget Discussion

Board members had nothing to discuss.

**AGENDA ITEM**

Privilege of the Floor

No one came forward to address the board.

**AGENDA ITEM**

**Highway Superintendent's Report**

Ms. Weiser had nothing to report for Ms. Whittaker.

**AGENDA ITEM**

**Supervisor's Report**

Correspondence of Note:

1. Email from Historian – unable to meet tonight and shares budget ideas
2. Notes from TCCOG regarding shared services meeting
3. Letters from Supervisor to Barbara Lifton and Jim Seward on Look-back period for property Tax Freeze Compliance
4. Letter from Code Officer regarding budget

Report:

1. Collective Bargaining Agreement- has been signed and retro pay was done today
2. Participating with TCCOG regarding collective response to the Property Tax Freeze, required by NYS Law in June 2015, decided to list and quantify what has been accomplished and pursue these 4 focus areas for possible improved efficiency and possible additional savings: working on central support. (purchasing, personnel, etc.), highways, courts, and public safety (focus on fire).  
Mr. Fracchia suggested holding an EMS fair, as they had done in Broome County to increase interest. Mr. Witmer suggested recruiting volunteers from colleges.
3. Culvert and road stabilization at Chestnut and Downey Roads has been designed; received easement prepared by G. Krogh.
4. Communicated with NYS AG office- attorney regarding Town records sold at auction. If records are required for retention then we have a case. If they are records not subject to

retention and are in another's custody, then they are property of the custodian. They are records from the Caroline School District, which no longer exists.

5. Health Consortium will hold a retreat with light fare food provided on 9/15 from 5 to 7 in Legislative Chambers. Open to TB members as well as our delegates to Board of Directors and Joint Committee. Health Insurance 101. It will be videotaped.
6. Sending in bi-weekly packets of information to DASNY for Broadband grant.
7. Met with law enforcement and Cindy and Irene regarding what appears to be excessive, non-local truck traffic on posted roads. Cindy will communicate traffic counter data to law enforcement as to times of day and roads that are having significant truck traffic.
8. Meeting with Town Board and department heads about budget concerns and planning.

#### AGENDA ITEM

##### **County Representative's Report**

Dan Klein said he had no county report regarding information affecting Caroline. He talked about the Town of Danby accepting their first conservation easement. They formed a conservation advisory council, which can negotiate easements for the town. There's been a lot of resistance about the regulatory process, but this board can negotiate voluntary agreements between a private landowner and the town. It doesn't cost anything outside the survey, recording fees, title search, which adds up to maybe \$1000. Once that's done, the town holds development rights to the property. They're focusing on housing: basically, people give up their rights to build housing. The easements are in perpetuity. Their first one is an ag easement of 25 acres – one house can be built and the rest will be left as ag land. It's adjacent to Fingerlakes Land Trust land, Fingerlakes trail, etc. They have two more in the pipeline.

Ms. Weiser asked what's in it for the landowner.

Mr. Klein responded there are the legal fees he described. The landowner is eligible for state and federal tax credits that in most cases will far offset the fees. You won't get tax credits if you don't have taxable income. The assessment and town and county taxes stay the same. This has been well received – non partisan – because of its non-regulatory nature. There might be legal fees for the municipality down the line because someone might sue to have the easement broken. Using the Fingerlakes Land Trust as an example, however, they've been in business for 25 years and haven't been to court yet. There are a couple reasons to break the easement: one is if the reason for the easement is no longer in place.

#### AGENDA ITEM

##### **Committee Reports**

Mr. Fracchia reported that he heard back from the EMS folks about the scholarship. It's on a semester-by-semester basis. In order for someone to be eligible, they would have to be on the squad at the time. He will make sure all Caroline squads have that information.

Mr. Barber picked up on a comment from Ms. Weiser the previous week about TCCOG and stormwater. Big storms hit both the east and west side of the lake last week, causing lots of stormwater erosion of roads and property. He was going to ask the Watershed Committee to have

their liaison work with Tompkins County to see if education can be done for both municipalities and residents. These storms are getting very isolated.

Regarding the eminent domain issue for a property whose owner they can't locate. He discussed it with Mr. Krogh. TG Miller has been authorized to go in and do the engineering work. The town will do a "declaration and findings" to say this is minor work, then the board will hold a public hearing on that document that says that the town has the right to go in and do work on the property. Then we can go ahead and do the work.

Mr. Barber said that if we want to get something done this year, we'll have to push pretty hard to make it happen. He suggested that Mr. Witmer find out from the DEC what kind of permitting process the town will have to go through; they will tell Mr. Witmer who the contact is at the Army Corp. We also need to get bids out. All of this has to happen concurrently.

