

MINUTES OF THE REGULAR MEETING OF THE FORT ANN TOWN BOARD HELD AUGUST 11, 2014

PRESENT: Supervisor Darlene Dumas
Councilwoman Gretchen Stark
Councilman Floyd Varney
Councilwoman Deborah Witherell
Councilman Denison

OTHERS PRESENT: Jeff Meyer, Town Attorney, Helen Denno, Confidential Secretary to the Supervisor, Barbara Winchell, Town Clerk, Paul Winchell, Highway Superintendent, Mark Miller, Enforcement Officer, Richard Moore, Kim Bender, Dave Dumas, Don Ballard, Virginia Parrott, Christine Milligan, George Sherwood, James Black, Gene Connell, Gloria Quinlan

Supervisor Dumas called the meeting to order at 7:00 p.m. with the pledge of allegiance and a moment of silence was held for Fort Ann deceased residents.

Motion was introduced by Councilwoman Witherell, seconded by Councilwoman Stark, to accept the Meeting Minutes of July 14, 2014.

Motion was introduced by Councilwoman Witherell, seconded by Councilman Varney, to pay the bills as warranted and audited.

Supervisor's Report: The monthly statement to supervisor is available on the Town's website, fortannfornow.com. A paper copy is available upon request. Supervisor Dumas stated she had approximately 30 phone calls for the month of July. She announced that she has started working on the 2015 budget. She has been comparing what was budgeted for last year to what has been actually spent so far. As of tonite she has received 2015 budget requests from the Fort Ann Rescue Squad and Fort Ann Volunteer Fire Company. She stated that this year Councilman Varney will join her when meeting with the Rescue Squad and Fire Companies to go over their budget requests. Don Ballard belongs to both the Fort Ann Rescue Squad and Fort Ann Volunteer Fire Company so he will be contacting Supervisor Dumas to set up a date/time for them to go over 2015 budgets.

Supervisor Dumas reminded everyone of the public comment section located on the second page of the agenda that states the public comment portion of the meeting is for items listed on the agenda and there is a time limit of three minutes per speaker as well as the public discussion section has a time limit of five minutes per speaker and when necessary she will enforce the time limits.

Supervisor Dumas stated "When I first ran for office I campaigned on good government. I did so because I believe that all government should be good government and it should be honest and forthright and that its actions and decisions should be open to the people. I believed that then and I firmly believe that today.

As Supervisor, I have tried my best to live up to those ideals. I've worked very hard for two and a half years on behalf of the town. We created a website and made agendas/minutes available on the website and we are in the process of updating the town website. I've made the financial reports available on the website each and every month.

I instituted a policy of letting citizens talk at town board meetings – and then I really listened to what they say. I often let various people talk long beyond the time limits I imposed because I believe that being able to talk to your government and have it listen to you is something fundamental to our system of government.

Most of all, I have tried my very best to represent all of the citizens of this town equally, to the best of my ability. There's a lot to the job of supervisor, even in a small town, and a lot to learn but I have tried my best to do a good job and I have tried my best to represent the town fairly and honestly at the county. When I have made decisions, I have always made them with the interests of the whole town in mind, rather than the interests of a particular person or group.

This is what I think you deserve, as the citizens of our town. You deserve honest, fair, hardworking representation that tries hard to do the right thing by you and all the people of the town. And it's good for you to know what your elected leaders are up to. Government in the sunshine is good government.

NY State's Freedom of Information Law (commonly known as FOIL) embeds many of these same principles into state law. It allows citizens to request information from government at any level, from the state to the smallest villages, and to obtain copies of the requested documents.

Most government records are available, unless an exception permits an agency to deny access. Most of the exceptions are based upon common sense and the potential to harm that would arise by means of disclosure. If disclosure of records would be damaging to an individual or preclude a government agency from carrying out its duties, it is likely that some aspects of the records may be withheld. For example, documents related to current contract negotiations are exempt from release, as are documents compiled by law enforcement and attorney-client communications between an agency and its attorneys.

