

State of New York
County of Fulton
Town of Caroga

Minutes of the Caroga Town Board work session held Wednesday March 29, 2017 at the municipal building located at 1840 State Highway #10 at 7:00 pm with the following persons in attendance by roll call:

Supervisor Beth Y. Morris- Here
Council Member John Glenn – Here
Council Member Anthony Sturchio - Here
Council Member Jeremy Manning – Here

Others in attendance were Town Attorney Sal Ferlazzo. James Mraz and Scott Henze of the Fulton County Planning Department, James Selmser – Caroga Planning Board Chairman, Al Kozakiewicz & Lynne Delesky Planning Board Members, Frank Malagisi – Zoning Board of Appeals Member, John Delesky BTI Coordinator, Steve Putman – Highway Superintendent there were 14 other members of the public.

Supervisor Morris introduced Mr. Mraz.

Council Member Glenn noted at a previous meeting the board had talked about a proposal to evaluate the development operation, maintenance of a waste water collection and treatment system for the Town of Caroga – certain sections of it. He has had discussions with the County Planner Jim Mraz and Johnathan Pirro – liaison to Senator Tedesco. The idea tonight is to bring this information to the public and perhaps move it forward.

Tonight Mr. Mraz just wanted to share information so the town can make an informed decision. He is not here to advocate anything. He has no vested interest in what the Town Board wants to do. In 2001 the town looked at this concept. Lamont Engineers were hired to take a look at the various options for a waste water and treatment system in the town. That was for a large area of the town. It encompassed Canada Lake and East & West Caroga Lake. The outcome was a 15 million dollar project. Because of the cost nothing moved forward with it. This is being driven because of what was in the Town's Comprehensive Plan. The area was around Sherman's and a Town center. The plan recommended putting in a trunk line along this section of route 10.

A waste water collection and treatment system is a series of pipes, gravity lines, & forced mains if you have to pump over a hill, a pump station. The treatment is a treatment plant/full scale or package plant. You have to determine what part of the town you would like to have service to. He provided a sample sewer collection area showing the parcel ID, type of use, size of the property and the projected daily demand. He noted a single family home uses 250 gallons of waste water flow. Other types of uses were also listed. This is how you calculate how much flow has to be treated. The bigger the number, the bigger the treatment plan the bigger the cost. When you work with an engineer you determine what we really need and what can we really afford.

Mr. Mraz noted we would have to find a receiving body of water. Potential options include Caroga Creek, Durey Creek, Mead Creek and East or West Caroga Lake. He noted there is a

plant in Gloversville-Johnstown that discharges into the Cayadutta Creek. He list two villages and a town and where they discharge into in his report. He noted 50 thousand gallons of treated waste water are discharged into the Great Sacandaga Lake every day.

In 2001 the engineers reviewed the options. They took water samples and measured the water quality of the receiving waters. They measured the flow and the information was given to the NYS DEC. They issue the permits they set the affluent limits.

There were two options for the town – construct and operate a wastewater collection and treatment system or pipe it to the Gloversville-Johnstown Joint Wastewater Treatment Plant. A map was drawn up by Mr. Henze showing 3 potential wastewater collection system/wastewater treatment plant sites. Copies were passed among those in attendance. The maps show elevations. Pump stations would be necessary depending on where the treatment plant is placed. Homes would need grinder pumps or other types of pump stations depending on elevation. The homeowner maintains the pump.

Mr. Mraz noted the big issue is what is this going to cost? He state the public want the board to make a sound decision. Good decisions are based upon good information. The town needs to invest in an engineer with this expertise. They need to collect the necessary information – look at the 3 options, meet with DEC then come back with the pros and cons of each plan. They would project the cost to build the collection system and the treatment system. With that information the board could make a decision to go forward with this or find it is still too expensive.

Mr. Mraz handed out a DRAFT Request for Proposals to prepare preliminary Engineering Evaluation on Developing a Wastewater Collection and Treatment System for the Town of Caroga. The document identifies the scope of work. (page 6) His office is willing to work with the board to finalize this. They have a list of engineers in the office to send this to – as well as others the town may want. Mr. Mraz stated he could send this out for the town, get the proposals back, and then hand them over to the board to look at. We will get back pricing. Then the town will look to the Senator to find money to pay for this initiative.

The Gloversville-Johnstown Joint Wastewater Treatment Plant has unused capacity right now. He estimated the cost to pump to Gloversville at 6 million dollars. It was noted sewer districts would have to be formed. Mr. Mraz noted it is the administrative responsibility of the board to create it. Mr. Mraz noted it could be a challenge as some may not want to be in the district. He stated the board could elect to just put the people into the district that want to be in the district.

The district did not have to be contiguous.

