

## **Caroline Town Board Business Meeting Minutes of June 9, 2021**

The Town Board Special Meeting was held electronically via Zoom teleconference on June 9, 2021 beginning at 7:04 p.m. hosted by Supervisor Witmer.

**Attendance:** Mark Witmer, Supervisor  
John Fracchia, Councilmember  
Cal Snow, Councilmember  
Tim Murray, Councilmember  
Katherine Goldberg, Councilmember

**Recording Secretary:** Jessie Townsend, Town Clerk

**Also Present:** Highway Superintendent, Bob Spencer; Tompkins County Legislature Representative, Dan Klein and 9 members of the public attended the teleconference.

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### **Privilege-of-the-Floor**

Frank Proto – Asked the Clerk if the minutes will be verbatim. Clerk answered no and explained minutes will reflect a summary of the meeting and the recording of the meeting will be posted on the town website within 24 hours for those who wish to hear the meeting in its entirety.

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### **Presentation from Justices Barr and Reinbolt**

Judge Barr – Spoke to the Board last month and presented case load stories. Tonight she had some examples that she shared (*Attachment #1*) to give examples of when you are stressed by caseload, as the Board has pressed for, you do not act in dignity but rather act against justice (*Attachment 2*). She presented things that Judges do that is caseload but not “sit in court” (*Attachment #3*) and presented a list of things that occupy 70% of Judges’ time (*Attachment #4*). She stated that the Supervisor had asked continuously for more court clerk open and now only focuses on caseload. Court brought in someone from the Sixth Judicial District who spoke to the Board at a meeting, found the Court to be successful, have above average open window hours and informed the Supervisor that he does not have authority to make demands on the Court. She used a story in Ferguson, Missouri to show that by setting access fines, and connecting revenue by case load to Justice Courts is not only illegal but it is poisoning (*Attachment #5*). Next example was from the Fugitive Slave Act (*Attachment #6*). Judge Barr used historical precedence to correlate unjust systems by connecting money to case load which pervert’s justice. She stated the acrimony between the Justices and the Town Supervisor. Gave examples of some of the demands and claimed repeated harassment by the Supv. (*Attachment #7*) including inviting the Justices to staff meetings which she states is unethical. She further claimed that he has also harassed the Court Clerk. She explained that because of a new federal law relating to court records, they have sealed court records and have them in a restricted area that can only be accessed by court personnel. She stated that the Supv has asked for more continuously asked for more court hours and now only focused on caseload. She believes it is to gain control of the Court and dictate their hours. Stated they are a separate branch of the government, and it is their duty, as Judges, to stand up and decline these illegal requests. The Justices have had issues with Clm. Weiser, who is no longer on the Board, stating that she was rude and lied to the Court Clerk in an attempt to gain information. Judge Barr claims to have brought this matter to the Supv. which resulted in a confrontational encounter that she believes is due to the lack of caseload information that has not been provided to him. She presented a salary summary of all Tompkins County townships (*Attachment #8*). She stated the job has increased 50% and the Supv pays himself an average wage but refuses to pay the Justices an average wage. Because of these reasons, she asked the Supv. to recuse

himself from future salary considerations. They feel demoralized and harassed and that their dedication is not respected.

Judge Reinbolt – Stated that he has had no response since his prior statement and expressed his intent on addressing the Board as a single unit. He stated that the Judges have asked for a wage increase for the past 3 years and concurred with Judge Barr that it is unethical and illegal to use caseload and link Judges' decisions for more compensation and by refusing to give caseload information, the Judges were not considered for a raise. Other disturbing behavior by the Board he explained is by forcing them to appear before the Board and outline their budget during the annual budget season. To him it feels undermining and threatening and it has created toxic behavior on part of the Board. He further described the reason for them to be presenting at this meeting tonight because the Board proposed a Public Hearing with the Justices to answer to the Town's retained Counsel and found it to be adversarial. Judge Reinbolt claimed the relationship between the Judges and the Board to be toxic but not due to any behavior on the part of the Judges. Has asked questions for 3 years that are still left unanswered, tonight he asked 3:

1. Why have the Judges been repeatedly brought forth to answer questions to determine if they are worthy of equitable compensation?
2. Why has the ask for a raise become a reason for an inquiry through paid representation?
3. Why does the Town Board find it so distressing to have Judges who have ethics and act on them?

He further stated that he has never been so dismissed and disrespected throughout his years of employment, just by asking for a pay increase. He asked the Board to answer his questions in writing.

