

Caroline Town Board Business Meeting of April 12, 2017

The Town Board Business meeting held on April 12, 2017 at the Caroline Town Hall was called to order at 7:01 p.m. by Supervisor Mark Witmer.

Recording

Secretary: Deb DeAugustine, Acting Deputy Town Clerk

Attendance: Mark Witmer, Supervisor
John Fracchia, Councilmember
Irene Weiser, Councilmember
Gary Reinbolt, Councilmember
Calvin Snow, Councilmember

Also present: Cindy Whittaker, Highway Superintendent; Dan Klein, County Representative

Subdivision Review Board Applicant Craig Modisher

Mr. Modisher said he's lived in Caroline for 12 years and wants to get involved and give back to the community. He has owned Ironwood Builders since 2009 and has been in the building industry for 20+ years, so knows the ins and outs of construction. He said Mr. Witmer invited him to apply. He understands that there's some training involved and that the board meets intermittently.

Ms. Weiser said that there's been one subdivision review in the five years she's been on the board. She said that while it's intermittent, during the time a project is being reviewed it's under strict scheduling guidelines as to when things have to be done. She asked if he has the flexibility in his schedule to work under deadlines. She explained that the role of the board is not to tell people what they can or can't build, largely because Caroline doesn't have zoning; rather, what the board is intended to do is engage in negotiations with developers to respect the guidelines put in place for the benefit of the larger community and uphold certain laws like stormwater management.

Mr. Modisher said he's used to working under deadlines. He added that the board also evaluates all the ramifications to the neighbors in the community and makes sure the all the building regulations are met. He's had experience bringing projects before the city and town of Ithaca boards, where there's a different level of scrutiny because of zoning.

Resolution 2017-70: Appointment to the Town of Caroline Subdivision Review Board

Moved by Mark Witmer; seconded by John Fracchia

Resolved, the Caroline Town Board appoints Craig Modisher to a five-year (calendar year) term to the Town's Subdivision Review Board, effective immediately and expiring on December 31, 2021.

Vote

Ayes: Witmer, Fracchia, Snow, Reinbolt, Weiser

Privilege of the Floor

Mr. Witmer asked that the speakers limit their comments to two minutes to allow an opportunity for everyone to speak.

Connie O'Brien said she attended the November 29th meeting at the Coddington Road Community Center, where information was provided about the proposed extension of the South Hill Recreation Trail. She read her comments. See Attachment #1.

Rebecca Phillips read her comments. See Attachment #2.

Laura Burrows read her comments. See Attachment #3.

Kim Whetzel, a 47-year resident of the Town of Caroline and local business owner of three businesses,

said he has no land on the proposed trail in the Town of Caroline, but over into Tioga County, he has three-quarters of a mile. He has found the undeveloped railroad right-of-way to be a conduit for crime. He's had \$16,000 worth of copper stolen from one of his businesses, accessed from the railroad. There was a commercial marijuana operation, complete with watering system on his property, accessed by the railroad. He's cognizant of some crime that's happened along the trail in the town of Ithaca. He thinks some of the dealings between the town and the county have taken place surreptitiously. He would strongly encourage the town to take a serious look at this before signing on because a lot of people will be impacted by it and the benefit directly to the town of Caroline won't be that large. Once in place, the town will have responsibility for maintaining it.

Jesse Ververka asked if this is a part of a larger network of trails to be implemented in the state and nation.

Mr. Witmer responded that privilege of the floor is to provide information to the board, not to query the board, and that the proposal is to extend the South Hill Rec Way.

Mr. Veverka said they're making a documentary about the proposed trail and it will be done in the next few months, before election in the fall, and will be available for the public to see.

Ted Crane, who lives in Danby, said on Monday, a few people from the town of Caroline spoke at a Danby town board meeting. It struck him that what's going to happen at the town is going to make a significant contribution to what happens when the same question comes to the Danby town board. Mr. Crane said he is in favor of trails. His property contains a portion of the Finger Lakes trail. His has been a good experience so far, but the way that the trail got onto his property sounds a lot different from the way the county has been approaching the question of this trail. The state approached him and said they wanted to put a trail in, and he said that it sounded great. They said, From point A to point B. He said, How about following this route? And they followed it. That's very different from what's happening with this trail. Looking at the MOU, by the time you're on the third-to-the-last step, that's when the landowners get consulted: after the momentum has been built, after a lot of decisions have been made. He doesn't think this has been gone about in the right way; they should have settled these issues from the beginning. His second point is that just because you can, doesn't mean you should. He gave the example of an airline: just because you can bump someone from a flight doesn't mean you should. If you want to follow a cooperative scheme, first you involve the neighborhood, and if they don't like it, just because you can doesn't mean you should go ahead.

Diane Hamilton lives on 69 acres in the town of Caroline and she would encourage the board to consider a collaborative and creative solution to the trail extension that works for the landowners. Her interest is mainly in commuting; she has friends who use the trail daily for commuting. Her land includes a projected piece of the Finger Lakes Trail. She thinks there are awesome trails throughout the county, but that it's unfortunate we don't have that in Caroline.

Kathleen Boyd lives on Middaugh Road, across the street from phase 3 of the trail, so her property wouldn't directly be affected by the trail until the next phase. She understands there is a meeting April 23rd at the Brooktondale Community Center, which was scheduled at the request of constituents at the February meeting when they asked for the opportunity for a give and take. She asked the board to let people know at this meeting the format, the time, and how it will be promoted. She also pointed to Mr. Witmer's January 19th letter to neighbors, which provided answers to the 2009 trails committee report. She wanted to know if those were responses from the whole board or from Mr. Witmer alone. She thought that if it was from Mr. Witmer, it should not have been presented as having been from the whole board.

Mr. Witmer said it was pulled from the trails committee report and provided as a courtesy; the report is there for anyone to read.

Paul Vidovich said he's lived on Goodrich Hill Road for past ten years. He supports the idea of the trail.

