

**MINUTES OF THE REGULAR TOWN BOARD MEETING OF THE TOWN OF FORT ANN HELD ON MONDAY, DECEMBER 12, 2016 AT 7:00 P.M. AT THE FORT ANN FIRE HOUSE, ROUTE 149, FORT ANN**

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

**ABSENT:** Councilman Floyd Varney  
Paul Winchell, Highway Superintendent

**OTHERS PRESENT:** Helen Denno, Confidential Secretary to the Supervisor/Bookkeeper, Barbara Winchell, Town Clerk, Jeff Meyer, Town Attorney, Mark Miller, Enforcement Officer, Virginia Parrott, Town Historian, Bill Toscano, The Post Star, Dick Parrott, Christine Milligan, Mark Rehm, Attorney for Moose Hillock, William Nikas, Attorney, Dave Foote, Deb Foote, Shelia Sharrow, Gene Connell, Skip Bearor, Dave Campbell, Karen Campbell, Gina Neron, Steve Neron, Lindsay Carte, Dale Grinnell, Kevin Lovely, Floyd Ladd, Mike LaCross, Bonnie Graves, Dan Monahan, Tracy Monahan, Pat Monahan, Joan Degener, Barbara Eagle, Shirley Brown, Karen Steele, Cameron Steele, James Black, LeRoy Harrison, George Sherwood, Henry Jordan, Barbara Jordan, Veronica Aurelio, Emily Latterell, Don Pierce, Tom Lumbis, Michael Wheeler, Irma Hamblin, Jeff Hamblin, Albert Brownell, Sheila Brownell, Harliss Brownell, Corrina Aldrich, Washington County Soil & Water, Laura Chadwick, Washington County Real Property Director, Arlene Green, Earl Rouse, JoAnn Rouse, Lori Morrow, Brenda Bennefield, Ray Bennefield, Cindy Rathbun, Debra Bullard, Don Sexton

Meeting was called to order at 7:00 p.m. with the Pledge of Allegiance to the Flag and a moment of silence was held for deceased Fort Ann residents, Walter "Stubby" Twiss and Shari-Ann Carpenter.

On motion of Councilwoman Witherell, seconded by Councilman Fletcher to accept tonight's agenda.

Motion was carried.

On motion of Councilman Fletcher, seconded by Councilwoman Stark to accept the Special Meeting Minutes (Budget Public Hearing) from November 10, 2016.

Motion was carried.

On motion of Councilman Fletcher, seconded by Councilwoman Witherell to accept the Regular Town Board Minutes of November 14, 2016.

Motion was carried.

On motion of Councilwoman Stark, seconded by Councilman Fletcher to accept the Noise Ordinance Workshop minutes from November 17, 2016.

Motion was carried.

Supervisor Moore read the following from the November 2016 monthly financial statement:

**Receipts for the month of November**

General Fund	\$162,841.72
Highway Fund	\$ 78,596.16

**Disbursements**

General Fund	\$ 77,745.30
Highway Fund	\$ 98,942.27

**Checkbook Balances**

General Fund	\$127,878.86
Highway Fund	\$ 21,561.24
Youth Commission	\$ 1,843.36
Hadlock Dam Project	\$ 239.77
Hadlock Park District Fund	\$ 4,355.29
Consolidated Health District	\$ 217.06
Trust & Agency Fund	\$ 2,161.77

**Savings Accounts**

General Fund	\$606,265.36
Hadlock Park District	\$ 59,696.40
Highway Fund	\$201,608.11
LOSAP	\$ 14,160.70
Medical Reimbursement Fund	\$ 100.04

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

Motion was carried.

Public comment was opened at 7:05 p.m. pertaining to only items on tonight’s agenda.

LeRoy Harrison, Copeland Pond Rd., Fort Ann stated that most people that were in attendance tonight wanted to know what is going on with Brown Cemetery.

Supervisor Moore stated that he would be giving an update on Brown Cemetery during the Supervisor’s comment.

Public comment was closed at 7:06 p.m.

**Supervisor’s Report:**

Update on Brown Cemetery – Jeff Meyer found a will for Clara West and her son, Gerald, but there was no mention of the cemetery. Supervisor Moore thanked Bill Toscano, The Post Star, because of his article in the Post Star that advised the public that the Town was looking for anyone with information regarding Brown Cemetery and to please share it with Supervisor Moore to assist in the research of this issue. The response from the public has been very helpful.