It is a good law and I support it and we work hard to make sure that we comply with all aspects of the law. In fact, since taking office, I have spoken with the man, Mr. Freeman, who wrote the law on a number of different occasions just to make sure that we were complying correctly.

But it's easy to abuse the law. In the interest of public disclosure, I'd like to share a bit about what another elected official in town has been up to. Over the last month, we have received a series of FOIL requests from Mr. Richard Moore, the current School Board President. The school board is also subject to the FOIL law and, as its head, Mr. Moore is obligated to know the law and its requirements.

I have to assume that he is fully aware of the law, as all elected officials should be, and is aware of the nature in which one makes a FOIL request and is aware of the types of documents that cannot be requested through FOIL. Nevertheless, Mr. Moore's requests were, to state it mildly, rather unorthodox.

Each of his requests contained a request for one or more documents and then also contained a series of unrelated questions. I'm going to read a few of those questions in a minute. Since the FOIL requests may only be used to request documents, they were processed correctly and any questions on the sheets were simply ignored, as they should have been.

Evidently, when Mr. Moore realized that we were not going to rise to the bait, he scratched off the FOIL request and then emailed back the same sheets. I believe that I have either 19 or 20 separate such requests via email. This is what I received pages that look like this:

(Supervisor Dumas held UP A FEW SAMPLES to those in attendance)

Let me give you a couple of examples of what he was asking:

Both in 2012 and 2013, Mrs. Dumas failed to take advantage to lock in the dam insurance premium for a two-year period. Her failure to do so resulted in the Lake Hadlock Park District residents having to pay from our hard earned money a higher premium than could have been afforded.

Mrs. Dumas, why did you fail to take advantage to lock in the premium both in 2012 and 2013?

When do the LHPD residents, stop paying for the errors of the town board?

I found this question interesting. As I stated above, there's a lot to learn when you become supervisor. I did in fact lock in the premium this year, which doesn't save us any money this year but will save us money next year. But back in 2012, when I was first elected, I was being bombarded with an endless stream of details about the dam.

For help in determining the proper insurance coverage for the dam, I turned to the man who was supposed to be an insurance expert: Mr. Richard Moore.

On March 22, 2012, I sent Mr. Moore the insurance information for the dam and asked for his recommendation. He replied, in an email on that very same day, was "My recommendation to you is to pay the premium."

Let me give you another example.

Last year, the Town hired Lycott to do a study of Lake Hadlock. It's my understanding Mrs. Dumas paid Lycott upfront their fee to perform the study. It's also my understanding that Lycott did not complete the work per the contract. It's also my understanding that Lycott refunded the Town a portion of the upfront fee Mrs. Dumas paid them.

How much money was Lycott paid? How much money did Lycott return to the town?

Mrs. Dumas, why did you pay Lycott upfront for the work they were to perform?

Mrs. Dumas, why have you hidden these facts regarding this matter from the public?

Mrs. Dumas, when do the people of the Lake Hadlock Park District stop paying for the mistakes of the Town?

Last year, the Town signed a contract with Lycott that called for them to perform a study of Lake Hadlock. A committee had been formed to oversee this and agreed that this was the appropriate step

to take. Unfortunately, during the summer Lycott underwent organizational and personnel changes that prevented them from completing all of the work called for in the contract.

The contract called for a down payment of \$8,500, with an expectation that the final amount would probably be higher than that. When the work wasn't completed, I insisted that we seek a refund from Lycott and made certain that it happened. In October of last year, we received \$6,250 of our \$8,500 down payment back from Lycott. We all felt that this was fair settlement all around and we are once again working with Lycott this summer.

Of course, Mr. Moore already knows all of this. Why? Because his wife was on the committee that determined the strategy for Lake Hadlock, approved the contract, oversaw the work and discussed the appropriate steps to take when it wasn't completed as envisioned in the contract.

There are more of the same. Mr. Moore continues to ask for electronic copies of correspondence between the town and its attorneys, even though he knows – or at least should know – that those documents are expressly considered privileged by the FOIL law. His questions and statements are condescending and seem designed to try to embarrass me and other members of the town board.