He sees there are lots of emotions about its path and its use and he thinks really good points have been made at the meeting about the process of how this has been moved forward. It doesn't need to happen; there are plenty of trails around the county. He loves those trails and he would like more. When he lived in the town of Ithaca, he loved walking on the South Hill Rec Way. For folks who don't have cars and who like to use bikes, a trail is a positive encouragement to do that. If he wanted to ride his bike to Ithaca, which he would like to do, Route 79 is really hairy on a bike, especially with his daughter, so it can't happen at this time. Trails are healthy options, but the points are good that we need to have a good process, take our time, and if we can, come to some agreement. He wouldn't want to shut the whole process down because we haven't agreed yet. He doesn't think it's a conspiracy on the part of the town board to keep the process secret; it's just a complicated process to navigate.

Patty Case said she lives in Dryden, so this trail would not affect her, but she wanted to speak about things she's encountered on the trail that goes through her family's property. They've lived there for 33 years: half with trail and half without. They moved to the area for the beauty and the quiet. Now it's like having a sidewalk next to their house; there's no privacy. There's a constant flow of people: some good, some bad, some on bikes, some on skis. People are always looking at them; they're in the front yard, side yard, back yard. They can't barbecue in the summer; if someone walks by, they comment. People are parking in their driveway and yard. The town of Dryden was supposed to put shrubs in, but they never did. People walk off the trail and they've caught people out there at all hours of the night, sometimes with flashlights, and they've had to run people out. She said her family are always on their guard. They have small grandchildren and have to watch them constantly. Dogs are supposed to be on leashes and are not; dogs have been aggressive to them and they poop in the yard. People want to use the bathroom, they get lost and ask directions, they want to use the telephone, they ask for rides because they can't walk any more. People don't use the bags available to put dog droppings in. There are horses on the trail, and they leave bigger droppings. They've encountered all kinds of garbage. Her personal vote would be to put trails on state lands where they wouldn't bother anybody.

Amy Woodin said she's against the trail. She likes to walk on the trail and bird watch on the trail and thinks it's perfect the way it is.

Crystal VanGaasbeck read from her handouts. See Attachment #4.

Scott VanGaasbeck read from his handouts. See Attachment #5.

Katherine Goldberg said that, obviously, things need to be resolved with regard to legal ownership, and she empathizes with that. She spoke to the process, by noting that Machiavelli addressed the challenge of change: "It ought to be remembered that there's nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success than to take the lead in the introduction of a new order of things. Because the innovator has for enemies all those who have done well under the old conditions, and lukewarm defenders in those who may do well under the new. Thus it happens that whenever those who are hostile have the opportunity to attack, they do it like partisans whilst the others defend lukewarmly." She believes that this speaks to what we're now experiencing in Caroline in regards to the trail, and it's perhaps one of the first known expressions of the roots of "not in my backyard" or NIMBY. Current research on NIMBYism finds that it is a fear-based phenomenon, specifically fear of change, instability, lawlessness, economic loss, and fear of the unknown. In a report from the 2013 California rails and Greenways Conference entitled "The Path to Successfully Addressing Trail Opposition," triggers for trail opposition include threats to property values, threats to personal security and privacy with implications that uncivil people use parks and trails, and threats to neighborhood or environmental quality. All these issues have already been addressed and have not been born out in our local experience with the South Hill Rec Way and the Black Diamond Trail. In the 2009 survey on the South Hill Rec Way, East Ithaca Rec Way, and Northeast Rec Way, it was concluded that "the typical fears associated with proposed trails such as burglary, vandalism, noise, litter, and loss of privacy are not supported by this survey." Out of curiosity, she went to the public comments that were collected around

the time of the trail extension open house, which over 100 people attended. The comments are grouped into supportive, neutral, and opposed. She was personally surprised to find that of the 16 pages of comments, the neutral and opposed comments don't start until page 15. There are three comments opposed, two neutral, and 113 in support. Some of the comments in support even included offers to volunteer to help maintain the trail. So any perception that the opposition [inaudible] this town board is representative of the community at large is entirely false.

Bob Spaulding stated that he's opposed to the trail. Signing this MOU will obligate the town to do certain things: detailed designs, plans, budget for completion. He does not want to see our resources – whether they're manpower, dollars, or anything – used in this connection. Some of the things talked about in the MOU regarding mitigation: there is no way to mitigate the concerns addressed by the VanGaasbecks or the Hilkers or the Phillips short of not putting the trail in. Part of the costs will be maintenance after it's built. Our highway crew is about two-thirds of what it used to be and they have 71 miles of roads to maintain. They don't need to be playing around with a trail for bicycles. There's no financial benefit to be accrued by the town of Caroline from this expenditure. He thinks it's a good thing for board members to remind themselves about who they represent: the landowners in the town of Caroline, not people in Danby, Dryden, or Ithaca. You don't owe them anything at all. And it's your duty to protect the rights of the landowners, and part of that is the enjoyment of their property rights. You should not be willing to compromise their rights to provide privileges for usage of their property by others. There are a lot of reasons, other than what he has stated, for his objections.

Stewart Palmer owns property in Danby and Caroline. He said he's totally against the trail extension.

Bruce Murray said he's on the planning board and this is the type of thing they discuss. They're working on the Comprehensive Plan and he's ready to be off the board; he invited anyone interested in applying to fill his seat of just attending their meetings. He's not sure the town board has the ability to look at all the ramifications of the trail. Privacy is Number 1. Land value is pro and con. If this is truly the beginning of a grand scheme for a huge trail that could go all the way to Owego like it used to and we're going to spend a lot of money, why not spend money on a feasibility study for the whole trail and see what it means. Is it going to go farther, and if we want green, why not talk an electric train? There are a lot of people between here and there and spending money first on a feasibility study makes sense.

Joe Ververka has lived in Brooktondale for 50 years. Three facts we should all remember: 1) Most people in favor of the trail don't live in Caroline; 2) most people who oppose the trail do live in Caroline; and 3) the board was elected by residents to represent the people in Caroline, so he hopes board members keep that in mind and represent the people of Caroline's views before paying attention to what the people in Ithaca want you to do

Phoebe VanGaasbeck said that the trail would cut off her family's water supply. They have a cat, and people on the trail will have dogs. Also big trucks moving gravel might hurt the cat, who is used to going outdoors. There will be tons of people opening the doors to their orchard, ruining the apple trees, and letting the deer in. There will be a bunch of people asking if they can use her family's bathroom and phone and will be totally invading their privacy.

