

**MINUTES OF THE REGULAR TOWN BOARD MEETING OF THE TOWN OF FORT ANN HELD ON MONDAY, APRIL 10, 2017 AT 6:00 P.M. AT THE FORT ANN FIRE HOUSE**

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

**OTHERS PRESENT:** Paul Winchell, Highway Superintendent, Helen Denno, Confidential Secretary to the Supervisor/Bookkeeper, Barbara Winchell, Town Clerk, Jeff Meyer, Attorney for the Town, Mark Miller, Enforcement Officer, Todd Humiston, Dog Control Officer, William Buckman, James Black, LeRoy Harrison, Dale Grinnell, Joan Degener, George Smith, Michael LaCross, Chad Wilson, Michelle Vara, Veronica Aurelio, Emily Latterell, Michael Dybowski, Lindsay Carte, Patricia Carte, Tracy Monahan, Dan Monahan, Claire Greene, Mary Davis, Gene Connell, Nancy Burdick, Marty Burdick, Don Pierce, Beth Bush, John Herring, Jack Herring, Robert Collette, Cooper Collette, Lisa Johnson, Jeff Johnson, Jeremy Johnson, Barbara Eagle, Mary Davis, Chris Winchell

Meeting was called to order at 6:00 p.m. with the Pledge of Allegiance to the Flag. Moment of silence was not necessary this evening.

Motion was introduced by Councilwoman Witherell, seconded by Councilwoman Stark to accept tonight's agenda.

Motion was carried.

Motion was introduced by Councilman Varney, seconded by Councilman Fletcher to accept the Regular Town Board minutes of March 13, 2017.

Motion was carried.

Motion was introduced by Councilman Fletcher, seconded by Councilwoman Stark to accept the Special Town Board minutes of March 31, 2017.

Motion was carried with Councilwoman Witherell abstaining.

Supervisor Moore read the March 2017 monthly financial statement.

**Receipts for the month of March**

General Fund \$ 117,645.62

**Disbursements**

General Fund \$ 56,987.66

Highway \$ 75,208.02

**Checking Account Balances**

General Fund \$ 77,868.57

Highway Fund \$ 198,680.55

Youth Commission	\$ 1,843.67
Hadlock Dam Project	\$ 239.81
Hadlock Park District Fund	\$ 780.02
Consolidated Health District	\$ 899.06
Trust & Agency Fund	\$ 334.00

**Savings Account Balances**

General Fund	\$ 669,837.94
Hadlock Park District	\$ 209,229.78
Highway Fund	\$ 819,978.03
LOSAP	\$ 20,083.42
Medical Reimbursement Fund	\$ 100.09

Supervisor Moore announced that construction has started at the Town Hall for the court bench and the finish will be in oak. Councilwoman Stark happened to be out at the Town Hall today and would agree that the oak bench and doors against the white wall doesn't look good. Kevin Maynard can finish off the wall behind the bench in oak for \$1,000.00 but that is not part of the grant so the Town Board would have to approve the \$1,000.00 coming out of the buildings line. The Town Board unanimously agreed that the \$1,000.00 should be approved. Supervisor Moore will notify Kevin Maynard in the morning. Money will be moved by resolution at next month's meeting.

Supervisor Moore mentioned that there were three (3) special meetings at the Fort Ann Fire House and the Town Clerk budget was charged twelve (12) hours for Deputy Town Clerk coverage and he recommends reimbursing the Town Clerk budget for the twelve (12) hours for future Deputy Town Clerk coverage. The Town Board unanimously agreed. Money will be moved by resolution at next month's meeting.

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

Motion was carried.

**Eagle Scout Recognition:** Cooper Collette and Jeremy Johnson. Cooper Collette's Eagle Scout project was building a sign for East Westfield Cemetery and Jeremy Johnson built the pavilion at the Fort Ann Fire house. Both names have been added to the plaque displayed at the Fort Ann Town Hall.

**Supervisor Moore read the following and would like in the minutes verbatim:**

"I'm pleased to announce, the Town has finally settled all of the outstanding claims stemming from the Hadlock Dam Breach in 2005. In doing so, New York Municipal Reciprocal (NYMIR) has agreed to cover and finally pay the Town's liability for any of the remaining upstream claims. I'm also very pleased to announce the Town did not make **any** financial contribution towards these claims.

I'm going to take a few minutes to speak about this matter. I think it's important for people to know the facts.

In November 2011 Gayle Hall did the right thing in hiring an attorney to file a declaratory judgment action against NYMIR to have them pay the upstream claims as they had attempted to disclaim coverage relative to these claims.