But I'm not embarrassed nor is anyone else up here. The five of us don't always agree on everything and that's healthy for good government. But every single person up here is trying to do the best job they can."

Town Clerk's Report: Was given for the month of July 2014. The Town Clerk updated the Town Board that she and the Deputy Town Clerk are still waiting on the hunting/fishing on-line training that was supposed to take place in June and/or July and didn't. The last correspondence with DEC is it should be ready in August. On July 31st the Town Clerk attended the Tri-County Town Clerk meeting at BAS (Business Automated Systems) in Clifton Park. The next Tri-County Town Clerk meeting is scheduled for August 28, 2014 in Lake Luzerne.

Public Hearing: None

Public Comment was opened at 7:20 p.m. with Supervisor Dumas reminding those in attendance that public comment is meant for items on the agenda with no comments being made public comment closed at 7:21 p.m.

Highway Superintendent's Report: The Highway Superintendent reported that his department has been busy ditching on Starbuck Road and the culverts have been replaced. They've been busy with ditch work and bank removal on Cartier Road. The grader was out of commission for 2 ½ weeks. The grader is repaired and returned back to the highway barn today but the cost for repairing the grader was approximately \$13,000.00. It's only about four (4) years old so he's trying to get it taken care of under warranty. He hopes to be blacktopping in a couple of weeks. Mr. Winchell has been monitoring the blacktopping that's going on off Route 149 that leads back to County Waste. He's been working with the engineers at this site on Route 149 but communication has been difficult since their corporate office is in Indiana. He is trying to get them to go back to the Planning Board because it was about five (5) years ago when they last met with the Planning Board. This is approximately 7/10 of a mile of road and there are possibly two (2) or three (3) more businesses expected to be going in off that road. It won't be a Town of Fort Ann road for a while since there is ditch work to be done, title/deed search is necessary, and signs posted just to name a few of the necessary items.

Mr. Winchell reported there has been weed wacking done at the dam as recently as today. There is an inspection scheduled for August 14, 2014 but the inspector has been very busy so he won't be surprised as it gets closer to August 14th that he calls to cancel the inspection. Mr. Winchell reported that the 2005 Peterbilt was picked up from the Town of Amity. The back hoe is here. The sander needs brakes and the estimated cost is \$2,300.00. He had expected it to cost between \$4,000.00-\$5,000.00.

Councilwoman Stark stated that the Summer Recreation Program, which includes swimming lessons at Pilot Knob Beach, is going well and will be ending August 15, 2014.

Councilwoman Witherell stated that the Emergency Evacuation Plan is still a work in progress and the next meeting is August 14, 2014 @ 6:30 p.m. She expressed her gratitude to those involved in this very time consuming project.

Councilman Varney is still concerned about properties at Norman Way. He took Supervisor Dumas August 9, 2014 to show her the conditions of these properties and she took pictures to email to the Enforcement Officer. The Enforcement Officer, Mark Miller, reported that he has given Mr. Buckman a time frame to remove the trailer by end of summer and also instructed him to file a demolition permit with Washington County Code Enforcement as well as an electrical inspection. There are at least three (3) camps that could be condemned because of improper electrical. Councilman Denison wondered if this posed any Public Health issues. The Enforcement Officer stated this falls into more of a Public Safety category. Councilman Denison stated once again how necessary it is for the Town of Fort Ann to have zoning. The Enforcement Officer reported that Mr. Wilkins is supposed to remove his camp on the water by this Fall.

Councilman Denison reported that the cemetery committee has met and will continue to meet every two (2) weeks. There are a couple of cemeteries (Needhamville, Sly Pond) in real disrepair. Therefore the cemetery committee may not be able to stay within the time frame originally hoped for budgeting with regards to clean-up and mowing. Each cemetery cost will be a little different.