#### AGENDA ITEM

##### **TB Resolution No. 2014-142: Transfers**

Moved by Don Barber; seconded by Tim Seely

Be It Resolved the Caroline Town Board makes the following 2014 Fund Transfers

\$ 1,200.00 from General Fund Account A 1990.4 Contingency to General Fund Account A 1220.4 Supervisor C.E.

\$ 20,000.00 from Highway Fund Account DA 5140.1 Misc P.S. to Highway Fund Account DA 5110.1 Repairs P.S.

Vote

Ayes: Barber, Weiser, Seely, Witmer, Fracchia

#### AGENDA ITEM

##### **Abstracts**

##### **TB Resolution No. 2014-143: General Abstract**

Moved by Mr. Barber; seconded by Ms. Weiser

Resolved, the Town Board approved the General Abstract in the amount of \$20,731.26.

Vote

Ayes: Barber, Weiser, Seely, Witmer, Fracchia

##### **TB Resolution No. 2014-144: Streetlighting Abstract**

Moved by Mr. Barber; seconded by Mr. Fracchia

Resolved, the Town Board approved the Streetlighting Abstract in the amount of \$633.19.

Vote

Ayes: Barber, Weiser, Seely, Witmer, Fracchia

##### **TB Resolution No. 2014-145: Highway Abstract**

Moved by Mr. Barber; seconded by Ms. Weiser

Resolved, the Town Board approved the Highway Abstract in the amount of \$19,581.58.

**Vote**

Ayes: Barber, Weiser, Seely, Witmer, Fracchia

AGENDA ITEM

**Internet Security Contract**

Ms. Weiser said it's not really about internet security but about converting the email system. The IT committee has been looking at it for awhile. The state requires that towns archive email. There's a variety of ways people are handling municipal email. Office 365 provides archiving as well as an email system. This will capture all email and all metadata, instead of leaving it up to an individual to decide which emails to save. It's like a drop-box system. It's searchable. It meets all requirements of New York State. The backup the town is using is called Ignite, which will no longer be used. The Computing Center will do the installation and help with the transition and training.

**TB Resolution No. 2014-146: Establish an Email Archive for Town Board and Staff**

Moved by Irene Weiser; seconded by John Fracchia

Whereas @townofcaroline.org email is provided as a tool to assist Town employees and officials in their day-to-day work, facilitating communication with each other, our constituency, and other stakeholders, and

Whereas emails are public records that are covered by the *Records Retention and Disposition ScheduleMUI* that must be open and accessible to the public under the same conditions as all other Town records, and

Whereas the Town must therefore preserve email, including metadata, for the duration of its retention period, and

Whereas all email messages, including personal communications, may be subject to discovery proceedings in legal actions, and

Whereas according to the Arts and Cultural Affairs Law, Section 57.31, "all local government records shall be kept in secure facilities maintained by the local government unless the consent of the commissioner of education is obtained to their transfer and storage elsewhere," and

Whereas according to 8NYCRR: Regulations of the Commissioner of Education (section 188.11c), local governments are legally required to store backup copies of archival electronic records in offsite facilities, and

Whereas storage of electronic records in a facility that is not owned or maintained by the government must be approved by New York State Archives' Director of Government Records Services, to ensure that security standards are met, and

Whereas Office 365 government version has been approved by New York State Archives for use by New York State agencies and municipalities, and

Whereas Office 365 provides a suite of tools for email, archiving, electronic file storage and file sharing, as well as regular updates of Microsoft Office products that meet the needs of the Town,

THEREFORE BE IT RESOLVED that the Town of Caroline board and staff will convert to using Office 365 for all its email and email archiving needs, as well as for off-site file backup and file-sharing, and Office products as soon as is practicable, and further

Be it resolved that the Town shall contract with the Computing Center to migrate the Town Clerk, Deputy Clerk, Supervisor, Board Members, Highway Superintendent and Code Officer to the Office 365 system.

**Vote**

Ayes: Barber, Weiser, Seely, Witmer, Fracchia

AGENDA ITEM

**Set Public Hearing to Override Tax Cap**

**TB Resolution No. 2014-147: Set Public Hearing of Local Law to Override Tax Cap**

Moved by Don Barber; seconded by Tim Seely

Resolved, the Caroline Town Board will hold a public hearing on September 2, 2014, at 7 p.m. to hear any and all public comments regarding the local law to override the tax cap.

