

State of New York
County of Fulton
Town of Caroga

Minutes of a Caroga Town Board work session on blight held Wednesday January 20, 2016 at the municipal building located at 1840 State Highway #10 at 6:30 pm with the following persons in attendance by Roll Call:

Supervisor Robert Sullivan – Here
Council Member Anthony Sturchio - Here
Council Member John Glenn - Here
Council Member Beth Morris – Here
Council Member Jeremy Manning– Here

Other town department representatives in attendance were Steve Putman Highway Superintendent, Shelia Yates – Code Officer, Town Attorney Salvatore Ferlazzo, Robbie Robbins – former Code Officer in the City of Gloversville, and 6 others in attendance.

The Blight Committee was invited to the board table and Town Board members could sit in the audience if they desired, as Supervisor Sullivan, Council Members Morris and Manning did.

At the last meeting the committee wanted to discuss revisions to the current Local Law on Junk and also wanted funding to do cleanup around town.

The Code Officer stated she has to go by the property maintenance code. Fines could not come back to the town under NYS Code but if fines come from a local law then it could go into a fund. The City of Gloversville is applying for a Local Government Efficiency Grant. The Code Officer will attend the next meeting with Mayor Dayton King to see if we can join in with them. The grant is about funding to remove vacant buildings.

Our current ordinance states no vehicle can be unlicensed or unregistered. The property maintenance code allows one unlicensed vehicle. She did not see where it says you can't have none at all. Article C lists exclusions. The ordinance states unlicensed vehicles cannot be visible from any road, street or highway, or trails when feasible. It is her understanding that they can have them if they are not visible. You can have a seasonal vehicle permit but she has never issued one. The Code Officer stated she gets complaints about unlicensed and uninsured vehicles which can move.

Attorney Ferlazzo has concerns on certain parts of the code. He stated using the word “when feasible” is asking for trouble. He noted the ordinance combines blight with cars. What are the criteria for a seasonal vehicle? He asked if the town has an ordinance that regulates junk yards. (It is in the zoning ordinance.) The Code Officer stated use common sense if you have a 1963 hot rod... if it will run but you put it away for the winter....

Mr. Putman – Highway Superintendent was on the Planning Board when this junk ordinance was drafted. It was for people with snow plows that are not on the road. He believes the code needs to be revisited. Attorney Ferlazzo noted he has been an attorney in a rural area for many years even though his office is in Albany. The definitions need to be tightened for when an issue goes to court. Attorney Ferlazzo discussed page 7 where the failure to move a junk vehicle comes under the vehicle and traffic law- this is intended for vehicles on a public highway. This is a violation of a person's rights. He noted courts determine public nuisance. There are a lot of strong

definitions that are good. Mr. Ferlazzo notes lots of towns allow people to have one unlicensed vehicle which is not visible from the road. The clerk noted or from an adjacent property. Attorney Ferlazzo stated per tax map property... if you own 15 adjacent parcels you can't have that many vehicles. This has to be tightened up. He was concerned the town is doing two things in one law. The two issues should be separate.

Council Member Manning noted there is nothing about structures in the ordinance. That is included in State/Town Law 130. This covers unsafe structures.

One of the Code Officer's instructors sent her an inspection form to use to write a ticket for property maintenance.

Attorney Ferlazzo suggested having two laws. The Code Officer stated there is already a property maintenance code with the state.

Mr. Toskas noted we are talking about boats, snowmobiles, cars, recreational vehicles. We want the town to be a recreational center. That involves stuff. You can't say the boat can't be stored where it is visible in the winter. There has to be a difference between a car not driven in the winter and a junk car. A 1932 ford won't be left out all winter.

Council Member Sturchio mentioned the person who has the old boats at the old post office that have been there for years. Those boats are not registered or legal. They are an eyesore.

The Code Office had a question about Section 6 Additional Provisions – the failure to correct a violation, other than a junk motor vehicle, of the Town of Caroga, the governing board may hold a public hearing to determine whether the violation constitutes a public nuisance requiring abatement by the municipality. There are some instances where people pay the fine repeatedly. When does this come into play?