Mark Miller, Enforcement Officer, stated that a local builder, Chris Patton, is interested in subdividing property on Norman Way. Mark directed him to the Planning Board. Mark stated he has been busy signing building permits, following up with various people on 17A, West Starbuck Lane and explaining the laws in place because some properties have so much garbage/junk lying around in their yards they can't even mow their property. Mark spoke to the owner who had the trailer removed from Farley Road, who now resides in Hartford/Granville area, and he told Mark he will start cleaning up that area now that the trailer has been removed.

Supervisor Dumas spoke to Ian Miller, DOT, regarding the trees that have been removed from Howard Grundborg's property on Route 149 and Mr. Miller told Supervisor Dumas that Mr. Grundborg just happened to be out one day when he was in the area so he stopped to speak with Mr. Grundborg and he asked about removing the trees and Mr. Grundborg was fine with their removal. Supervisor Dumas asked the Town Clerk to send him a thank you note for being a good citizen.

Historian: Mrs. Parrott stated she has been the Town of Fort Ann Historian for over 40 years and she urged the Town of Fort Ann to take responsibility for the cemeteries. Supervisor Dumas responded that the cemetery committee is looking into this.

New Business: Leslie Barker, Planning Board Clerk/Secretary, notified Supervisor Dumas by email recently that she'll be resigning from her position as Planning Board Clerk/Secretary at the end of August. Supervisor Dumas stated what a great job Leslie has done. Supervisor Dumas asked for a resolution to advertise in order to replace the Planning Board Clerk position.

Resolution 56-14

RESOLUTION TO ADVERTISE FOR A PLANNING BOARD CLERK

On motion of Councilwoman Witherell, seconded by Councilwoman Stark, the following resolution was ADOPTED –VOTE -

Ayes 5 Witherell, Stark, Dumas, Denison, Varney

Nays 0

IT IS RESOLVED, to advertise and interview qualified applicants for Planning Board Clerk position.

The Director of Real Property, Laura Chadwick, recently notified Supervisor Dumas that the Town of Fort Ann is short one (1) member from the Board of Assessment Review since David Jacobsen had relocated to Maine. Supervisor Dumas asked for a resolution to advertise for a Board of Assessment Review Member.

Resolution 57-14

RESOLUTION TO ADVERTISE FOR A BOARD OF ASSESSMENT REVIEW MEMBER

On motion of Councilman Denison, seconded by Councilwoman Witherell, the following resolution was ADOPTED -VOTE –

Ayes 5 Denison, Witherell, Dumas, Stark, Varney

Nays 0

IT IS RESOLVED, that the Fort Ann Town Board authorizes the Town Supervisor to advertise and interview applicants for a Board of Assessment Review Member.

Supervisor Dumas suggested taking out a \$65,000.00 loan that can be pre-paid without penalty for the Highway Superintendent's truck. Attorney Meyer will contact area banks and email the Town Board members the interest rates. Councilman Denison recommended obtaining three (3) quotes.

Due to the copying expense involved with the Emergency Evacuation Committee a resolution for budget transfers between appropriations was put forth.

Resolution 58-14

RESOLUTION FOR BUDGET TRANSERS BETWEEN APPROPRIATIONS – TO COVER EXCESS EXPENDITURES 1/1-6/30/2014

On motion of Councilman Denison, seconded by Councilwoman Stark, the following resolution was ADOPTED – VOTE –

Ayes 5 Denison, Stark, Dumas, Witherell, Varney

Nays 0

IT IS RESOLVED, that the Town of Fort Ann Board authorized \$162.00 to be moved from budget line A1190.4 to A1010.4 and A9055.8.

Resolution 59-14

RESOLUTION SETTING STANDARD WORKDAY FOR PART-TIME ENFORCEMENT OFFICER

On motion of Councilman Varney, seconded by Councilwoman Witherell, the following resolution was ADOPTED – VOTE –

Ayes 5 Varney, Witherell, Dumas, Denison, Stark
Nays 0

IT IS RESOLVED, that the Fort Ann Town Board hereby establishes the following as standard work day for the part-time Enforcement Officer position and will report the following days worked to the New York State and Local Employees' Retirement System based on the record or activities maintained and submitted by these officials to the Clerk of this body.