**Vote**

Ayes: Barber, Weiser, Seely, Witmer, Fracchia

AGENDA ITEM

**Amend Lawn Mowing Contract**

Mr. Barber said this is a climate-change and weather-related issue. Some years it doesn't rain much and they don't need to do a lot of mowing; this year has been very wet and they have had to mow every week. The cost would be an additional \$537.84.

Mr. Witmer thought that mowing every week seems like a lot.

Mr. Seely thought that it would depend on the location. Letting the grass go for two weeks at Town Hall would be too much.

Mr. Barber said that Mr. Scott planned to mow every three weeks at the Veterans memorial, but was getting complaints. He was going to mow every two weeks at Town Hall during June, July, and August. He was going to mow 21 times per year and now it looks like he will need to mow 27.

Mr. Seely said he was contracted for 8 at the Veterans Memorial and now he's added an additional 6 and there are two months to go.

Mr. Barber said that two years ago when it was very dry, we didn't get a credit, but he had started the year asking for an escalation clause because of the price of gas, but he never came forward and asked for more money because he wasn't mowing as often. It was a wash.

Mr. Fracchia thought if we had contracted for a specified amount and have hit that, since it's still mowing season, it seemed appropriate to pay the man for his work. But in future discussions, it's appropriate to negotiate a credit during dry seasons.

Mr. Barber added that when the contract was put out to bid a few years ago, Lucente, who used to mow, and Scott & Crispell were within a couple hundred dollars of each other. Lucente declined to bid ever again. His feeling is that Mr. Scott is giving the town a break because they live in the town, and if the town were required to pay another entity, we'd pay more. Mr. Scott gave Mr. Barber a heads-up when he realized that this summer wasn't going to go the way the contract was written. He contacted Mr. Barber two or three weeks prior to the meeting and Mr. Barber requested that he send something for the board to react to. This is coming about because of the weather. He's probably charging the town a lower rate than he charges everyone else; at the same time, we're the custodians of the public's money.

Mr. Seely thought that mowing the Veterans Memorial 14 times was excessive. That might be a way to lower the cost. Town Hall is more visible.

Mr. Barber said that would have to be announced to the public. Mr. Scott will give us a voucher for the extra mowing this year.

#### AGENDA ITEM

#### **Discuss Content of Broadband Service Agreement**

Mr. Barber said that this entails the service Chuck Bartosch will provide as opposed to the construction project. Mr. Krogh did talk with Mr. Bartosch and massaged things and does have things we were hoping for: they will be operating 24/7, 365 days per year; they will be up 99 percent of the time, although they will have to be down for scheduled repairs. There are some heavy-duty clauses that if he doesn't carry out, he has to stop providing. Mr. Barber has yet to hear from his attorney, so we haven't received a counter offer. He won't sign the contract until the board tells him to sign it; he will send it off to Mr. Bartosch to react to.

Ms. Weiser wondered whether there was anything in the contract that specified the download and upload speeds. When he pitched this to the state it was going to start out as so many MB per second, and then he was going to double it.

Mr. Barber said the contract did not specify MB per second; there's nothing about doubling it.

Ms. Weiser asked whether there was anything about discounted rate for people of lower income, or anything about providing service to the Community Center. Ms. Weiser thought we should wait for the state contract.

Mr. Barber said there isn't either of those. He didn't think it was in the town's best interest to wait for the state contract because we don't know if Mr. Bartosch will ever get one.

Ms. Weiser thinks we should go back to the FOIL we got from his proposal to the state and try to include the terms he agreed with.

The Board agreed that this was a good idea.

Mr. Barber said the other part is the construction agreement, which talks about the location of the 14 poles, which will be owned by Clarity Connect and not the Town, but we are funding it. The progress payment schedule hasn't put in: whenever asked, the town has to prove that it can make payments.

Ms. Weiser wondered whether both poles on White Church Road were needed and if the price would change if there was only one. She asked what the renovation of a fixed asset referred to.

Mr. Barber responded that if he's not putting up 14 poles, that's a change order. The renovation of a fixed asset is the tower on Taft Road and any other renovation that may need to be done; everything else is new. Mr. Barber said that Mr. Bartosch's attorney has had this service agreement for six weeks. According with Mr. Barber's conversation with Mr. Krogh, Mr. Bartosch doesn't have any big issues with this; it's mostly the punitive part that the attorney is trying to work through. The construction agreement has been remodeled some because of the DASNY template. Mr. Barber will try to get clarification on Ms. Weiser's questions. Park has already given money. We have commitment letters from four municipalities, including Tompkins County, and two individuals. The county is asking when we need the money.

