

# ***Caroga News Flash***

## ***Town Board Meeting Highlights***

**May 10, 2023**

[TownOfCaroga.com](https://TownOfCaroga.com) contains all issues of the ***Caroga News Flash***.

This monthly Board meeting at Town Hall and via zoom began at 6:00 PM and lasted 92 minutes. 17 citizens attended at Town Hall, and 11 households participated via zoom.

The meeting featured Supervisor Horton's proposed "2023 Term Extension Local Law" asking:

***Shall the term of the Highway Superintendent change from 2 to 4 years?***

***Shall the term of the Town Supervisor change from 2 to 4 years?***

NYS Supreme Court struck down a similar scheme as "fatally flawed and constitutionally infirm."

### **Resolutions / Local Laws:**

1. **June 14 Public Hearing: Local Law Extending Terms in Office to Four Years** —(5-0 vote)
  - The Board approved the public hearing after a lengthy discussion (for details, see page 2)
2. **Short-Term Rentals** —
  - Council Member DeLuca reported on the Short-Term Rental Committee. The Town Attorney is reviewing the committee proposal, with a proposed law expected in June.
  - Board rescinded the prior plan and resolution (2022-017) that implemented a colored bag refuse collection fee for short-term rentals (5-0 vote). This proposal was not workable.
3. **Highway Department** —
  - Approved contract with Fulton County Highway Department for mowing on 7.28 miles of roads in the Town of Caroga (5-0 vote)
  - Approved State Contract Bid Price of \$122,847.05 for 2023 Chevy F550 4-wheel-drive with plow, wing, and sander and funding from reserve funds + DA5130.20 (5-0 vote)
  - Noted need for a Depreciation and Replacement Schedule for each piece of equipment
4. **Citizen Appointments** —
  - Appointed Sue Collins to the Caroga Tourism Committee (5-0 vote)
  - Appointed Lynn Hollister to the ZBA with a term from 5/10/23 to 12/31/27 (5-0 vote)
5. **Budget Adjustment** — Approved budget transfer for the National Grid Lighting Project:  
From: A2701 Refunds from Prior Year (National Grid) \$28,202.25  
To: A5182.4 Street Lighting \$28,202.25 (5-0 vote)
6. **Other Business** —
  - Approved Town Board letter of support of Stump City Brewing's permit application to the State Liquor Authority for specific dates between 5/27/23 and 9/15/23 (5-0 vote)
  - Approved bills as presented for audit and approved 4/12/2023 meeting minutes (5-0 vote)

### **Announcements:**

- ❖ The Wheelerville Bike Trails open for the season on May 14. Bike Festival is August 12 & 13.
- ❖ The May 6 Caroga Highway Cleanup Day was a big success. Thanks to all volunteers!

### **Upcoming Meetings and Events:**

<https://TownOfCaroga.com/calendar>

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Issue #7– 2023

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### **Public Hearing on Changing Terms of Office for Two Elected Offices**

**June 14, 2023 at 6:10 PM**

<https://TownOfCaroga.com/notes/publichearing2023june14.pdf>

Supervisor Horton “moved to hold a public hearing on changing the terms of office of the Town Supervisor to 4 years and the Highway Superintendent to 4 years.” He emphasized that such a change would improve “continuity”, and he invited the public to express their views on June 14. He described two methods to extend elected officers’ terms from 2 to 4 years under State Law:

#### **(1) Town Law § 24-a “Resolution Method”**

- At least 150 days prior to a biennial town election, the Town Board adopts a resolution,
- subject to mandatory voter referendum at a biennial town election, and
- if approved by majority of voters, applies to those elected thereafter at the next election.

*[Specifically, if the Caroga Town Board adopts a resolution by June 10, 2023, and if the majority of Caroga voters approve the change by referendum on November 7, then those elected in 2025 would serve 4 years when they take office in 2026.]*

#### **(2) Municipal Home Rule Law §§ 10, 20 “Local Law Method”**

- After a public hearing, the Town Board passes a Local Law,
- subject to mandatory voter referendum at least 60 days later, and
- if approved by majority of voters, applies to those elected.

*[Specifically, if the Caroga Town Board on June 14, 2023 passes a Local Law to extend the term of office from 2 to 4 years, and if the majority of Caroga voters approve the change by referendum on November 7, then the change to 4-year terms would immediately start in 2024.]*

Supervisor Horton invited the Town Board and local citizens to think about which method they prefer. Then he announced that he was using the second “Local Law Method” with a hearing.

### **Does the “2023 Term Extension Local Law” Follow State Law?**

No. It does not. Supervisor Horton failed to mention that State Law does not allow it. The New York Constitution Article IX § 2(c)(ii)(1) and Municipal Home Rule Law § 10(1)(ii)(a)(1) both state that local governments, including towns and cities, shall have the power to adopt local laws not inconsistent with the Constitution or any State law with respect to the “terms of office” \* \* \* of its officers \* \* \* except that cities and towns **shall not have such power with respect to members of the legislative body of the county in their capacities as county officers.**”

All this protects citizens’ rights and prohibits Caroga’s Town Board—whose Supervisor also serves on the County Board of Supervisors—from extending the Supervisor’s term in office with the “Local Law Method.” In fact, 25 years ago, the Saratoga County Supreme Court reviewed Clifton Park’s Local Law changing the Supervisor term from 2 to 4 years. Striking it down, the Court emphasized, “Only one conclusion can be reached, namely that Local Law No. 5 is fatally flawed and constitutionally infirm” (*Kerner v Town of Clifton Park*, 680 NYS2d 918 [1998]).

<https://www.TownOfCaroga.com/notes/kerner1998.pdf>