Hanna Basiano[sp] is producer of documentary being made. The reason her colleague asked if this is just three miles or whether it's part of a longer trail is because on multiple occasions when she has reached out to the state, they've referred to it as the Empire State trail, not the Coddington trail. If the board would be interviewed, they could clarify that. She is a college student and knows what the students do to the South Hill trail, and she would not wish that on any landowner. She apologizes for what will happen to people's property if this trail happens. In the three-month process of making the film, she has talked to both pro-trail and anti-trail people. The anti-trail people have swayed her in the process of her talking to them. She also spoke with one of the founders of the Ithaca bicycling club, which is a vehemently pro-trail group, and he said if he had known, he would not want the trail to go the way it's going; he would want it to be moved around properties and for there to be compromise. She asked

that at the meeting of April 23rd there be a conversation between the pro- and anti-trail people.

A woman said she was speaking from the minority position. She has lived in Brooktondale for 15 years, raising a family and appreciating the community. She shared her support for easier access for bicycling and looked forward to the meeting and sharing a conversation. As a pro-trail person, she wants to understand how this will disturb people's property.

Sam Phillips, Lackawana Road, said he is proud of everyone for coming. He doesn't want any more town monies spent on this proposal. He would like the meeting of the 23rd to be cancelled.

Cindy Whittaker she has lived here for 56 years and just made a \$4,200 tax payment. She is totally against the trail. She doesn't even like it when people are in front of her house and she has to chase them out of her garden because their dogs are crapping in it. She certainly wouldn't want anyone in her back lawn, and she doesn't think the trail would go by any of the board members' homes. She's been coming to board meetings for 40 years, and she has never had a board that wouldn't answer someone's questions. It's on the web site that people would have three minutes to speak, and it was cut down to two. She doesn't care if there are 1000 people at the meeting; these people elected the board and they have their right to their three minutes. She's embarrassed by how the board has treated them tonight – to have a dinger going off when someone is trying to speak. She's been to meetings and the pro-trail people aren't cut off at even three minutes. She thinks every board member should realize that these people have a right. It's what the board is paid to do: to sit at this board meeting and listen to what these people want to say.

Peggy Peirce said the agenda said three minutes. People have shown up to voice their concerns and they were cut off, and that's wrong. She is against the whole proposal as a taxpayer. She thinks there are better places to put our money. We need to fix our roads and infrastructure, not put in a trail.

Edie Spaulding has been a resident of the town for many years. Her great grandparents bought the farm on White Church Road. She thinks the meeting of the 23rd should be put off until the legal ramifications are finally decided. Find out where the whole thing lies, and then re-address. She's against it and most of her siblings are against it. She thinks it's a horrible place to spend our money when we've got roads that need to be fixed.

Patty Case invited pro-trail people to her property in Dryden so they can see what it's like to live right next to the trail where people are in your front and back yard and have dogs running around.

Steve Crispell said he attended the meeting for a different reason. In respect to land rights, he wanted to voice his displeasure for the moratorium. While he's certain that much of the town is unfazed and/or in support of the moratorium, there are some who are not. Some residents, like himself, whose ability to support their families will be directly impacted by this measure. Whether the potential financial ramifications to individuals were considered prior to tonight, he does not know, but he finds it extremely irresponsible and possibly even malicious of the board to implement something like this at the beginning of building season when it could have been started months ago and completed at this point. Instead, he's forced to scramble to find a way around the moratorium via its list of exemptions. While going through the list of requirements, one can expect to find several unnecessary expectations. But he's heard from multiple people with inside information that exemptions have already been promised, and he really hopes that's not true. He has a meeting set up with his lawyer tomorrow with the intent of initiating legal action against the town should the moratorium go through. He's glad to see so many people in attendance even though it's for a different reason than his. Maybe this moratorium doesn't affect you. Maybe the trail doesn't affect you. But if we don't put a stop to local government overreach, at some point something is going to affect you, so he's glad to see so many people involved.

Bill Case stated that he opposes the trail. He doesn't think the town should be stealing private land.

Amber, Caroline Depot Road, is totally against the trail. It would affect her land as well.

Jim Case, from Dryden, said his wife talked about the trail. When they put the trail through, it was a certain width, then they widened it just in case anyone got hurt. All the trusses had to be torn out and all new lumber put in to accommodate the weight of the emergency vehicles. They spent a lot of money. People don't realize how much money can be spent on a trail. Other people drive down the trail not caring about the signs prohibiting it.

Pete Hoyt was on the board in 2008 when the matter was put to rest after much discussion. The consensus was that it wasn't worth talking about. He wondered what has changed. The county is getting more active, so that might have served as an incentive to rethink the trail. He said the board doesn't represent the county at large; they represent the town of Caroline.

Rebecca Phillips wants the board to rethink the numbers. There's a lot of emotions, but the numbers are what count. This would satisfy a minute few at the expense of all others.

A gentleman said has lived here for on and off for 35 to 40 years. The whole thing doesn't make sense to him. It was put down a while ago. Why is it being brought back up?

Crystal VanGaasbeck said the water supply for their entire farm is in a creek that, in 2008, they planned to fill in using borrowed material from the surrounding railroad grade and then purchase over 11,000 cubic yards of gravel. A 72-inch diameter by 120-foot long culvert, which is longer than the 66-foot wide right-of-way they might have had. The water for their entire farm is right there. If they were to fill that creek in and divert the stream, they would not have water for their farm or house. Also, when we started looking into this practice of turning old railroad beds into trails, we discovered that sometimes the old grade is polluted and she doesn't want them to push all that borrowed material into the water supply.

Mr. Witmer said the board has heard the concerns. Some people asked how this came to light again. In 2008, the town board passed a resolution that brought forward 11 questions. Those questions were addressed the next year by the Caroline trails committee in a report. He appreciates the respectful dialogue between people opposed and for the trail. There are people who think there's a good reason to do a trail. Reasons against are good reasons: privacy, crime, litter. Bubbling up from that, he's heard two different next steps. He embraces the proposal to have a dialogue. That's what the April 23rd meeting is about. There were people from Caroline and Danby who asked to have such a meeting. He proposed having information about the trail there. It would also provide another opportunity for people to speak like they have tonight. He apologized for people feeling constrained. He said they would welcome comments after the meeting and that the phone in his office is always open to calls. He would like to keep the April 23rd meeting from 3 to 5 at the Brooktondale Community Center.