Judge Barr – Presented a final slide (*Attachment 9*) and asked for the Board to respond to the 4 questions she has. Lastly, she described a situation where the Supv. entered a restricted space, which is a misdemeanor offense. Has felt threatened by the current Liaison to the Court, Clm. Murray and continuously threatened by the Supv. She asked that the Board consider these behaviors. Judge Barr and Judge Reinbolt then left the meeting.

Supv. Witmer responded stating that the Board has been seriously considering a wage increase over the past two years. The Board did give an initial 20% (\$2,000/yr) wage increase in 2020 even in the absence of the information they considered to be necessary in order to make an objective evaluation of court needs. He objected to the accusations made tonight towards him but hopes to return to a cordial working relationship for the sake of the town and taxpayers. Lastly, he stated that there is shared space in the Historic Town hall, and they will all need to work together in a constructive and amicable way.

Clm. Murray – Wanted to be clear that the Board voted during the 2021 budget process to provide no salary increase for all non-union employees of the Town because of the unknown financial impacts due to COVID. Surprised to learn that he threatened the Judges. All communication between him and the Justices has been in writing and is happy to have them be shared with the public for the record.

Clm. Goldberg – Expressed concern previously and reiterated that she hears a lot of emotion and not hearing a specific request. Clm. Fracchia pointed Clm. Goldberg to a slide that was presented by the Justices where they specifically ask for \$18,000/yr each.

Supv. Witmer then asked the Town Attorney if he would like to comment and provide clarity on shared space between town courts and town halls stating it occurs in many small towns, and also, the appropriateness to use caseload to consider a wage increase while working through the budget process.

Town Attorney, Guy Krogh – Found it shocking and insulting that the Town of Caroline was compared to the highly charged problem in Missouri or the Fugitive Slave Act. Could not understand how the Justices believe that the Town Boards' ask for resource allocation, which is mandated reporting and auditing to the Town Board under State Law, amounts to suggesting that it will pay more if the Judges convict more. The Board has not asked for their conviction rates, or for a sealed record to be opened, it is simply asking for how many DWI cases have there been, how many civil, how many landlord/tenants. He is not sure how else to allocate funds without knowing what the needs are for the Court. He asked to see the new Federal Law that Judge Barr mentioned regarding shared space and sealed records. He has read State Archive Rules and pointed out a NYS Statute that when a Judge retires, their files get turned over to the Town Clerk. He looked at state law, mandatory auditing requirements under State Law, and the State Comptrollers sample questionnaire on general grounds for fiscal oversight and is not seeing that the

requests that were made by the Board translates to the Judges' pay being tied to their conviction rate or generating cash. Recommended that the Board seek a Labor Consultant or Mediator to help assist in resolving the issues between the Court and the Board. Also said he can call the Attorney for the Sixth Judicial District Attorney or a State Archivist, or a State Comptroller to outline the rules and regulations of State Law. Clerk and Hwy Supt are each independent elected officers, but both are required to turn over reports for financial reviews. Town functions as a unit.

Clm. Fracchia – Asked Guy to review a specific statute that the Justices had pointed out where it states using caseload as a metric is not ok. Guy's interpretation of the Law says case load is not prohibited.

Clm. Goldberg asked if they took caseload off the table, how else can they evaluate salary increase?

Attorney Krogh suggested that they ask sheriff's office how many calls they get in the Town, how many speeding tickets have been issued, etc. and compare to a similar sized township such as Enfield. He also suggested the State Comptroller come in and do the annual audit for the Court.

Clm. Murray – Explained that the Board had asked the Justices to join a Special Meeting this month with a plan to invite someone from the Sixth Judicial District as well as the Town Attorney in hopes to have a calm, rational discussion on the various points made and the Justices refused.

Clm. Goldberg – Added that she does not like that Judge Reinbolt stated that each board member was referenced as one uniformed body. She does however like the idea of a Mediator stepping in at this point because of where the relationship stands and not knowing where or how to move forward.