Supervisor Moore and Jeff Meyer met with the owner of Moose Hillock, Ed Paradis, and Mr. Paradis wants to find a way to resolve this issue.

Supervisor Moore and Councilwoman Stark went to Brown Cemetery December 8, 2016 to see how a portion of the fence had been moved for better turn around. Now there's a mound of dirt so it's unknown if the work has been completed or not for better access. Supervisor Moore was unable to go to the cemetery today because of the weather.

Supervisor Moore asked the Town Board Member's about considering this an abandoned public cemetery and having the town take it over because there is no one named to take care of it.

Supervisor Moore asked Jeff Meyer to complete the remaining legal work and prepare the necessary resolution for the Town Board to consider having the Town take over the cemetery at the January 9, 2017 Town Board Meeting. He agreed to do so.

Supervisor Moore stated the only two (2) facts we know is that Clara West sold plots and after she passed her son, Gerald, sold plots. It is unknown who bought the last plot(s).

Councilman Fletcher asked what the cost would be to the town to take over the cemetery. Supervisor Moore responded that the Town would be responsible to maintain the cemetery two (2) or three (3) times a year. Councilman Fletcher stated that there isn't money in the budget currently for this expense.

Skip Bearor asked for clarification of what exactly it would be that the town would be taking over.

Supervisor Moore advised that he and the Town Attorney had a meeting with Jeremy Treadway and his attorney, Jon Lapper, on November 22, 2016. They discussed six (6) very specific things from the Planning Board resolution:

- Not all the dates were provided on the record/log of bikes being tested – Supervisor Moore asked him for names/addresses/ph #'s but Mr. Treadway doesn't want to provide that information for fear his customers would be harassed because the information would be FOILABLE. Mr. Treadway suggested indicating the bike number on the insurance waiver that each person signs and that would have a coordinating number to the log. Supervisor Moore has not seen the insurance waivers but was told it would have name and addresses.
- The two meter sound test has not been done – Mr. Treadway asked about using a test other than the 2-meter sound test mandated by the Planning Board. Supervisor Moore advised Mr. Treadway only the Planning Board can modify/amend the resolution that is currently in place.
- ATV's and 4-wheelers not being allowed. Mr. Treadway thinks they should be allowed because that is part of motocross according to Mr. Treadway. Supervisor Moore advised him he'd have to go back in front of the Planning Board.
- Detail engineering of berm (height/width/length) won't happen until Spring 2017. The structure will settle over the winter

- Noise level mitigation plan: What he plans to do to mitigate noise from certain neighboring properties.
- Still waiting for letter from DEC regarding Halfway Brook. Mr. Treadway's Attorney, Jon Lapper, has written a letter to DEC requesting a letter from them.

Supervisor Moore stated he will continue to work with Mr. Treadway, after the holidays, on these outstanding issues.

Joe Loszynski, Lake Hadlock Park District Manager, and Supervisor Moore met with the APA December 1, 2016. The APA is very impressed with the activity that has taken place especially in regards to the quality of water and how much milfoil has been removed from the lake. There are three (3) options for lake owners regarding the benthic barrier program for 2017:

- Apply directly to APA for a permit to put a benthic barrier down.
- Work through town (once the town gets permit approved).
- Do own hand harvesting up to 1,000 square feet of lake bottom without a permit.

Supervisor Moore stated that a noise ordinance workshop took place 11/17/16 without any conclusions other than there should be another noise ordinance workshop scheduled.

Supervisor Moore advised that there had been a Hadlock Table Top Exercise meeting December 8, 2016 @ 6:00 p.m. at the Town Hall with members of Fort Ann EMS, West Fort Ann Fire Company and Washington County Public Safety Department and the Fort Ann Highway Superintendent. Updates/suggestions were made to the emergency action plan that Haley and Aldrich prepared July 2016. (A copy of which is in the Town Clerk's Office for anyone who would like a copy.)

December 17, 2016 from 9:00 a.m. – 11:00 a.m. the CornerStone Church, County Rte 16, food pantry will be open. It will be available the third Saturday of every month.

January 3, 2017 at 7:00 p.m. will be the 2017 Organizational Meeting at the Fort Ann Fire House.