Kim Case asked if so many people are in favor of the trail, why can't the trail be rerouted to go through the property of those in favor of the trail?

Mr. Witmer said the document under consideration tonight for feedback to the county is to have a conversation with landowners. He said he has reached out to them. He has reached out to Scott and Crystal and they have rejected the overture. What we've never gotten to is: what are the issues and can we come up with solutions around them? Solutions that work for everyone.

Ms. Phillips said they asked for a one-on-one meeting only with the landowners. Then it turned into a public meeting, and that's not what the landowners wanted. They wanted to sit down over a cup of coffee and discuss and exchange. Here, you don't have to give answers. We can make our statements, we can ask questions, and you can decide to answer sooner, later, or never. The original request was for the landowners to sit down with the board for a conversation.

Mr. Fracchia gave a clarification to the community: any time the board meets, it's a public meeting by law. It cannot be closed to the public.

Mr. Witmer said the meeting will be broadly advertised, like any other meeting.

Mr. Hoyt reiterated that the first thing should be to establish ownership, because to keep talking about it and getting everyone worked up when you don't even know if it's feasible doesn't make sense.

Mr. Fracchia said there are questions about how this proposal came back up. It happened because the county came to the board and expressed interest, and the board has some obligation to look at it. But he also made it clear that the board has made no decisions about this issue. He's very skeptical about this trail, not because he doesn't believe in trails, but because he believes there are some fundamentally unanswered questions: ownership, cost. These things need to be addressed to his own satisfaction. He thinks the meeting on the 23rd to talk about it is a good thing. Other things might come up that are useful to our community. We don't do ourselves any disservice to discuss things; rather, we do ourselves disservice if we don't have open discussion and if we don't answer fundamental questions. He doesn't think the board should look at the MOU until they've had this discussion.

Ms. Goldberg said she agreed with Mr. Fracchia, and in fact, all of this discussion, in terms of the legal ownership of the land, is important. If there's an outstanding legal question, if it is not legal to proceed, she would hope that it would not have even gotten this far. She has scoured the information and it just states clearly that ownership is not in question, and if it is in question, she agrees with the others in the room. It's a fundamental question to answer.

Ms. Weiser said she saw some new faces and some people have come to a number of meetings. She knows how frustrating the structure and the process of a board meeting is. It's why she looks forward to having a discussion. She, too, respects and appreciates the conversation tonight. Someone said they like the idea of a trail, and she likes the idea of a trail, too. She has used the South Hill Rec Way to walk her dogs and loves it. But she thinks we're not anywhere near to making a decision. She agrees that there are some outstanding legal questions that are foundational to even if we could go forward. And Mr. Crane raised the question of could and should. All of that needs to be considered. She also appreciates the views expressed by some that compromises can be reached, and that people who want a safe pathway to the city can have that in a way that doesn't unduly impact people's privacy and property. She doesn't know if that's doable, but it's an interesting thing to explore. But she agrees that the first piece is to get answers to the legal questions. She appreciates everyone for coming out, and expressed regrets about the timer and the two-minute limit. It was not a good decision on the board's part. She's still of the mind that a conversation could be productive from the standpoint of whether there's a win-win possible that could get us to a safe path to the city and a nearby trail to walk that is done in a way that is respectful of properties.

A woman suggested making a path alongside the road. They have them for bikes.

Mr. Murray said he's lived for 65 years in Caroline and wants the people who want the trail to think long and hard that if you live from here to the wall from the railroad bed, a train going by twice a day isn't a whole lot, but 24/7 of anyone and anything that wants to be on that trail is a different story.

A gentleman said that in 2008, he was working at NYSEG, and at that time, they would not turn over any of the trail unless all the property owners were in agreement. That's what needs to be done first, and now if you want answers, you have to talk to Spain. It's tough getting ahold of anybody. It costs every one of us to get here tonight and we're here for a reason. It is our money.

A woman asked how the board can proceed with another meeting if they don't even know the legal ramifications. It seems pointless to have another meeting when the rights of the landowners are not known. That needs to be addressed first before having another meeting. Another meeting takes more of people's time. As a taxpayer, fix our roads.

A woman asked those in attendance if anyone who is for the trail is a person who owns land the trail would cross or be adjacent to. Nobody raised their hands.

A gentleman said it seems that the only people who want it will not be affected by it. He said it could

affect land values. He had a sign on his property for three years. Four potential buyers asked about it and when they heard there might be a trail, they all disappeared.

Ms. Woodin asked if none of the landowners want the trail, why have another meeting, and if back in 2008, NYSEG said all the landowners had to agree with it, why are we even here?

Ms. Goldberg said she was here ten years ago and didn't like any of this specifically for this reason. It was the very first question at the open house: what's different now? She feels that if it is truly not legal and if landowners don't agree, then we're done.

Ms. Woodin said that if those questions can't be answered by the next meeting, it's going to be like this all over again. There's no reason for a meeting.

Mr. Fracchia said the meeting was scheduled because people asked for the meeting. But he's hearing clearly from both pro and con that they don't want the meeting. That doesn't mean that there can't be future meetings if we want them. But if we feel we're at a pause point, let's just acknowledge it.

Mr. Murray checked with the tax office and they said NYSEG has been paying taxes on the railroad all these years.

Jesse Ververka asked the board to put a moratorium on this tonight and put a halt to it permanently and let the county deal with it. The board has admitted the county is pulling the strings; this is the county's deal. The board doesn't need to spend money and resources on it and the residents don't have to spend their time.

Mr. Witmer closed the discussion. He was still in favor of holding the meeting to have a community discussion.

Ms. Weiser suggested forming an ad hoc committee of three property owners who border the trail and people who are interested in having a trail. This committee could decide when a meeting might take place, how it should be structured, and if there should be people to attend and speak. She suggested having up to two board members on the committee, so the meetings don't have to be public. In scheduling this meeting, we were trying to be responsive to what we heard at the February meeting.

Ms. Boyd said that there's a pending legal decision. If it's discovered that it is able to proceed, then go forward with the ad hoc committee.