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## Reports

**Supervisor Mark Witmer** – The Town Supervisor's Report is as follows:

Supervisor's Notes

- Installment Purchase Agreement initiated with Key Government Finance for five-year installment purchase of Western Star 4900SF double axle snow plow.
- LED Streetlights installation is on hold pending supply of cellular communication devices.
- Brighten Up LED bulb distribution has been completed. Working with Energy Independent Caroline and Emily Adams to complete reporting requirements, develop project completion plan, and request from NYSERDA a six-month extension of our grant to Dec 31, 2021.
- Watershed Committee: 2020-2021 MS4 (Municipal Separate Storm Sewer Systems) report submitted to Angel Hinickle at Tompkins County Soil & Water Conservation District, who manages this reporting for members of the Stormwater Coalition of Tompkins County. This is a discharge reporting requirement to the NYSDEC to comply with the EPA's Phase II Stormwater Rule.
- Working with supervisors and planners on Easement Agreement from NYSEG for use of I&O Rail Bed as a recreational trail.
- Submitted Scoping/Planning Document to NYSERDA for a [Caroline Clean Heating & Cooling Campaign](#) to promote home energy improvements such as insulation, heat pumps, and hybrid water heaters. The Town (and particularly Energy Independent Caroline) is partnering with HeatSmart Tompkins on this program. We will be hosting a Clean Heating and Cooling webinar on Thursday, June 15th at 7 pm. To learn more, enroll for a free home energy assessment, or register for the webinar, go to: <https://www.solartompkins.org/caroline.html>.
- Prepared second-quarter town newsletter with Velvet Lyke.
- TCCOG: letter sent to Assemblymember Anna Kelles urging amendment of Open Meetings Law to permit unconditional remote attendance by officials to public meetings.

**Town Clerk, Jessie Townsend** – Report on license fees collected in May are as follows: 1 Marriage License; 43 Dog Licenses; 1 Fishing License; and 12 Building Permit fees. Total fees collected were \$2,685.00 less \$103.12 in non-local revenues. Check 243 to Supervisor on June 1st in the amount of \$2,581.88.

**Hwy Supt., Bob Spencer** – Working on streambank project on Central Chapel Rd – held up through the storm last night. Leonard Rd will be closed and parts of Bald Hill for the next few days while the crew repairs the roads. Party for Leslie Dean will be held on July 15th – luncheon at the highway barn.

**Dan Klein, County Rep. Report** – American Recovery Plan is underway, and the County received their \$10,000,000. Will be conducting a survey for public input. Caroline Resolution in February 2020 regarding the Hands-off Policy to Promote a Proforestation Strategy for Forests on County Lands. Dan was accused of feeding Caroline information for that Resolution – that matter was resolved, and the Legislation voted and Passed the Resolution. County is funded a broadband study which is underway and should end in August.

**Clm. Murray** – Zoning Commission met last Tuesday and will meet again on June 22<sup>nd</sup> at 7:30pm. The Planner did a tour of the town, without the Commission or public, just to get a visual of the town.

**Wil Lawrence** – Broadband update – Will have a follow-up conversation with Mark regarding her concerns with the process of the study.

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### **Discussion of Highway Equipment Capital Planning/Loader Proposal**

Hwy Supt and Supv reviewed each other's spreadsheets, including the equipment budgeting line showing that even with the \$50,000 installment payment for a new plow truck, and the purchase of new One-Ton, the Town does have the funds to make this Loader purchase this year. Clm. Murray recommended that after this purchase, they need to get a committee organized to help the Hwy Supt with Capital Planning. Bob agreed.

#### **Resolution 107 of 2021. Purchase Loader**

A motion made by Clm. Snow and was seconded by Clm. Goldberg Resolved, the Caroline Town Board hereby authorizes the Highway Superintendent to sign contract to purchase a new Loader in the amount of \$187,000.

**Passed:** Witmer: Aye; Fracchia: Aye; Snow: Aye; Murray: Aye; Goldberg: Aye

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### **Discussion of impending Planning Board work**

Last meeting discussed remaining 3 Planning Board members and if they should join the Zoning Commission or stay on their own. Clm. Murray spoke with Zoning Chair, Jean McPheeters and Planning Chair, Bill Podulka and agreed it makes sense to have 3 members working separately but could assist in related research for the Commission and was unanimously agreed.

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### **Discussion of Return to In-Person Attendance for Town Meetings**

Supv. Witmer – Proposed that in-person meetings should continue to follow state guidance with 6ft distancing and wearing facemasks. Markers have been made and will be put on the 1<sup>st</sup> and 3<sup>rd</sup> benches for seating of the members of the public. Board members and can remain joining via zoom as long as that option is available to them. Further discussion on how many visitors would be allowed in the enclosed space in the Old Town Hall. It was agreed that it will depend on how many seats they will have once spaced out, presumably 12-15. Unanimously agreed to open for July Agenda Meeting.

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## Discussion on Petition

Supv. Witmer offered wording from the Open Meetings Law stating that the public is invited to attend the business of the Board. He hopes that if members of the public have a matter to bring forward, he encourages them to communicate with any member of the Board by whatever means possible. He had some questions on the wording in the Petition regarding the trail. He stated that the trail is not currently on the table and is an impending matter. The NYSEG Agreement is and has been available for review on the town website. The other item in the Petition was asking for the Board to take action on Dollar General and he emphasized that is not something that the Board is dealing with now. Lastly, Clm. Murray thanked the public for their patience and shared that Tompkins County has the 2<sup>nd</sup> highest vaccination rate in New York State and that it proves the care and attention of the public has resulted in the low case count.