There is a possibility that the public may vote it down. The costs have to be allocated to the district – those properties located within the district. Typically a rate is established that is charged to the property owners in the district to cover the cost of the bond payments. Ideally you have 100 or 1000 people in the district. Council Member Glenn asked if a tax incentive could be instituted for those who signed up to be in the district. Mr. Mraz suggested asking the town attorney that question.

There are two ways to argue for funding 1) is to improve water quality around the lakes, 2) that this is an economically development project. He again referred to the Comprehensive Plan. The funding focus varies year to year.

Council Member Sturchio was concerned with pipes breaking and being near the lakes. That is why professionals design the system. Mr. Mraz noted many other towns have systems even up in Alaska.

There are several steps to be taken before anything would be built. The time frame from the time the RFP is sent to the time a system was built was discussed. No timeframe was stated.

Mrs. Barrett asked what the cost would be between the two proposed plans. She has read about systems failing and problems with runoff. She did not want this in her lake. She stated the affluent effects the phosphorus in the lake after a while. Many plants are designed to remove the phosphorus and nitrogen. Mr. Mraz noted the need to determine if the town can afford this – you can't guess.

The RFP is a document that tells the engineer here is what the town wants. You won't know how much is costs until you go to construction. The engineer will give the best estimate. Council Member Glenn stated that Senator Tedesco has given his word that he will cover the cost of the RFP – to hire the engineer. He is anxious to get this going.

Susan Collins though there was more funding incentives being offered by the government. Starting small and then expanding was suggested by Council Member Glenn. He would ultimately like to see the entire town have a system. He believes in the plan set forth by the Planning Board for the town center. The engineering report will give us the options and the recommended plan of action. That is a must have to go out for funding. They want to see the plan.

Mr. Kirch asked for the long-term benefits to the homeowner. The primary benefit is you no longer have to worry about your onsite septic system. What types of costs are the homeowner facing in continuing to maintain their system in comparison to tying into the sewer system? The town is required to fill out this map, plan and report. The engineer has to give a cost per property owner. If we borrow money the map, plan, and report have to be sent to the NYS Comptroller's Office. There is a system of checks and balances. The Comptroller's Office may say it is too expensive.

Mr. Stumpf stated the daily usage per person is 300 gallons in what he has read. He noted there is no control of water usage when there is a sewer district. The more water you use the more that has to be processed.

Mr. Toskas noted there are a series of steps. The first one is free the second is to be covered by the Senator. Why not say yes to Free!

Mr. Putman noted the town is totally under the jurisdiction of the APA. That is the first step to get their input on this before the town goes any further. Second the town uses CHIPS money for the roads. Where are these pipes going - under the road. There are several roads he can't work

on in town because of the CHIPS money already used on them. The board has to be aware of this and make sure the roads are fixed and brought up to specifications.

Council Member Glenn noted Johnathan Pirro is in charge of the SWAP program which is the CHIPS idea for infrastructure.

Mr. Mraz noted the road repair would be part of the project specification. He noted the state would require this. Mr. Putman thought this project would take all of the 20 ft. road. He was concerned about working on roads if they are just going to be torn up with a septic project. He did not want to waste the taxpayer's money.

A question on the term of the bond was asked. The length is typically 30 years. Mr. Mraz noted the breakout of cost is by the EDU's – equivalent domestic units. That is the equivalent of single family house. A commercial building may be 3 EDU's based on the ratio of gallons per use per sq. ft. of commercial space. Thirty years is the expected life of a water sewer system. It was noted that this fits into the Comprehensive Plan.

A resident asked if the property owner had to pay for the pipe going to their home. Typically the project pays for the cost of the pipe in the road and the pipe to the property owner. It is the property owner's responsibility from the road to the house. Pumps are the property owner's responsibility also.

Can you opt out of a sewer district? Mr. Mraz responded that is the decision of the town board for the sewer district. It can go either way. The town could decide to have the property owner pay a portion of the share or not at all.

One resident noted there were going to have to be a lot of pumps for a system in Caroga. He noted the cost to operate them and replace them when necessary and to maintain them. Most pump stations have multiple pumps that work in a plastic tank. The pumps last 20 – 25 years. Mr. Mraz noted the first thing to look at is what area can be serviced primarily on a gravity flow. That is the core area to start with.

The clerk asked wouldn't the town want to set up a district where there is a problem area? Who determines the district? Shouldn't we be working on an area where there is a failure? How do we find this out? She noted there are 200 holding tanks in the town. Mr. Mraz noted the board would work with the code officer and with local knowledge that is what you talk about with the engineer.

RESOLUTION #2017-037 to move forward with the RFP was offered by Council member Glenn at a Caroga Town Board work session held on Wednesday March 29, 2017 at 7:30 pm at Caroga Town hall. **WHEREAS**, Council Member Glenn brought information to the board from Senator Tedesco's office regarding a Wastewater Collection and Treatment System, and **WHEREAS**, the board met with James Mraz and Scott Henze from the Fulton County Planning Department this evening, now therefore be it **RESOLVED**, that the Caroga Town Board does hereby more to move forward with the RFP.