Attorney Ferlazzo noted for perpetual violators the court should be given injunction power. At some point they can be held in contempt of court. They will go to Supreme Court. Any violations of our code should have injunction provisions under 267 of Town Law.

Attorney Ferlazzo gave an example comparing the value of junk to the stock market. People may keep it around and collect it until the price goes up then they get rid of it. Salvage costs encourage people to keep on violating. If the Code Officer violates everyone at once – they go to court together. They see the judge handing down fines. It works well. Then they won't do it again.

Mr. Robbins noted that usually if the judge issues a stiff fine then the word goes out. If the judge fines constantly – people will start listening and start cleaning up. He noted you have to write the ticket for that day and for all successive days. The fines add up. Mr. Robbins noted if you write a ticket you have to constantly take pictures. Then if the case is adjourned until months later you have proof it is ongoing. That will allow the judge to issue a substantial fine.

The fire department does blight in Gloversville every day of the week – junk vehicles and property maintenance. If you have a complaint it is a good idea to look around and site all violations you see within 360 degrees.

Attorney Ferlazzo noted you can go around town and do them all or have an amnesty law while people are learning the law. In Schodack if you were building an addition without a permit you could obtain a permit by a certain date and no violations would be issued. The town should give notice that enforcement was going to go into effect steadily. The town needs to tighten the law, give the people notice and then do the enforcement. You don't want to do selective enforcement. You can prioritize a main corridor. Mr. Robbins noted this did not occur over night and will not go away overnight. It is going to take time to get things straightened out.

Council Member Manning asked about member of the town going on personal property and doing a clean-up. Mr. Robbins responded absolutely not. If invited on not a problem – the Code Officer stated they were invited on. Council Member Manning wanted to know if a citizens group wanted to help out whether that can be sponsored by the town. Should that be part of the town or an independent citizens group? Attorney Ferlazzo did not think it was great if the town sponsor it. If someone got hurt the town will have liability. If the person did it a lot it could be considered workers comp. as an employee of the town. It should be volunteer only and only if the owner consents.

The Code Officer noted there was a property in town blighted for quite some time and incapable of taking care of it on her own. Someone donated a dumpster and together a group including the Code Officer included helped her throw her garbage away. He noted people have their 4th amendment right to privacy.

Mr. Putman noted the need to be careful about enabling people. A volunteer group did not bring it there. The Code Officer noted if you are able bodied there is no reason you can't clean up your yard. She is talking about sick, disabled or feeble people. Council Member Morris stated this is just the outside right? The Code Officer responded, "No never inside, never inside."

Mr. Toskas wanted to provide procedures/tools for the Code Officer to accomplish what we want accomplished. We need definitions and incorporated with it exceptions. Boats can be stored in view as long as it is registered and insured. Trailers have to be inspected also.

Attorney Ferlazzo thinks there should be two separate codes – property maintenance code and vehicle code. She showed the board the state code that is in effect. It is a small document which we can review to see if the town wants it to be more restrictive. The town can adopt it under our code with penalties under our own supervision.

Mr. Robbins noted in Gloversville there are a property maintenance code, a housing code, and that state code.

The Code Officer reads the state code Chapter 3 Section 302 permits not more than 2 inoperable/unlicensed motor vehicles on any premise. Council Member Glenn noted we have to change that it would be a board decision with everyone's recommendations. It can be revised by a local law to supplement it.

The town has already adopted the Uniform Maintenance Code – Mr. Robbins stated that is what she uses to do enforcement.

Ms. Yates stated that before she got here one person has 24 appearance tickets in their file. How come this never gone to Supreme Court. She can simply go to the board at a meeting and notify the board of a situation and ask for authorization to proceed with legal action. Instead of going through Section 6 as a procedure or should she use Section 7. The town has the authority now to authorize a suit to enforce the code. Attorney Ferlazzo recommends removing any unnecessary language by having a local law amending this local law. The town should also make sure it has adopted the state fire code and have the fines come to the town. The enforcement will be under the local law and have a fine schedule.