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## Resolutions

### **Resolution 108 of 2021. Authorizing Contract with Community Planning & Environmental Associates for Planning Support to the Zoning Commission**

A motion made by Supv. Witmer and seconded by Clm. Snow as follows:

Whereas, Nan Stolzenburg of CP&EA has been recommended by the Planner Search Committee (Resolution #98-2021) to support the Zoning Commission's work because of her experience with planning for rural New York towns, excellent proposal with detailed schedule for drafting of zoning regulations (including up to four public meetings), at a maximum cost of \$34,875; therefore be it Resolved, the Caroline Town Board authorizes the Supervisor to sign a contract with Community Planning & Environmental Associates to support the Town's planning initiative.

**Passed:** Witmer: Aye; Fracchia: Aye; Snow: Aye; Murray: Aye; Goldberg: Aye

### **Resolution 109 of 2021. Appointment of Jonathan Comstock to the Planning Board**

A motion made by Supv. Witmer and seconded by Clm. Snow

Resolved, having received an application for membership on the Town's Planning Board by Jonathan Comstock demonstrating commitment to the betterment of the Town, the Caroline Town Board hereby appoints Jonathan to the Town's Planning Board.

**Passed:** Witmer: Aye; Fracchia: Aye; Snow: Aye; Murray: Aye; Goldberg: Aye

### **Resolution 110 of 2021. Appointment of Don Barber to the Local Agriculture Committee**

A motion made by Supv. Witmer and seconded by Clm. Snow

Resolved, having received an application for membership on the Town's Local Agriculture Committee by Don Barber demonstrating commitment to the betterment of the Town, the Caroline Town Board hereby appoints Don to the Town's Local Agriculture Committee.

**Passed:** Witmer: Aye; Fracchia: Aye; Snow: Aye; Murray: Aye; Goldberg: Aye

### **Resolution 111 of 2021. Liaison to the Town's Local Agriculture Committee**

A motion made by Supv. Witmer and seconded by Clm Fracchia

Resolved, the Caroline Town Board hereby appoints Clm. Goldberg as Liaison to the Town's Local Agriculture Committee.

**Passed:** Witmer: Aye; Fracchia: Aye; Snow: Aye; Murray: Aye; Goldberg: Aye

**Resolution 112 of 2021. Budget Transfers**

A motion made by Supv. Witmer and seconded by Clm. Snow

Resolved, the Caroline Town Board makes the following 2021 budget transfers:

\$2,000	from A1990.4 Contingency	to A1440.405 Engineering Creeks
\$300	from A1620.4 Town Hall General	to A1620.412 Town Hall, Town Hall
\$2,000	from A1220.4 Supervisor CE	to A1670.4 Print/Mail CE
\$1,000	from A1990.4 Contingency	to A1910.4 Unallocated Insurance

**Passed:** Witmer: Aye; Fracchia: Aye; Snow: Aye; Murray: Aye; Goldberg: Aye

**Resolution 113 of 2021. Approval of Vouchers for Payment of Town Bills**

A motion made by Supv. Witmer and seconded by Clm. Fracchia

Resolved, the Caroline Town Board approves payment of vouchers for bills in the amounts of \$11,840.60 for the General Fund, \$70,341.82 for the Highway Fund, and \$228.21 for the Streetlight Fund.

**Passed:** Witmer: Aye; Fracchia: Aye; Snow: Aye; Murray: Aye; Goldberg: Aye

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**Approval of Minutes**

The Town Board reviewed and approved the Minutes of June 1, 2021, Public Hearing and Agenda as submitted by Town Clerk, Jessica Townsend and was carried unanimously.

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**Other Discussion Items**

After discussions with Emily Adams, Supv. Witmer recommended a link be added on the Town website to the Old Mill for residents to access upcoming community events and asked if there was any disagreement in doing so. It was unanimously agreed to add the link.

Clm. Goldberg shared concerns from residents in the hamlet of Brooktondale where the speed limit is posted at 35mph. After some discussion, it was recommended that residents call and make a complaint to the Sheriff’s Dept. Without enforcement by them, there is little that can be done. Hwy Supt Spencer stated that because Brooktondale Rd is a County Rd, he will contact the County Hwy Dept. and request that a speed indicator sign be set in that section of road.

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A motion to adjourn by Supervisor Witmer and seconded by Councilmember Fracchia and carried unanimously at 9:29pm

---Adjourn---

Respectfully Submitted,

Jessica L. Townsend, Town Clerk