Discussion: Council Member Manning asked if the county or the town was overseeing this. Mr. Mraz stated he would not over see it. He would prepare it and send it out and bring the proposals to the board. They will provide whatever guidance the board wants. Supervisor Morris wanted to review the RFP presented this evening. She noted the next meeting is two weeks away. Then at the next meeting if there were any question the board could discuss them together. She wanted to read through the document. The board asked for a list of engineers the RFP was being mailed out to. Mr. Mraz stated the board could add other engineers they knew of to the list.

Council Member Sturchio wanted to move forward tonight.

Council member Manning seconded the motion.

Council Member Glenn further **RESOLVED**, to go ahead with the Request for Proposals for the Preliminary Engineering Evaluation on Developing a Wastewater Collection and Treatment System for the Town of Caroga.

Council Member Sturchio seconded the motion.

All in favor- Supervisor Morris, Council Members Glenn, Sturchio, and Manning

Mr. Mraz had questions. When the proposals come back if someone has a question on the RFP who does the engineer call? The board responded they should call Mr. Mraz and Council Member Manning asked that the board be cc'd on it. Mr. Mraz asked where the proposals should be mailed to. His office was the response.

At 8:03 pm Supervisor Morris made a motion to enter into an executive session regarding possible pending litigation, Council Member Manning noted there is no litigation yet. Supervisor Morris was using terms from the Town Attorney. Council Member Glenn seconded the motion. Supervisor Morris stated the executive session would also include a discussion on the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation, as it pertains to an insurance issue. The Supervisor requested the sealed letters of interest from the residents who corresponded about the open council seat from the clerk.

All in Favor; Council Member Sturchio, Glenn, and Supervisor Morris, Nay – Council Member Manning

At 8:48 pm Supervisor Morris made a motion to adjourn from executive session. Council Member Glenn seconded the motion. All board members were in favor of the motion.

There were 15 persons in attendance.

Attorney Ferlazzo recommended that the board authorize his firm to bring legal action to get a final determination as to the Sherman's Property. A couple of years ago there was a donation agreement by Mr. George Abdella that resulted in the transfer of property at the end of 2014.

Then there was the article 78 by property owners who said that was invalid. Attorney Ferlazzo attended a meeting with about 300 people where a determination was made to accept the real property but not the donation agreement. Over the years George has made it known under Balboaa Land Development Inc. the company he is involved with that he still feels the donation agreement is in effect – that the town has restrictions on the property. The subdivision was approved by the APA. Attorney Ferlazzo’s legal opinion is that any action that can be brought by Balboaa has expired. He recommends the Town Board to authorize a declaratory judgement. This would ask the court to make a decision as to what the rights of the parties are. The Town wins either way. If for some reason Balboaa has rights the town should know about it. Then you would know how to develop the property based on those rights. If they don’t have rights the town can do whatever they want with the property. He wants to be clear – the town owns the property. Any claims Balboaa has Attorney Ferlazzo believes are without merit.

Mr. Long stated he trusts the town Attorney’s opinion. We have no prospective buyer and if and when we ever get to that point what is the harm in then asking for a declaratory judgement if Mr. Abdella makes noises. Attorney Ferlazzo noted the claim belongs to Balboaa it is a company not him personally. Attorney Ferlazzo noted the town has an asset it can’t sell because they have to disclose that we have a possibility that the town does not own it. That possibility is enough to reduce the value of the property and to make it have a cloud on title. That could take about a year to resolve. There is another 6 months for the appeal process. Do you start the year when you want to sell it or now?

Attorney Ferlazzo recently met with Mr. Abdella and his wife. They were very pleasant. They were happy to be involved in the decision making process. They felt they made the donation with certain criteria which in their opinion were reasonable. In the Town Board’s opinion they were not. That is why the board rejected it in 2015. The four month statute of limitations is gone on the article 78. A 6 month notice of claim requirement under town law section 65 is gone. The 18 month breach of contract timeframe is gone. The only thing left is fraud – a 6 year statute. However Attorney Ferlazzo interprets Town Law 65 as if you have an action on contract arising from a contract – clearly it is arising from a contract so the state has in this case shortened the statute of limitation on fraud against towns. If judge Sise agrees and the appellate division agrees it is over with.

Attorney Ferlazzo noted the citizen committee brought forth an article 78 against the town as it related to the donation agreement – however the Article 78 became moot because the property was accepted and the donation agreement was rejected per Town of Caroga RESOLUTION #2015-040. Attorney Ferlazzo stated if Mr. Abdella ever comes back and brings a claim that the citizens group would have notice and the right, therefore the group will be contacted should they want a say in this proceeding,

Mr. Long expressed other options for this situation. Attorney Ferlazzo asked do we want to address the problem or ignore the problem. It is up to the board.