The Code Officer asked if her predecessors gave the property owner multiple violations, does she have to start the process all over again. Some are a couple of years some are 5 -6 years old. Mr. Robbins stated most violation disappear within a year. He suggested giving one last warning. Using google earth was suggested. They have ignored it because they can. Raising the fines to the state maximum of \$1,000.00 was discussed. Attorney Ferlazzo will double check. He suggested citing each vehicle in violation. Five vehicles each day times the number of days will add up. The process starts with the notice to remedy. From the date of the ticket and ongoing thereafter. The most important thing is to regularly go and check to see if and when the violation disappears before the date of the trial. The court can fine for everyday there is a violation and separate offense. There is enough for her to work with now.

Attorney Ferlazzo stated he could put the local law together tomorrow. Then a public hearing has to be scheduled and then enact it. The attorney noted the Code Officer can enforce the law now – there is no reason to wait. The injunction will be in state Supreme Court. Attorney Ferlazzo noted everyone should be treated equally under the law.

Mr. Kirsch thought the town's intentions should be announced – how things are going to be different and give people a little bit of time -30 days. This will minimize the blow back. Attorney Ferlazzo suggested authorizing the litigation but not do anything for 30 days. A letter could be sent stating the town is going to adjoin this. They have to know you mean business. Once you start enforcement you have to be persistent.

Mr. Toskas suggested a boiler plate letter so just the names have to be filled out and sent. There is a program that does this. Council Member Glenn wondered if this should be enacted now or when the seasonal people are back. During the winter things get buried but warnings should be issued. Someone suggested that a letter go out to all property owners or start with the bad ones. Start with one or two people and by the time summer is here you have already had people in court. Mr. Robbins stated he used to send out a letter, then an order to remedy, then a ticket. He stated when he did a mass mailing people said they never received them.

The Code Officer stated up here there are ATV's, snowmobiles, construction trailers and not everyone can make it so they are not visible. "Am I really supposed to ticket these?" Mr. Robbins suggested bringing some examples to the board and revisit. The avenues have very small parcels. Mr. Toskas noted the key is definitions. Mr. Robbins thought talking with the committee on specific problems and then make suggestions to the town board for changes to the law. Laws have to be updated to change with the times.

The Code Officer noted that Jennifer has been more than helpful making sure letters are getting out. She doesn't know about the program yet. The Code Officer noted letters about blight can't go

out every day. She suggested having a person from the blight committee come in to help her get letters out. Council Member Manning noted right now the Code Officer should be focused on the most serious violators with a history of violations. He stated she will get more efficient at the process. "What I have been working on since day one is safety hazards/concerns, fire hazards."

Council Member Manning has looked at other ordinances from other states and they are similar. He wanted to sit down and look at the existing document and make some recommendations and get this hammered out.

Mr. Robbins suggested having a committee put together some suggestions for the town board to review. It was noted that the town's ordinances are not codified. They are done in house. He said that was too bad because General Code does a great job with the code. AOT is another resource. The draft zoning ordinance the Planning Board is working on does increase the fines for violations. Attorney Ferlazzo suggested doing as much updating through the new zoning ordinance as possible and have fewer laws. This is still 6 months away from being adopted.

Supervisor Sullivan suggested working with the document we have and then look at the new zoning document coming out and they may address things and amend it from there. The Uniform Building Code Law was already adopted by the town in 1985 by Local Law. A copy was given to the Attorney. Mr. Robbins noted that it first came out in 1984. A great resource is the Albany based Dept. of State representative from the Codes Division they would come up and review our document.

Mr. Toskas asked if there was a problem with someone from the blight committee taking pictures from the road for the Code Officer. Attorney Ferlazzo noted they are going to have to testify in court. Anyone can take a picture. If they are given the town camera – they could get sued but probably won't. The Code Officer still has to see it and confirm it was true.

Council Member Glenn next discussed grass roots funding. The attorney has to be paid and the injunctions cost money. He hopes the seed money would be replenished with fines.