Resolution 60-14

INTRODUCING LOCAL LAW 2 OF 2014, AMENDING THE ESTABLISHMENT OF FEES CHARGED IN LOCAL LAW #1 OF 1990 LOCAL LAW FOR THE REGULATION OF MOBILE HOMES, MOBILE HOME PARKS, TRAVEL TRAILERS, AND TRAILER CAMPS

On motion of Councilwoman Witherell, seconded by Councilman Denison, the following resolution was ADOPTED – VOTE –

Ayes 5 Witherell, Denison, Dumas, Varney, Stark
Nays 0

IT IS RESOLVED, that the proposed Local Law is hereby accepted for introduction to the Town Board. A public hearing shall be scheduled for this consideration on September 8, 2014 at 7:00 p.m. and copies of the Local Law shall be available at the Town Clerk's office for review.

Correspondence: Supervisor Dumas stated she received correspondence from Supervisor Dickinson from the Town of Lake George and went to an informational gathering regarding septic systems and hoping to receive grant money for this project.

Supervisor Dumas received a memo from HomeFront Development Corporation, 568 Lower Allen St., Hudson Falls, NY announcing a new program, called the Emergency Home Repair Fund. HomeFront will make a one-time grant of \$500 to help with issues such as plumbing, hot water, furnace repairs, small carpentry repairs, electrical issues, and any other needed home repair.

Supervisor Dumas read a July 30, 2014 letter from New York State Dept. of Environmental Conservation, Division of Forest Protection, Region 5, 232 Golf Course Rd., Warrensburg, NY commending the West Fort Ann Fire Department and Fort Ann Emergency Medical Squad and their continued participation in the annual Log Bay Day, State Land protection detail in the Shelving Rock Area of the Lake George Wild Forest.

Supervisor Dumas received an invitation to attend a reception 9/12/14 honoring retired Judge Thomas Mecure.

Supervisor Dumas received correspondence from Glens Falls Hospital for a panel presentation 8/28/14 from 6:30 p.m. – 7:30 p.m. regarding "What You Need To Know About Concussions".

Supervisor Dumas received a letter dated 8/1/14 from The Old Stone House Library, 36 George St., Fort Ann, NY thanking the Town Board for their assistance on the Fort Ann Friday programs which coincides with the town's recreation program.

Supervisor Dumas read a letter dated 8/4/14 from Skyler Wolsey, 46 Dublin Dr., Ballston Spa, NY who had suggestions about traffic solar lights to save electricity.

Supervisor Dumas received an invitation to attend an Eagle Scout ceremony 8/17/14 in honor of Cole Bush.

Supervisor Dumas read the July 15, 2014 letter received from Hudson River Valley Greenway, 625 Broadway, 4th Floor, Albany, NY 12207 congratulating the Town of Fort Ann on a recent resolution that was passed unanimously approving funding for \$9,500.00 matching grant to the Town of Fort Ann for the Old

Public Discussion was opened at 8:36 p.m.

Mr. Moore asked Supervisor Dumas for a Special Town Board Meeting.