Two months later, on January 1, 2012 Darlene Dumas became the Town's supervisor.

In March 2012 she called me to let me know she made a decision she wasn't going to pay the upstream claims.

At that time, there were 2 attorneys representing the upstream claimants, Dan Stewart and Paul Wein.

The Town eventually settled in July 2012 with Dan Stewart's clients, but did not settle with Paul Wein's clients.

On January 1, 2016 I became the Town's supervisor. One of my goals was to resolve the pending litigation and minimize the Town's liability. At that time, I along with Jeff Meyer met with the 2 attorneys representing the Town: those attorneys were Jim Lombardo and Jim Burns.

Jim Lombardo was representing the Town in litigation against NYMIR over whether there was insurance coverage, and Jim Burn's was representing the Town and by extension NYMIR against the remaining upstream claims. It was NYMIR's stated position to not pay the upstream claims.

In February 2016, a little over one year ago, the Town Board decided to substitute the attorney for the claim against NYMIR. The Town hired Art Thorn.

Mr. Thorn was charged with 2 objectives, #1 to aggressively go after NYMIR for insurance coverage relative to the upstream claims, and #2 to file a Bad Faith claim against NYMIR for their failures under the policy.

It has been almost 12 years since the dam breached. It's very unfortunate the Town and NYMIR took the position to not pay the upstream claims. It's my opinion, the Town should have filed a bad faith claim against NYMIR in 2012 due to disclaiming coverage and their contradictory position on the upstream claims.

**Finally**, we can close the book on the Hadlock Dam Breach claims. It's about time, 12 years. Why it took 12 years is beyond me.

While the precise settlement terms for all of the various Hadlock matters are confidential, we are able to disclose and it is important to note that, the Town **did not** make any financial contribution towards this settlement, the Town's liability from the breach was entirely paid for by NYMIR."

West Fort Ann aka Brown's Cemetery is an active cemetery and now owned by the Town of Fort Ann therefore professional liability coverage will be provided through Cool Insuring Agency.

The Fort Ann Town Tax Collector provided the Town Board Member's with a report as of March 31, 2017 that \$3,126,223.48 in settlements have been provided to the Washington County Treasurer's Office.

Supervisor Moore received a letter from Jack Kokoletsos regarding placing a head stone at the East Westfield Cemetery for Josiah Farnsworth, Jr., his ancestral grandfather. Supervisor Moore will send Mr. Kokoletsos a letter advising him that the Town Board wants him to work with the cemetery committee on the placement and wording of the stone.

Governor Cuomo released an announcement about third round of Broadband program. The proposal is to get everyone in New York State to be able to have internet service sometime during 2018.

Ed Paradis, Jr., Moose Hillock Camping Resort, emailed the Town Board to consider having a Sunday Fun Day (6/4/17) and donate the money from this event back to the town. Even though Supervisor Moore said the idea was very admirable of Mr. Paradis the Town cannot pay for a band or be part of a function to collect money and have the money donated back to the town. Supervisor Moore will advise Mr. Paradis and suggest he may want to reach out to the fire companies, and/or the rescue squad to see if they would like to participate in his Sunday Fun Day.

On April 29, 2017 from 2-6:00 p.m. there will be a benefit for Skip Bearor that will include a spaghetti dinner, 50/50 and basket raffle at the Fort Ann Fire House.

On April 19, 2017 from 7:00 p.m. – 9:00 p.m. there is an Ag & Farmland Protection Plan public presentation and hearing at the Washington County Annex Room. This is open to the public for anyone that is interested in attending.

On April 25, 2017 at 10:30 a.m. the APA is holding a public hearing at the West Fort Ann Fire house regarding Garrant variance. Supervisor Moore has asked Enforcement Officer, Mark Miller, to attend since he will not be able to attend.

Starting next month all future Town Board meetings will be held at the Fort Ann Town Hall at 6:00 p.m.

Councilwoman Stark stated that on 4/27/17 there is a play and dinner at the Argyle Central School for Senior Citizens. Anyone that is interested must sign up with the Office of the Aging. She attended a Septic Summit and wanted to remind people that medicine and artificial sweeteners should not be flushed down the toilets.

She attended the 2017 Adirondack Park Local Government Conference in Lake Placid and wanted to share with people that there are grants available for boat washing.

She has attended a couple of meetings on the Empire State Trail that Governor Cuomo has been talking about which is Route 4 heading up through Whitehall.

Earth Day/Canal Sweep Day is 4/22/17 at 9:00 a.m.