Mr. Kirch asked if the board has thought about the implications of suing someone who has generously donated a property to the town. He worried about the image of the town. He wanted to see if Mr. Abdella was amenable to one of the options the board may decide to go with.

Supervisor Morris stated from the conversation she and Attorney Ferlazzo had with the Abdella's two weeks ago no matter what the town does the stipulations from the donation agreement are in effect. "He will start reacting if the town does not start abiding by those stipulations." Mr. Abdella was concerned about the ongoing maintenance.

RESOLUTION #2017-038 to authorize the law firm of Girvin & Ferlazzo on behalf of the town to bring a declaratory judgement action relating to the donation agreement and the transfer of real property from Balboaa Development Company, was offered by Supervisor Morris at a Caroga Town Board work session held on Wednesday March 29, 2017 at 7:30 pm at Caroga Town hall. **WHEREAS**, the Caroga Town Board met this evening in an executive session with Town Attorney Sal Ferlazzo of the Law Firm Girvin & Ferlazzo of 20 Corporate Woods Blvd. Albany NY, and **WHEREAS**, the board discussed issuing a declaratory judgement action relating to the donation agreement and the transfer of real property from Balboaa Land Development Inc, and now therefor be it **RESOLVED**, that the Caroga Town board does hereby authorize the Law Firm of Girvin & Ferlazzo on behalf of the town to commence an action against Balboaa Land Development Inc. concerning the declaratory judgement with respect to the donation agreement and the transfer of real property to the town by Balboaa in December of 2014 as well as against the citizens group to name them as a necessary defendant on the ground they were provided the option to participate in the event that this issue came back up.

Discussion: Council Member Manning questioned whether right now was the time to do this. It is a tool we have. He thought the board could be upfront with any applicant with a proposal that comes through. Attorney Ferlazzo as our attorney wanted to give the board their options.

Council Member Glenn seconded the motion.

All in Favor: Supervisor Morris and Council Member Glenn – Aye Opposed Council Members Sturchio and Manning.

No decision was made. Council Member Manning suggested discussing this again in two weeks.

Attorney Ferlazzo left the meeting.

Supervisor Morris made a motion to go into an executive session to discuss the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation. Council Member Sturchio seconded the motion. All board members were in favor of the motion.

At 9:24 pm Supervisor Morris made a motion to exit from the executive session. Council Member Glenn seconded the motion. All board members were in favor of the motion. The board discussed the vacant board seat. The board set a work session for Wednesday April 4th, 2017 beginning at 7:30 pm to interview each applicant for the open board seat. Interviews were to be set up at ten minute intervals. Supervisor Morris hopes to have a new board member for the next meeting.

RESOLUTION #2017-039 to establish the Standard Work Days for Elected and appointed official in the Town of Caroga, was offered by Supervisor Morris at a Caroga Town Board work session held on Wednesday March 29, 2017 at 7:30 pm at Caroga Town hall. The motion was seconded by Council Member Manning, **WHEREAS**, the NYS Comptroller's Office has contacted the town regarding missing information on resolution #2013-078 several times and most recently certified letters were sent to individuals effected by this resolution, now therefore be it **RESOLVED**, that the Town of Caroga hereby establishes the following standard work days for elected and appointed officials and will report the following days worked to the New York State and Local Employees Retirement System based on the record of activities maintained and submitted by these officials to the clerk of this body.

Title	Last Name	First Name	Standard day Hrs./ Day	Term begins/ends	Participates in Employee time keeping Y/N	Days/Months based on records kept
Town Clerk	Linda	Gilbert	8	1/1/14 – 12/31/17	Y	24.48 days
Bookkeeper	Lita	Hillier	6	1/1/17 - 12/31/17	Y	19.61
Town Councilman	Robert	Sullivan	6	1/1/12 – 12/31/15	Y	8.75 per Quarter
Town Justice	James	Subik	6	1/1/16 – 12/31/2019	Y	4.89
Town Supervisor	Robert	Sullivan	6	1/1/16 – 8/1/16 resigned	Y	12.79

Adopted by a vote of 4 Ayes: Morris, Glenn, Sturchio, Manning
 Supervisor Morris explained that the town's bookkeeping needs to be updated. There have been a lot of problems in other towns but we don't have any financial discrepancies here. She has been working on this with the State and the bookkeeper.

At 9:29 pm Supervisor Morris made a motion to adjourn. The motion was seconded by Council Member Manning. All board member were in favor of the motion.

Respectfully Submitted,

Linda M. Gilbert, RMC, CMC