Council Member Manning asked if the money would be going toward the volunteer group or dumpsters. "Overall" was the response from the Code Officer and Council Member Glenn. Maybe to rent a dumpster. Mr. Kirsch stated that he didn't think the taxpayers would be happy, and that the town money should be used for legal fees. A volunteer could make a donation. The Code Officer wanted to ask for donations and keep it in their own account separate from the town. Council Member Manning noted it comes down to the Code Officer issuing tickets. "I know that." the Code Officer said. It was noted that volunteers won't be around forever, like in any group they are only viable for a period of time. Mr. Putman noted the need to be careful because when you enable people stuff starts showing up all over town. EnCon is involved with 3 cases of illegal dumping at our stump dump right now. Maybe some criteria have to be established for volunteers to go in and clean up their property.

Having a town-wide cleanup was suggested. Setting a couple of free days at the landfill site was discussed.

Attorney Ferlazzo suggested modernizing the Uniform Code and making a quick revision to the local law to make sure it is legal. A separate vehicle ordinance was suggested. A noise ordinance

was mentioned. The clerk noted in the past when this was discussed the matter was dropped because the county has no meter to enforce it. At the next meeting the committee will look at the draft law.

Future blight meetings will be scheduled for the 4th Wednesday of each month, the next meeting is February 24 at 6:30 pm. Council Member Glenn is the committee liaison to the board. Attorney Ferlazzo reviewed the open meetings law and the attendance of board members at those meeting. It could be arguable if a quorum was present.

The Code Officer will post notices and give a sample letter to the board. Doing a press release and putting information on the town website and Facebook was discussed. Setting a deadline was discussed. Sending a letter to each resident is expensive. The Code Officer noted the word will get out once she does 20 mailings people will talk. Then in a couple of weeks later 20 more people get letters you will hear about it.

The Code Officer showed the board a letter from Mr. Rubinstein all she did was changed the name. This is the document he sent out in the mail.

Mr. Toskas stated this is a long term project. People don't have to comply by May. Setting a deadline was suggested. The Code Officer noted she is busy with other things in the summer.

Mr. Kirsch asked if there was a problem with volunteers helping in the Code Office. Attorney Ferlazzo stated the problem with that when someone does work for the municipality they are then employees and we are responsible. "You are an agent of the town- part of the Code Enforcement office." Having an intern was discussed. The clerk noted in the past the town has had the help of community service via the judge if they cannot pay a fine. Attorney Ferlazzo noted this should not be happening every week. He wondered how much blight was out there.

Mr. Kirsch offered to pull together a volunteer group and funds. He would like to have criteria set to have an option for the Code Officer to use the volunteer group. They are not a committee of the board just a citizens group for anti-blight Attorney Ferlazzo stated.

Supervisor Sullivan reconvened the board. He had two items to discuss. Mr. Putman was asked to put together a list of what it cost to repair the garbage truck in the last year. In parts alone above the general maintenance \$2,400.00 plus was spent -this does not include labor or the cost to run other trucks in its place. There were 6 days when the truck was down in the past year. Currently the engine/exhaust break does not work. What this does is helps slow the vehicle. It will cost \$7,000.00 for him to put one on. The truck is a 2004 and has almost 300,000 miles on it.

Supervisor Sullivan reviewed the way he wants to manage the information and proposals coming from Sherman's. He is getting barraged with ideas. He believes "the board has enough on their plate now without taking on that responsibility too." His thought is to bring in a citizens committee to deal with that to bring all that information together. He thought a Planning Board member, a member from the public, someone from the county a committed of "5 – 7 people who can manage this for us." They will help present what the feeling from the public is and review the proposals that we have. Council Member Morris asked if they will bring each and every proposal to the board or weed out proposals. Supervisor Sullivan would hope they would weed out. Council Member Sturchio stated the town can't run a business. A management company could be hired but the supervisor did not want to get into that situation.

Council Member Morris stated the problem she is seeing is “we were elected to do this.” She was not sure how the public would feel about this. This is her concern. The committee could be charged to bring all ideas to the board.

Council Member Manning was concerned with the transparency issue. This comes out of last year. He wants to make sure everyone’s idea gets presented. The committee is not under any open meetings law requirements to keep minutes or announce when they meet. The board has to maintain all these records. If a person can’t go the distance with an idea maybe the committee can help them developed an idea to present to the board. Council Member Manning was not in favor of this. He wants people who have the capacity to follow through. Supervisor Sullivan did not envision this being their function. Council Member Glenn was asked what he thought – he wanted someone to reach out for requests for proposals and weed through the business plans and bring those to the board without prejudice. Two people have approached Supervisor Sullivan with suggestions in the last week. That is the problem they are suggestions nothing solid. He doesn’t have time to draw those in.