Ms. Weiser said we all agree that we need to know legally who owns it. It's an important foundational piece. Once we figure that out, we figure out if it's a moot point. If it isn't, we can go forward with meetings.

Mr. and Ms. VanGaasbeck said they're negotiating with NYSEG. The conflict is that the county wants to use land that is the VanGaasbeck's or NYSEG's or both for a use that is not compatible with the VanGaasbeck's or NYSEG's use.

A gentleman said he's owned his property for 37 years, and the right-of-way is for NYSEG. He thought, what is NYSEG going to do: power line, gas line, oil line, but he never would have guessed the town would be after a trail for a bunch of people he doesn't want to see. That's why he moved to the country. The ownership doesn't matter.

Mr. Fracchia said it does. It matters to him because it was brought up in 2008 and now it's 2017, and he thinks fundamentally if this isn't picked apart and known one way or the other, it's going to be brought up again after we're all done. So, the board has some responsibility to the community to try and figure it out for people like the VanGaasbecks, who are affected by it. That matters to him.

Mr. Wetzel said that if the county is leaning on the board, then the board, as our representatives, need to lean back. You've heard what these people are trying to convey.

Ms. Whittaker said that these people don't want to be here, she doesn't want to be here. We work. She

doesn't want to be here after work, she wants to go home. They're afraid if they don't come here, something is going to get slipped through and then what recourse do we have.

Mr. VanGaasbeck said they have come to so many meetings; they're ready to take our home away. We've got a room full of people that support us whom we don't even know. They just showed up because they don't like what the town is doing. What is it going to take to say the town doesn't support this and let the county deal with it? Your solution is to try to get us sued or get us in a big expensive lawsuit. We're farmers.

Ms. Weiser suggested transitioning to discussion on the MOU.

Town Business

Discussion of Draft MOU Among the County of Tompkins and the Towns of Caroline, Danby, Dryden, and Ithaca to Support Tompkins County in Entering into Agreement with NYSEG to License a Former Rail Corridor Owned by NYSEG for Use as an Extension of the South Hill Recreation Way

Mr. Witmer said it's a draft memorandum and the board has been asked to provide feedback.

Mr. Fracchia said he thinks the draft MOU goes way too far before fundamental issues are settled. He thinks the feedback is that the basic legal issues must be satisfied. If it were up to him, we have issues that are basic and not resolved.

Mr. Snow said he's assuming the legal issues can't be settled. These were deals struck back in the 1850s with different legal standards, lost documents, not properly recorded documents. He's not sure there's a way to settle it legally; it's too vague. It's radioactive. He thinks the property owners are trespassed on or against.

Mr. Fracchia said he's not afraid of radioactive. He's here to serve the community well, and he's not sure this serves the community well and until and if that can be known, he can't in good conscience move forward.

Ms. Weiser agreed that the legal issues are foundational. She's not willing to go along with the MOU until the legal questions are settled. She doesn't want that burden to fall to the property owners; it's a burden the county should bear if they want to pursue it. Further, it's suggested that we're obligated to this whole list of things on the MOU by signing it. It's asking us to agree to have a trail by virtue of signing the memorandum before we've ever discussed having this trail. She thinks the question of legal authority is the threshold question. That's the "can it be done." Then there's the other question of "should it be done." At this point, she's not convinced it should. She's willing to be in the middle of a firestorm to do something she thinks is right. This decision is harder than the decision on fracking. She felt banning fracking was the right and important thing to do for this community. There are things that are crucial fights that are in the public interest that she will go to the mat to fight for. She's torn because she also thinks there's not a safe corridor anywhere to get downtown. While she agrees to some extent that it may be utilized by fewer than 100 bikers a day, one life lost would be wrenching. She is interested if there's a safe way to find a safe pathway and it may not be this railroad bed. Right now, this is not an MOU she could come anywhere close to signing.

Mr. Reinbolt said he can't support the MOU as written, There are too many vague clauses, too many undefined terms, especially as a professional fundraiser. He writes grants every day and the grants are hard to come by and by the time the federal government goes through the process of taking away every discretionary dollar that anyone can apply for, he'd say getting grant funding for anything is a slim thing right now. From that one clause alone, he knows the hours someone would have to put in to write grants that will lead to no avail. We're also supposed to develop plans and agreements. Who's paying the

engineering fees and the surveyor's fees? Not for any moral stand, but just as a document that will bind us to something, this is insufficient. He said there's also dodgy language in the license agreement.

Mr. Fracchia said we have to know what this would cost and he's not sure why it's on us. He thinks our feedback ought to be, Great, we love that you support recreation for our communities, but this, as things stand, is not the way. He doesn't think anyone would say we don't want a safe passageway for bikers from point A to point B, so maybe that's something we do need to address in the future.

Ms. Weiser said the feedback is that none of the four board members accepts this MOU – not that it needs modifications, but that we need clarification on the legal ownership and then she's not convinced that there's the appetite to go forward with the trail. This MOU obligates us to go forward investigating and exploring the trail, by giving a laundry list of things we're supposed to do.

Regarding the meeting of the 23rd, Mr. Fracchia said we scheduled it for the right reasons based on community feedback, but that our community, having had some time to discuss with us and reflect, is feeling right now that a meeting is not necessary.

Reports

County Representative Dan Klein

Two county highway projects in Caroline will happen over the summer: Flatiron culverts and probably Brooktondale Road. There's a section from Banks north that's falling into the creek. There're not 100 percent sure they know exactly what they need to do, so it may or may not happen this summer.

There are 200 Unique Natural Areas (UNAs) designated in the county. They're places with some special unique feature: it could be wetlands, it could be a certain species not found elsewhere. There are lines on the map drawn around them. They have no legal status: you can do anything on a UNA that you can do anywhere else. Some towns have it in their local laws that there's an extra layer of consideration, not protection, that the planning board needs to know to get approval before anything can happen on that land. Caroline might not have that law. They were done 30 years ago and were updated recently. The boundaries were changed slightly because of better aerial photography and because some of the land has been cleared. Thomas Road wetlands was increased by 27%. Caroline swamp or Slaterville swamp off Flatiron Road was increased by 1%. Middaugh Forest increased by 8%. Buffalo Road Rich Woods has decreased by 6%. All of this information is public, but it's not publicized because it's private land that's not open to the public.