#### AGENDA ITEM

##### **Conflict of Interest Policy**

Mr. Barber said this is part of the broadband: DASNY has asked for our conflict of interest policy, so he adjusted the policy Ms. Weiser got from the City of Ithaca.

##### **TB Resolution No. 2014-148: Adopt Conflict of Interest Policy**

Moved by Don Barber; seconded by John Fracchia

Resolved, the Caroline Town Board hereby adopts the conflict of interest policy.

The purpose of this policy is to establish minimum standards of conduct to help ensure that the exercise of governmental responsibilities by Town of Caroline officials and employees is free from improper influences that might cause those officials or employees to make, promote or hinder public decisions in order to advance their own private interests. The standards and guidelines set forth in this Policy are intended to eliminate, to the greatest extent possible, the existence of conflicts of interest pertaining to Town officials and town employees in the exercise of their official duties, to minimize unwarranted suspicion that such conflicts exist and to avoid potential conflicts of interest before they arise.

- A. The rules of ethical conduct set forth in this Policy are intended to supplement those of §800 through §813 of the General Municipal Law of the State of New York and any other applicable general or specific law relating to ethical conduct and interest by municipal officials and employees.
- B. Town of Caroline officials and employees must exercise their official duties solely in the public interest and must avoid actual conflicts of interest to the greatest extent possible.

- C. Town of Caroline officials and employees should avoid circumstances which compromise their ability to make impartial judgments solely in the public interest and should, to the greatest extent possible, avoid even the appearance of conflict of interest. No Town of Caroline official or employee shall knowingly take any action or incur any obligation of any nature which is in conflict with or might reasonably tend to conflict with the proper discharge of his or her duties on behalf of the Town of Caroline.
- D. No Town of Caroline official or employee shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any town agency of which he or she is an officer, member or employee or of any town agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee.
- E. No Town of Caroline official or employee shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any town agency, whereby his or her compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- F. No Town of Caroline official or employee shall disclose **Confidential Information** to others or use to further their personal interest, confidential information acquired by them in the course of their official duties.
- G. Town of Caroline officials and employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order.
- H. Avoidance of conflicts:
  - a. Each Town of Caroline official and employee is responsible for exercising due diligence in attempting to avoid actual or potential conflicts of interest when voting or taking other discretionary action regarding all matters with which he or she deals on behalf of the Town.
  - b. A Town of Caroline official or employee shall exercise particularly careful diligence in avoiding any actual or potential conflict of interest when voting or taking other discretionary action on any matter brought before any element of the town government by any entity that employs said official or employee. In any such case, the involved town official or employee should attempt to avoid taking any action that could reasonably be interpreted as benefiting his or her career advancement, salary or standing within the entity that employs him or her.
- I. Notwithstanding any provisions in this Policy, if a conflict of interest cannot be avoided because of the nature of the circumstances in a particular situation, any involved Town official or employee shall bring the particular matter to the attention of the Town Supervisor, or such other town official or town employees as may be appropriate, before voting or taking any discretionary action on said matter.
- J. Provisions of this Policy shall not be deemed to prevent any Town official from voting or taking other lawful action with regard to the establishment of salaries or benefits for elected Town officials.

Vote

Ayes: Barber, Weiser, Seely, Witmer, Fracchia

AGENDA ITEM

**Budget Process Discussions**



Ms. Weiser said the judges are very pleased with Kirsten and will not need additional support because she's very efficient.

Mr. Barber added that our judges do arraignments for a lot of other towns, mostly Dryden and Ithaca, because other judges won't come in at 11 o'clock at night. They were astounded that such a small amount of money comes back to the town vs. going to the state.

Ms. Weiser said the town clerk wanted to extend the deputy's hours. They talked about duties that the clerk does that are really of an office manager nature. They talked about allowing people to make payments online and also about having a secure night deposit box for payments. They talked about possible changes to the phone system to redirect calls for the court, etc, so she doesn't have to field their calls.

Mr. Barber added that the clerk provided census data that shows that the town has grown more than any other municipality in the county.

Mr. Fracchia's take was that all levels needed additional support, including the code department.

### **Executive Session**

On a motion by Don Barber and seconded by Tim Seely, the Board voted to go into executive session to discuss the employment history of a particular person at 8:40 p.m.

On a motion by Don Barber and seconded by John Fracchia, the Board voted to exit the executive session at 9:17 p.m.

### **Adjournment**

On a motion by Don Barber and seconded by Mark Witmer, the Board voted to adjourn at 9:17 p.m.

Respectfully submitted

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Debra DeAugustine, Recording Secretary