

**MINUTES OF THE SPECIAL MEETING OF THE TOWN BOARD OF THE TOWN OF FORT ANN HELD ON FRIDAY, FEBRUARY 24, 2017 AT 10:00 A.M. AT THE FORT ANN FIRE HOUSE**

**PRESENT:** Supervisor Richard Moore  
Councilwoman Gretchen Stark  
Councilman Dennis Fletcher  
Councilwoman Deborah Witherell  
Councilman Floyd Varney

**OTHERS PRESENT:** Barbara Winchell, Town Clerk, Jeff Meyer, Attorney for the Town of Fort Ann, Dale Grinnell, Joan Degener, Floyd Ladd, James Black, LeRoy Harrison, Della Smith, Carol Smith, Ken Baldwin, Millie Baldwin, Joe Wright, Wanda Wright, Virginia Parrott, Henry Jordan, Barbara Jordan, Barbara Eagle, Christine Milligan, Paul Milligan, Ray Bennefield, Brenda Bennefield, Veronica Aurelio, Verna Batchelder

Meeting was called to order at 10:00 a.m. with the Pledge of Allegiance to the Flag.

Purpose of today's meeting is to discuss Brown's cemetery aka West Fort Ann cemetery.

Motion was introduced by Councilwoman Witherell, seconded by Councilman Varney to enter into executive session at 10:01 a.m. to seek legal counsel.

Motion was carried.

Motion was introduced by Councilwoman Stark, seconded by Councilwoman Witherell to reopen the public meeting at 10:40 a.m.

Motion was carried.

Supervisor Moore stated that the Town Board sought legal advice relative to the Brown/West Fort Ann Cemetery and are prepared to make two (2) decisions that he'd like to share with the public. One (1) decision is to have the town take over the cemetery as an abandoned cemetery. Motion was made by Councilwoman Witherell, seconded by Councilman Fletcher.

Supervisor Moore asked the Town Clerk to read the following resolution in its entirety. Paper copy on file in the Town Clerk's Office for anyone who would like a paper copy.

**RESOLUTION #45-17  
DEEMING THE WEST FORT ANN CEMETERY AKA BROWN'S CEMETERY AN ABANDONED PUBLIC CEMETERY**

On motion of Councilwoman Witherell, seconded by Councilwoman Stark to accept resolution entitled "Resolution Deeming the West Fort Ann Cemetery aka Brown's Cemetery an Abandoned Public Cemetery."

**ADOPTED** AYES 5 Fletcher, Stark, Varney, Witherell, Moore

**RESOLVED**, that based upon the complete record the Town Board of the Town of Fort Ann hereby acknowledges, recognizes, and finds that the West Fort Ann Cemetery is an abandoned public cemetery

where inhabitants of the Town of Fort Ann were forever interred from approximately 1810 to date, burial plots previously been sold are still being utilized as the location of the final disposition in accordance therewith; and be it further

**RESOLVED**, the Town Board hereby finds based upon the known persons interred at the West For Ann Cemetery AKA Brown's Cemetery, the available burial records, and historical information, the Cemetery was a public cemetery; and be it further

**RESOLVED**, the Town Board hereby finds that the precise boundaries of the West Fort Ann Cemetery are based upon the historical use of the Cemetery, the plots that have been sold and the purchasers are still alive, the perimeter access road; and be it further

**RESOLVED**, the Town of Fort Ann hereby shall assume the proper care and maintenance of the West Fort Ann Cemetery in accordance with section 291 of the NYS Town Law; and be it further

**RESOLVED**, the Town of Fort Ann shall prepare and adopt cemetery regulations to provide for the continued use of the Cemetery as the place of final disposition for those persons that have already purchased burial plots.

Supervisor Moore asked the audience for any comments. The audience clapped and said thank you.

Supervisor Moore stated the second matter where legal counsel was sought was whether the Town was willing to take legal action relative to this matter, the Town Board needs to authorize Meyer & Fuller to represent the Town of Fort Ann.

Motion was introduced by Councilman Varney, seconded by Councilman Fletcher to allow Meyer & Fuller to represent the Town of Fort Ann to commence legal action relative to the West Fort Ann Cemetery going forward.

Motion was carried.

Councilwoman Stark stated she had an update on the Champlain Canal Trail going from Fort Ann to Whitehall. She distributed DRAFT 2 (paper copy filed in Town Clerk's Office for anyone who'd like a copy) titled Champlain Canalway Trail Preferred Route dated February 23, 2017 that she and Dave Perkins prepared. She's looking for the Town Board to give the ok on this DRAFT that has a couple of options, which are just ideas of where the trail can go. One (1) option is on the East side of the canal (Route 4 is too dangerous).

Councilwoman Witherell had some questions.

Councilwoman Stark needs to know that she can move forward with this DRAFT.

Supervisor Moore clarified that what Councilwoman Stark is looking for is the Town Boards approval to give her the ability to pursue the idea of this being the route.

Supervisor Moore suggested that Councilwoman Stark and Councilwoman Witherell walk the area being discussed between now and the next Town Board Meeting (March 13, 2017). If walking it is not an

option then perhaps have Dave Perkins bring his maps to the Town Hall and he can explain it to Councilwoman Witherell and any others that may have outstanding questions/concerns.

Supervisor Moore stated he sees no reason for this to not go forward and continue exploring.

The state is asking for people to respond to a form on-line in favor of the Empire State Trail. The form names the town and she'd be happy to use her name as a Town Board Member to say we are in favor of this trail. There is no cost to the town. The Town Board Members were in favor of this.

LeRoy Harrison mentioned that Governor Cuomo is proposing a bike trail and he wondered if this is the same. Councilwoman Stark stated that what the Governor is proposing is Bike Rte 9 which is totally different.

LeRoy Harrison asked if there is litigation regarding Brown's/West Fort Ann Cemetery would the Town of Fort Ann be the plaintiff or defendant. Supervisor Moore responded that the Town of Fort Ann would be the plaintiff.

Motion was introduced by Councilman Varney, seconded by Councilwoman Witherell to adjourn the meeting at 10:58 a.m.

Motion was carried.

Dated: March 6, 2017

---

Barbara J. Winchell, Town Clerk  
Town of Fort Ann, New York