The Tompkins County bicentennial is upcoming. New brochures were made of each town.

Town Board

Mark Witmer, Supervisor Notes: see Attachment #7.

Irene Weiser

The state has opened its third and final round of grant funding for broadband. We'll be having a broadband committee meeting coming up.

John Fracchia

Buildings and Grounds: We're at the point where the historic town hall needs to be painted.

Mr. Spaulding pointed out that the last time the town hall was painted, Mr. Snow paid for it out of his own pocket.

Mr. Fracchia said he's in the process of drafting an RFP to get it done.

Ms. Weiser suggested looking into historic preservation money.

Mr. Reinbolt said he used to work with them when he worked with the History Center and volunteered to call them.

Beautification of building: He'll be meeting with the clerks to look at options.

Rebecca Phillips suggested getting perennials. She offered her expertise.

EMS Advisory Committee: Mr. Fracchia said he wrote to Lori Mithen, attorney at the Association of Towns, for options for first response in the town. She sent lots of information. It boils down to a couple questions. Whether we intend to offer town-wide first response, it has to happen in conjunction with the fire departments. Could happen without an ambulance district? We need to put a summit together with the commissioners of the two fire departments the board as a representative of the fire protection district to see if we can create a cohesive first response.

Ms. Phillips said their house burned down in May of 2015. She pointed out that we have no fire siren. A siren alerts the neighbors.

Mr. Spaulding said each of us has a pager. The pagers are much more effective in getting the help that's needed to fight the fire. The siren was good when you had young people out in the field plowing.

Ms. Whittaker said people were complaining about the noise, so they shut the siren down. She asked if the board is trying to put together a rescue or an ambulance.

Mr. Fracchia said one of the concerns of the committee is that Bangs is so far away. The recognition is that some form of more consistent first response in the community would help people in deep trouble while Bangs is on the way to transport. Right now it's disjointed. Brooktondale has one, Slaterville Springs doesn't, and Speedsville has some form of first response.

Ms. Weiser said what's happening is happening county-side: volunteerism is going down significantly, the age of the volunteers is going up, the volume of calls is going up, and there aren't enough young people coming in to fill the roles of EMTs and ambulance drivers. Even if we had "fly cars": somebody who's equipped with an SUV that has a medicine bag and a defibrillator could be here and available to be the first responder. Bangs would still get the call for the transport, but at least you'd have somebody trained in life support or a paramedic who lives out here and can be there quickly. That would be ideal. She said Mr. Fracchia is looking into figuring out some version of that. Dan Klein and she and people from around the county – fire and emergency departments and town officials – are trying to work together to figure out what we might be able to do county-wide. At our most recent meeting, the phrase "transfer of operating authority" came up. It's a legal transfer that happens between commissioners of each department. What can't happen is for Brooktondale to provide ongoing mutual aid.

Mr. Spaulding said that's happening right now: Brooktondale is providing mutual aid in the form of EMTs.

Ms. Weiser said in an ongoing way, it's not allowable because mutual aid is supposed to be under special circumstances, not ongoing. With transfer of operating authority, it could happen if the Slaterville fire commissioners were to transfer operating authority.

Mr. Spaulding said you'd have to have scheduled shifts, and we don't have the numbers to do that.

Mr. Fracchia said we have to get some ideas of potential structures we can discuss, then we can figure out what's feasible.

Mr. Spaulding maintained that unless you can figure out the manpower, it's not feasible.

Ms. Whittaker asked if it could be a Caroline rescue, not just Brooktondale.

Mr. Fracchia responded that one model would be to look at putting the fire departments under one umbrella, but there's a lot of history. The reality is that there's a struggle for volunteers and the town is smaller in the sense that we can get to places faster. Maybe at some point, that's a discussion that has to

happen: where we can share services even if we keep separate identities.

Mr. Spaulding said there's good cooperation now. You would have to have enough so that someone would always be on duty. That's the key.

Ms. Whittaker wondered whether that would be considered shared services.

Ms. Weiser responded that if it were consolidated, it could potentially qualify.

Mr. Fracchia added that they're separate taxing entities, so he thinks the answer would be yes.

Ms. Weiser said that Mark Butler, who provides legal services to fire and emergency departments, is coming to the committee meeting in May, and we might arrange a meeting with the three fire departments.

Mr. Fracchia said the Municipal Health Consortium has held its growth down to 2.77%, which is way under the Affordable Care Act's limit of 15%. The board approved to contract with a Canadian firm for discounted pharmaceuticals. He was the lone dissenter because he's concerned about liability, since doing so is against the law, even though it's rarely enforced.

Joint Youth Commission: Youth employment services has an interesting program and they're trying to create more local opportunities for Caroline youth. These opportunities are completely subsidized by the program, but are not always convenient. He thought there might be possibilities for the town to create employment: the highway department, town historian, town clerk, library. We could engage an employee at no expense to the town. These are six- to eight-week summer programs.

Discussion of Proposed Moratorium on Actions Subject to Site Plan or Subdivision Review

Ms. Weiser said in February, we introduced a moratorium on plans requiring site plan or subdivision review. We've had four meetings to provide information to the public and get feedback. Very few objections were raised.

The kinds of developments that are included under the moratorium are not individual residential, but rather the larger kinds of projects that require subdivision or site plan review. This includes solar projects larger than an acre of land that's disturbed. There are opportunities to apply for a waiver if it is a particular hardship on the developer. The town board would make the decision.

Steve Crispell said it's not just large developments: as soon as you hit a third dwelling on your lot, it has to go for site plan review.

Ms. Weiser said that's correct. The site plan review law includes different kinds of projects.

Mr. Crispell asked whether, in order to get the waiver, you have to meet all the points under Section 7.

Mr. Witmer said no. It's a laundry list for the board to consider. Some aren't applicable to certain projects.

Ms. Weiser said that in determining the application for a waiver, the town board would consider several factors, one of them being hardship. Ultimately, the town board has the ability to use its judgement and discretion in applying waivers. The penalty would be a stop work order by the code officer.