Christine Milligan, Commander, Raymond W. Harvey Post 703 gave a letter to Supervisor Dumas and read such letter that Post 703 of the American Legion. Christine Milligan of Raymond W. Harvey Post 703 distributed and read the following letter to the Town Board dated August 11, 2014. "I am asking on behalf of the Fort Ann American Legion that the Town Board take control of Blossom Cemetery. We understand that no one can own a public cemetery regardless of whether it is on Public or Private land. We found no Cemetery Laws saying that relatives, descendants and landowners can remove stones and put them where they want. The Friends had no more right to remove stones than Mr. Wilson. By leaving the stones outside the fenced area, it would of given us an idea of where to start. We know that there are other people buried outside the fenced off area and they should have the same respect as those inside the fenced off area. If the Town doesn't take control of Blossom Cemetery, than what is to keep anyone else, or so call owners, from doing whatever they wish with a Cemetery. We have asked Friends to leave the outside of their fenced off area alone so we could do research, get some help on getting the whole cemetery preserved and perhaps a Historic Cemetery. We do not understand why they wouldn't leave the rest of the cemetery alone. By the Town dropping the cemetery back into Mr. Wilson's hand and the Friends, you have set a precedent that anyone can do whatever they want with a cemetery on private land. Most Cemeteries in the 1700 and 1800's started on private land. Blossom Cemetery started around 1794 and the last burial we have is 1870, it is clearly stated in deeds as a burying ground and to be used only as a burying ground as far back as an 1838 deed. I do not understand why the Town continues to let Mr. Wilson and the Friends determine the State of Blossom Cemetery. Mr. Goodspeed a Historian noted in the death of Mr. Charles Blossom that Charles Blossom's note to fame was using a cemetery as a night pasture for his cows. You will find that notation at the Washington County Historian's office. The cemetery has been an issue for almost 100 years and it is time to do the right thing, and give respect to all those intern in the Burying Grounds".

Councilwoman Witherell suggested sending a letter to cease removing stones from Blossom Cemetery.

Gloria Quinlan thanked the Town Board in getting a bill to Assemblyman Stec's office and the Senate and is of the understanding that this is now on the Governor's desk. The Town Board replied that there is no indication of when this will take place. Gloria Quinlan stated she started this 9/29/05 and is concerned because she is leaving 10/27/14 for Florida and doesn't want to see things come to a stand still because she is gone for the winter. The Town Attorney explained that this is all still subject to a Public Hearing. Gene Connell asked if the district has to be re-mapped if these five (5) parcels are removed from the district. Supervisor Dumas replied that she will check with the Real Property Director, Laura Chadwick.

LeRoy Harrison, Two Way Radio Generalist, 14 East Copeland Pond Rd., Fort Ann, NY 12827 addressed the Town Board with his concerns over structure of tax support to the local Fire Service. "First, let me state that I in no way am challenging or attacking anyone. I would like to learn how the tax support structured? Is this a simple "No Bid" maintenance with a sole vendor, or does the contract imply a more complex relationship such a formal reporting to the Town Board? Is the contract available for public inspection? Next, discussions depends on the town relationship with the fire departments, as a tax payer I have concerns about. My second subject related to the Village Fire Department. I have been in some discussions about the siren not being activated. I have also been told that various impediments exist. Since the fire company is contracted for preservation of life and property, without the siren there may be a legal question for "failure to protect or warn". Regardless, a number of recent catastrophes around the country demonstrate that a disaster warning alarm is necessary asset to notify the population about accidents, weather, and hazardous conditions life and safety. Volumes of hazardous material traffic is moved daily both on the rail line and highway. Several people are suggesting a petition be initiated to have the siren activated. The Alarm does not necessarily need to be mounted at the fire station but could be on a pole, or tower (such as the town water tower). This requirement could be written in the fire contract with either a distance or decibel specification. The West Fort Ann fire department also experienced a failure of their siren. However, I feel funds for repair are achievable, I will submit a proposal to the department very soon. Facts need to be examined in openness to determine the owner of assets. These questions rise from recent publicity from Thurman, Queensbury, Cambridge, and Greenwich. Fire districts and various boards that do not seem to have these parameters clearly defined are experiencing severe conflicts. Apparently details need to be identified and boundaries are clearly defined to prevent future conflicts. Again governance could be written into the support contract".

Public Discussion was declared closed at 9:03 p.m.

Supervisor Dumas had one last comment in which she announced she looked up the definition of harassment.

Motion was made by Councilwoman Witherell and seconded by Councilman Varney to adjourn meeting at 9:05 p.m.

Total Abstracts: General \$ 8,118.63
 Highway \$99,665.52

Respectfully submitted,

Barbara J. Winchell, Town Clerk
Dated: August 20, 2014