Mr. Kirsch had a couple of comments to help the board. 1) It is one thing for someone to say let’s have a beach. We should have an RFP template for the board to review. Then determine which are most viable and then put it up to a town vote. Because of what happened last year he agrees with Council Member Manning about keeping records and reporting regularly to the board.

Council Member Manning did start a list of criteria for a committee to go over and analyze and look for. Things like business plans, fund raising, site plan, environmental impact, community involvement, community benefit, does it fit into the Comprehensive Plan, economic analysis and tourism, legal analysis, historic preservation, and over all uniqueness of the project. He wanted to make sure the board all agreed on these points. Supervisor Sullivan stated that a board member should be part of the committee. Council Member Morris agreed.

Supervisor Sullivan wanted to separate from the process as he may be prejudice.

AOT says this can’t be put to a vote. The board can’t take the top three ideas and put them out to the public. It is specific what can be voted on. It can go to a proposition or a referendum. If the board wanted to sell the property that could be put to the voters – Attorney Ferlazzo agreed. Ultimately it is a town board decision. Transferring property would have to be subject to permissive referendum. A town wide poll could be conducted.

Mr. Toskas asked if anyone has put forth a genuine proposal yet. Just one. But there may be others out there. Supervisor Sullivan agreed. The board is looking for opportunities.

The clerk asked what the board’s goal is. Is it to promote the property or divest itself of it?

Council Member Manning stated ultimately the goal is to do with the property what is the best. That is something the board has to decide through the process. We can’t afford to maintain the property as it is.

Mrs. Holliday asked if the town had heard from the APA yet. Supervisor Sullivan stated he is working on that process. The property is in the town’s name – it is not going back. We may be in a pickle with some of the restrictions. Mr. Kirsch noted we still have to move forward with the property. Council Member Morris noted the town is divided on it too. Some people want sell it others want to see what the kids can do with it. People are not pounding down the doors with proposals. The property was for sale for 10 years. What was a gift when you look at it is a burden

now. We don't know what to do with it. Mr. Kirsch thought it was a diamond in the rough. It could bring in outsiders though the options.

Council Member Sturchio wondered if other towns had a similar situation.

Kent Kirsch was asked to run the committee and Council Member Manning was asked to be the board liaison. Someone from the Planning Board was suggested. Other people for the committee should be interviewed. Other names brought up were Wally Hart, Ron Peters, and George Abdella. Committee members should have diversity – not the same views. Attorney Ferlazzo thought Mr. Abdella's participation would taint it. He can have input- he was a successful businessman and he has ideas but he thought there were other qualified people to help out.

Mr. Putman gave copies of the Agreement to spend Highway funds to the board.

RESOLUTION #2016-000 to sign the Agreement to Spend Highway Funds was offered by Supervisor Sullivan at the January 20, 2016 work session held at the Caroga Town hall.

WHEREAS, Mr. Putman received the agreement to spend funds in the amount of \$139,000.00 for 33.9 miles of roads throughout the town to utilize CHIPS monies, and **WHEREAS**, the following roads: East Shore Road of West Lake from State Highway 10 to 29A would be resurfaced, West Lake Road in Stoner Lake from Route 10 to the dead end, and the Outlet Road from Rt. 10 to Rt. 10 would be paved, Now therefore be it **RESOLVED**, that the Caroga Town Board does hereby move to have the Highway Superintendent Steve Putman move forward with those projects in 2016. Council Member Sturchio seconded the motion.

Adopted by a vote of 5 Ayes, Sullivan, Sturchio, Glenn, Morris, and Manning.

At 9:03 Council Member Manning made a motion to adjourn. Council Member Morris seconded the motion. All board members were in favor of the motion.

Respectfully Submitted,

Linda M. Gilbert, RMC, CMC
Town Clerk