Ms. Whittaker said if you're going to put a moratorium in place, which she doesn't think is needed, it should be honored. She finds it hard to see how board members can be entirely objective: if the project is something they favor, they could grant a waiver; if it were a project they didn't favor, they could deny the waiver. She got the impression that it was big development, and Mr. Crispell's project isn't big development.

Mr. Wetzel asked whether he would come under the moratorium. He has land with four buildings on it. What if he wants to build a fifth?

Ms. Weiser said he would come under the moratorium that's in effect for 180 days. Disturbing more than one acre comes under the moratorium. Agricultural activities are exempt.

Mr. Wetzel asked what agriculture is. If he puts six pigs in a pen, it could be agriculture. He gave the example of a person in Trumansburg who put 160 pigs in three school buses. They couldn't do anything about it because it's agriculture. The town took him to task and the town lost. He asked why the town would want such confrontation. We have only one significant development in the town, and not a bunch of developers are lined up.

Mr. Fracchia said that's a good point. The time to do something, such as review a law, is when it's going to minimize the impact on anyone.

Mr. Wetzel said that Mr. Crispell and his family are significant landowners in the town of Caroline. Mr. Snow's family has a lot of land in Caroline. Mr. Snow is involved in agriculture; Mr. Crispell is not.

Mr. Fracchia pointed out that these laws already exist, so there's a process in place.

Ms. Whittaker asked why, then, is the moratorium needed, if the law is already there?

Mr. Fracchia said because there was some thought that the types of development that might happen were not on the radar when the law was enacted. So the time to review the law is when you don't have big projects.

Ms. Whittaker asked whether the board could work on it and not do the moratorium. If somebody comes in now and wants to develop under site plan review, can't you put a hold on it?

Ms. Weiser said no, without a moratorium in place, you can't prevent developments. We can't give permits arbitrarily. We're not trying to stop development; we're trying to put in place modifications so that projects going forward are required to consider ground water protection. The stormwater law is surface water; it doesn't protect the water in the ground, the quantity of water. While we recognize that there are some projects like the third house on a lot that officially falls under site plan review, what we're really concerned about is protecting the quantity of ground water, that these developments be built in a way with a vision toward enabling renewable generation on the property, that they're done in a way that doesn't increase the demand of fossil fuels, and, for big developments, that they provide places for electric vehicle charging stations or park and ride. Those are the kinds of ideas.

Mr. Wetzel pointed out that a solar array was put in in the last three years around route 79 by the previous supervisor's property. A solar array went in on 76 Road. Both of those projects disturbed more than one acre and nobody got a permit for erosion control.

Ms. Whittaker said there was no erosion control for the array on 76 Road until she talked to the building inspector.

Mr. Wetzel said the single permit was acquired belatedly. When he cut down 20 trees on his lot in Brooktondale, he got a stop work order. He spent the whole day down there with two DEC officers, and it was concurred when all was said and done that no insects were hurt, there wasn't any degradation of the plant life on the lot, and no hellgrammites were hurt. He likened the stop work order on his property to a moratorium. Mr. Crispell is invested in the town and wants to make further investment in the town, and you're throwing a big obstacle in front of him. For what reason? It's not like we've been overrun with developments.

Mr. Fracchia asked Mr. Crispell what his concern is.

Mr. Crispell responded that part of his monthly income he uses to support his wife and four kids comes from rental properties. He's had a project in the pipeline since last fall and wasn't going to get started in the winter. He's been working with the code inspector and his application has been submitted and under review. Now that he's finally able to build, the moratorium will halt his project until October, which essentially puts his project off for another year.

Ms. Weiser said those are the kinds of things that someone wanting a waiver would use to make a case.

Mr. Fracchi said the rational is to visit site plan and subdivision review as a big picture, beyond anyone's project. He thinks the concern was that if we don't put some level of stop in place, we may have a bunch of people in the middle of projects who feel like the rules changed if the law were to change. The board's desire is to not screw up people's project, but to still have a pause to look at the law. For example, we had several years of drought, and we would be remiss if we didn't look at that. We heard the VanGaasbecks talk about what would happen if land was disturbed for their water source, so that's the spirit.

Mr. Crispell was concerned, not only about putting restrictions on people's land, but even more so is the timing: exactly when anyone is getting ready to start a project. So he doesn't understand why a group of people who only meet as needed would not be able to meet monthly to go over changes they'd like to see, and then six months from now, you put it out to the public and invite comments and then vote on it. Instead, you're shutting everyone down for six months. Why now? There's no detrimental impact that's going to happen right now to prevent it from being postponed until the fall.

Mr. Snow suggested postponing the moratorium until October 15th.

Mr. Spaulding said you don't need a moratorium to review the law.

Mr. Wetzel asked what the board's concern is, what's the driving force precipitating this, and why can't you move it to the fall as opposed to putting the moratorium into effect at the beginning of building season?

Ms. Goldberg also wondered whether there was a precipitating project. She said she understands the need for thresholds, but when this moratorium was introduced, she was under the impression that it was for huge projects, not for something like a third dwelling on a property.

Mr. Witmer said the existing site plan law has thresholds and Mr. Crispell's project tips the threshold.

Ms. Weiser said if we could rework the site plan review law, that's something we could consider doing, but right now, that's the way the law stands.

Mr. Wetzel asked how the board picked an acre. It doesn't take much to disturb an acre, and he could show you 15 of them tomorrow that aren't a problem. If you thought it was a problem, you'd have the code enforcer doing something about it.

Ms. Whittaker said more than an acre was disturbed next to her, and it was turned in to the building commissioner and the DEC because a backhoe sat in the creek for three days with a broken hydraulic hose and the fluid went down to Cayuga Lake, and not a single person would do anything. Then when a couple town board members came out to talk to the landowner, he was so aggressive, they dropped it and never came back. The land is still torn up and there's still mud running on the new site next door where a couple just built a house. We're not enforcing the laws we've got right now. If everyone fell under the same rules, it would be one thing, but that's not the case. It depends on who you are in this town, whether or not you have to follow the rules. She said she gets transparency crammed down her throat. Ed Cope wanted to add onto that solar farm and he got away with it without paying the \$4000 permit fee, because a friend of his brought it to the board to lower the permit fee, and the next day he got a permit. He's going to fall under this moratorium, and she will help Mr. Crispell pay attorney fees if Mr. Cope gets a waiver.