Supervisor Moore, on behalf of the Town Board, congratulated the highway staff on the fine job of snow removal that they do.

**Highway Superintendent Report:** Cutting brush on Route 4 and changing signs. Grading and sweeping roads during rain. Scheduled 20 hrs/wk for cemeteries may have to be increased to 30 hrs/wk and purchase a couple of mowers. Supervisor Moore stated he received a call from Mike Gray, Director, Washington County Alternative Sentencing Department and he thinks his department can take over the

mowing of Brown's Cemetery. Supervisor Moore and Paul Winchell have a meeting scheduled with Steven Haskins, Washington County Highway Superintendent, and an engineer April 17, 2017 at the Town Hall to go over a \$50,000.00 grant that may be available to assist with fixing Mattison Road. The Highway Superintendent mentioned he'll need a resolution for culvert pipe, like he does every year, for \$5,000.00.

**Town Clerk's Report** was given for March 2017. There has been no response to the Planning Board member vacancy or Board of Assessment Review Member vacancy. Todd Humiston, Dog Control Officer, conducted a safety presentation to the Fort Ann Central 1<sup>st</sup> grade class.

**Dog Control Report:** paper copy was given to Town Board Member's.

**Enforcement Officer Report** was given for the months of February and March 2017.

**Historian Report:** Virginia Parrott was not present but Dale Grinnell spoke of the Memorial Day parade. Also, there is talk of a parade on July 8, 2017.

**Lake Hadlock Project Manager**, Joseph Loszynski, emailed a copy of his matters pending from April 2017 progress report to the Town Board Member's. A paper copy is on file in the Town Clerk's Office for anyone who would like a copy. Supervisor Moore did want to advise that there is still no definitive advice on benthic barrier's but will get a letter out to the Hadlock residents as soon as there is.

**New Business:** Bill Buckman, 2035 Norman Way, applied for a waiver to be able to reside in a travel trailer for 18 months while he is completing construction on his house. Mr. Buckman was notified in 2014 about removing the two (2) trailers from 2035 Norman Way. Mr. Buckman was referred to the Town Board from the Fort Ann Planning Board. Mr. Buckman stated he was not aware of a local law. He lives in New Jersey so he and his family come up to the property five (5) or six (6) times a year. Councilman Varney explained to him that he also needs a burn permit when burning. Councilman Fletcher told him he should contact Washington County when he would be burning and then again when he was done. There was extensive discussion between the Board and Mr. Buckman concerning the waiver request, the ongoing enforcement issues, and necessity of the variance. On motion of Councilman Varney, seconded by Councilman Fletcher to deny the waiver request from Mr. Buckman to permit occupancy of the travel trailer for 18 months during construction. The motion was unanimously approved, denying Mr. Buckman's request. Supervisor Moore emphasized to Mr. Buckman that the trailers have to be removed by April 30, 2017 per court order.

Todd Humiston, Dog Control Officer, mentioned having a dog enumeration in the Town of Fort Ann during the months of May, June and July. He found the dog enumerations that were done in Town of Fort Edward and Town of Kingsbury to be very successful. The quote received is \$875.00 which would mean that approximately 90 dogs would have to be licensed and that is not going to be a problem. On motion of Councilman Fletcher, seconded by Councilwoman Stark to proceed with an initial mailing of dog enumeration with a follow-up mailing and a \$25.00 per dog enumeration fee if not registered with the Town by July 31, 2017.

Motion was carried.

**RESOLUTION #53-17**

**REPLACEMENT OF LARGE DIAMETER CULVERT ON HOGTOWN ROAD AND BRIDGE NY LOCAL PROJECT FUNDING**

On motion of Councilwoman Witherell, seconded by Councilman Fletcher to accept resolution entitled “Replacement of Large Diameter Culvert on Hogtown Road and Bridge NY Local Project Funding.”

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

**RESOLVED**, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project.

**RESOLUTION #54-17**

**APPROPRIATION OF UNANTICIPATED REVENUES TO COVER ADDITIONAL FUTURE EXPENDITURES**

On motion of Councilwoman Stark, seconded by Councilwoman Witherell to accept resolution entitled “Appropriation of Unanticipated Revenues to Cover Additional Future Expenditures.”

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

**RESOLVED**, to modify the 2017 budget by appropriating received insurance settlement payments for damaged equipment to the machinery – equipment account for use in purchasing replacement equipment.

**RESOLUTION #55-17**

**APPROPRIATION OF UNANTICIPATED REVENUES TO COVER ADDITIONAL FUTURE EXPENDITURES**

On motion of Councilwoman Witherell, seconded by Councilman Fletcher to accept resolution entitled “Appropriation of Unanticipated Revenues to Cover Additional Future Expenditures.”