Mr. Wetzel also thinks the rules are not being enforced equally, and cited as an example the work order put on his tree-cutting in Brooktondale, and not stuck out on Ed Cope's property where nobody's looking. He noted that he sued the DEC over an issue on his property in Dryden and won, and if the town overreaches on his property in Caroline, he will hire a lawyer. He said you need to listen to your constituents.

Mr. Fracchia suggested talking to Mr. Wetzel about his specific concerns, but not in the context of the meeting.

Ms. Weiser described how the site plan law works. There are different impacts depending on the size of the development. A larger development will have greater impacts on things like groundwater resources and the use of fossil fuels than a smaller project. The idea is to balance the interest of the community with the interest of the developer so that development can go forward in a way that doesn't adversely impact the community.

The board discussed the moratorium document.

Mr. Fracchia proposed that the vote on the moratorium be tabled and that any other changes be taken up at next month's meeting. He also wanted the board to consider Mr. Crispell's request to put the moratorium off until after building season.

Ms. Weiser requested that the amendments be made tonight and that a determination be made as to when we want to hold the vote.

Mr. Snow suggested voting on it in October.

Mr. Reinbolt had no objection to that suggestion. He asked if there was a sense from the review board as to how long it would take them to modify the law.

Ms. Weiser agreed, as other people have suggested, that there's nothing stopping us from working on it now.

Mr. Fracchia added that the current laws are still in place.

The board decided to make the amendments to the moratorium and at next month's board meeting and to make a decision about when or if to vote on it.

Resolutions

TB Resolution 2017-70: Agreements for the Expenditure of Highway Monies

A motion was made by Mark Witmer and seconded by Gary Reinbolt

AGREEMENT between the Town Highway Superintendent of the Town of Caroline, Tompkins County, New York, and the undersigned members of the Caroline Town Board.

Pursuant to the provisions of Section 284 of the Highway Law, we agree that moneys levied and collected in the Town for the repair and improvement of highways, and received from the State for State Aid for the repair and improvement of highways, shall be expended as follows:

HIGHWAY:

1. GENERAL REPAIRS. The sum of **\$175,000** shall be set aside to be expended for primary work and general repairs upon 70.1 miles of town highways, including sluices, culverts, and bridges having a span of less than five feet and walks or the renewals thereof.
2. PERMANENT IMPROVEMENTS. The sum of **\$145,000** shall be set aside to be expended for the permanent improvement of town highways, including paving, guide rails, etc.:
 1. ***North Landon Road*** commencing at **State Rt. 79** (Slaterville Road) and leading to **Dryden Town Line**, a distance of 0.18 miles, there shall be expended not over the sum of **\$40,000**. Details:

Type-hot mix; Width of traveled surface-20 ft.; Thickness-3-3.5 inches, compacted; Subbase-cold mix pavement; Other-9' cross pipe replacement with poured concrete headers

2. ***Braley Hill Road*** commencing at Central Chapel Road and leading to M.M. sign, a distance of 635 ft., there shall be expended not over the sum of **\$14,000**. Details: Type-hot mix Type 7; Width of traveled surface-20 ft.; Thickness-3 inches, compacted; Subbase-stone and oil; Other-ditch needs to be stabilized
3. ***Shindagan Hollow Road*** commencing at Central Chapel Road and leading to Seasonal Section , a distance of 1254 ft., there shall be expended not over the sum of **\$25,000**. Details: Type-hot mix Type 7; Width of traveled surface-20 ft.; Thickness-3-3.5 inches, compacted; Subbase: stone and oil.

Executed in duplicate this 12th day of April, 2017 (signatures on file)

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

Resolution 71 of 2017: Approval to Sign Finance Agreement for the Purchase of a Gradall

A motion was made by Mark Witmer and seconded by Gary Reinbolt

Resolved, the Caroline Town board hereby authorizes the supervisor to sign a finance agreement in the amount of \$365,311.36 with Vantage Equipment for the purchase of a 2017 Gradall Model XL4100IV.

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

Updated Caroline Stormwater Management Program Plan

Ms. Whittaker stated that she spoke with the code inspector, who indicated that it is not in his purview to conduct stormwater inspections. Ms. Whittaker has concerns about all the inspections and reports she and her crew will be responsible for and requested time to review the proposed changes to the plan.

A motion was made by Ms. Weiser, seconded by Mr. Fracchia, to table the resolution. Unanimous.

Resolution 72 of 2017: Proxy Vote to NYMIR

A motion was made by Cal Snow and seconded by Mark Witmer

Resolved, the Caroline Town Board authorizes the Supervisor to sign NYMIR proxy for proposed slate of officers on behalf of the Town of Caroline.

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

Approval of Abstracts

Resolution 73 of 2017: Streetlight Fund Abstract

A motion was made by Mark Witmer and seconded by Gary Reinbolt to approve payment for the Streetlight Fund voucher number 7 and 8 for \$611.19.

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

Resolution 74 of 2017: General Fund Abstract

A motion was made by Mark Witmer and seconded by Irene Weiser to approve payment for the General Fund voucher numbers 80 through 109 for \$13,349.59

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

Resolution 75 of 2016: Highway Fund Abstract

A motion was made by Mark Witmer and seconded by Irene Weiser to approve payment for the Highway Fund voucher numbers 47 through 62 for \$ 38,310.97.

Adopted Witmer: Aye; Fracchia: Absent; Reinbolt: Aye; Weiser: Aye Snow: Aye

Minutes

Resolution 76 of 2017: Minutes of the Agenda Meeting held February 7, 2017

A motion was made by Mark Witmer and seconded Gary Reinbolt to accept the minutes of the February 7, 2017, as submitted.

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

Resolution 77 of 2017: Minutes of the Business held March 7, 2017

A motion was made by Mark Witmer and seconded John Fracchia to accept the minutes of the March 7, 2017, as submitted.

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

----Adjourn----

Adjourned on a motion by Mark Witmer and seconded by John Fracchia at **11:08** p.m.

Respectfully Submitted,

Debra DeAugustine, Acting Deputy Town Clerk