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

**RESOLVED**, to modify the 2017 budget by appropriating received grant monies from the Justice Court System to help provide our town court with resources necessary for construction of a court bench and renovations to the courtroom. This money will be appropriated to the court fund – contractual for the purpose stated.

**RESOLUTION #56-17**

**AUTHORIZING THE HIGHWAY SUPERINTENDENT TO PURCHASE A DUMP BOX SYSTEM**

On motion of Councilman Varney, seconded by Councilman Fletcher to accept resolution entitled

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

**RESOLVED**, that the foregoing purchase is approved and that the Town Supervisor is authorized to execute any and all purchase orders and contracts necessary to carry out the aforementioned purchase.

**RESOLUTION #57-17**

**TO RENT OR PURCHASE PITNEY BOWES DIGITAL MAILING SYSTEM**

On motion of Councilman Fletcher, seconded by Councilwoman Stark to accept resolution entitled “Resolution to Rent or Purchase Pitney Bowes Digital Mailing System.”

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

**RESOLVED**, that the Fort Ann Town Board hereby authorizes and approves the rental, for a term of five years, of a Pitney Bowes Digital Mailing System, and hereby authorizes the Supervisor to execute the necessary agreements.

**RESOLUTION #58-17**

The Town Board has been investigating allegations concerning whether Chad Wilson is a legal resident of the Town of Fort Ann and therefore eligible to serve as a Planning Board member. Based upon the information provided by Mr. Wilson, the Town Board considered the following resolution.

**CHAD WILSON’S PLANNING BOARD MEMBER STATUS**

On motion of Councilwoman Witherell, seconded by Councilman Fletcher to affirm that Chad Wilson is a resident of the Town of Fort Ann

ADOPTED        AYES 4 Fletcher, Stark, Witherell, Moore  
                      NAY 1 Varney

Chad Wilson will remain as a Planning Board Member on the Town of Fort Ann Planning Board.

**RESOLUTION #59-17**

**HIGHWAY SUPERINTENDENT TO PURCHASE ANNUAL CULVERT PIPE**

On motion of Councilman Varney, seconded by Councilwoman Witherell to accept resolution entitled “Highway Superintendent to purchase annual culvert pipe.”

ADOPTED        AYES 5 Fletcher, Stark, Witherell, Moore

**RESOLVED**, that the Highway Superintendent is authorized to order and purchase \$5,000.00 annual culvert pipe.”

**7.0 Public Discussion Opened**

Michael Dybowski is still asking why did the Town of Fort Ann used to maintain Firehouse and Pillar Way.

Lindsay Carte, referred to his recent email to the Town Board, in which he expressed his concerns of enforcement of the motocross track. Supervisor Moore stated it is the Town Board’s responsibility to monitor and Todd Humiston will handle the calls about noise. Todd will go to the property and take noise readings. Todd will give results to the Town Clerk, the Town Clerk will forward to Supervisor Moore and the Supervisor will forward to the Town Board Member’s.

Supervisor Moore stated “we have received another correspondence from Mr. Carte in anticipation of the motocross track opening for 2017. This correspondence was mailed to the Board and I feel we should discuss this and formulate a plan for if/when complaints are received and to how we wish to monitor the track for compliance with the noise limits contained in the Planning Board’s approval.

There are a number of issues that Mr. Carte raises, which he has raised before. It is important to remember that the more restrictive condition will apply. For instance, the applications states the track

will be 15 feet wide. That is the requirement. Contradictory widths relative to AMA standards have no effect. Similarly, ATV's were not part of his application and are not permitted regardless of AMA standards. And lastly, the same applies for the sound test. The planning board required the use of the 2 meter max test, that is the standard he must follow."

Todd Humiston's phone number of 812-6898 was given out and Todd stated it is up to the board how it's enforced.

**7:38 p.m. Closed Public Discussion**

7:39 p.m. Motion was introduced by Councilwoman Witherell, seconded by Councilman Fletcher to go into executive session regarding a personnel matter.

Motion was carried.

8:09 p.m. Motion was introduced by Councilman Varney, seconded by Councilwoman Witherell to reopen public meeting.

Motion was carried.

8:10 p.m. Motion was introduced by Councilman Varney, seconded by Councilman Fletcher to adjourn.

Motion was carried.

Total Abstracts:	General:	\$ 21,947.44
	Highway:	\$ 10,327.40

Respectfully submitted,

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

Dated: April 20, 2017