January 9, 2017 at 7:00 p.m. will be the Town Board Regular Meeting at the Fort Ann Fire House.

January 12, 2017 at 6:00 p.m. will be noise ordinance workshop at the Fort Ann Town Hall.

January 19, 2017 at 10:00 a.m. will be the Town of Fort Ann annual audit at the Town Hall.

January 23, 2017 at 7:00 p.m. will be the Town of Fort Ann Planning Board meeting at the Town Hall. No meeting in December.

Supervisor Moore wished everyone Happy Holidays!

Town Clerk's Report was given for November 2016. The Town Clerk also announced that the Town Board Member should have a dog report for the month of November 2016. Also, that the Board of Assessment Review is still looking for a member.

Highway Superintendent Report: None

Councilman Fletcher wished everyone and their families Merry Christmas and Happy New Year. He thanked those in attendance for staying involved and asked them to please stay involved.

Councilwoman Stark announced the 4<sup>th</sup> annual Ice Fishing Derby will be held 1/21/17 and there will be more information forthcoming.

Councilwoman Stark advised that the bike trail presentation scheduled for tonight by Mr. Perkins has been rescheduled for the January 9<sup>th</sup> meeting.

Councilwoman Stark also announced if the Hudson Falls School District closes due to bad weather there are no meals on wheels deliveries. There are tips on Medicare fraud hanging on the Town Hall bulletin board as well as activities for the month for the senior citizens.

Enforcement Officer Report was given for November 2016.

Historian: None

Joe Loszynski, Lake Hadlock Project Manager, was not present at tonight's meeting but submitted his monthly progress report by email to the Town Board. There is a paper copy on file for anyone who would like a paper copy.

Supervisor Moore asked Attorney Nikas to speak. Mr. Nikas is representing individuals who have burial rights in Brown Cemetery, including the portion called the West Fort Ann Cemetery. (A copy of the letter is available at the Town Clerk's office.) Mr. Nikas is representing for free anyone with family in the cemetery and said he will file a lawsuit, if necessary.

Supervisor Moore asked Attorney Rehm, representing Mr. Paradis, to speak. Mr. Rehm stated they hope to come up with a resolution as quickly as possible before any legal action takes place. Mr. Rehm stated that Mr. Paradis wants to co-exist together and he is a man of his word and he will work with people. He stated Mr. Paradis want to come up with a resolution that will satisfy both sides.

Supervisor Moore stated it would be better to have a meeting with the attorneys before any lawsuits were filed. All sides agreed to a meeting.

Brenda Bennefield handed Brown Cemetery Bill of Sales to Supervisor Moore.

LeRoy Harrison doesn't agree that Mr. Paradis is cooperative. Mr. Harrison told the board members they should take by, eminent domain, the entrance road and a 50 foot buffer from the edge of Paradis' property and both cemetery driveways.

**New Business:** Tom Lumbis, 114 Hadlock Pond Rd., has applied for a waiver from the Mobile Home Local Law. He is a disabled veteran and wants the boards permission to occupy his 31' camper/travel

trailer while he builds a cabin on the property. He was sent to seek the permission of the Town Board by way of the Town of Fort Ann Planning Board. The Mobile Home Local Law prohibits the occupancy of Travel Trailers outside of a travel trailer park. Mr. Lumbis discussed his proposal and affirmed that his waiver request is limited to occupying the travel trailer only during construction of a dwelling house on the land and once a certificate of occupancy has been issued for the dwelling house the trailer would be removed. Mr. Lumbis went on to state the travel trailer would be connected to a well, septic system and utilities.

Supervisor Moore based upon the information presented recommended approving the exception. Attorney Meyer read part 2 of the short environmental assessment form and the Town Board took a hard look at the potential environmental impacts of the proposal and responded to the questions. (617.20 Appendix B Short Environmental Assessment Form). A copy of the completed assessment form is on record in the Town Clerk's Office.

Based upon the information and analysis contained in part two of the Short Environmental Assessment Form, a motion by Councilwoman Witherell, seconded by Councilwoman Stark determined that the proposed action will not result in any significant adverse environmental impacts and issued a Negative Declaration pursuant to SEQRA.

Motion carried.

**RESOLUTION # 146-16**

**WAIVING COMPLIANCE WITH LOCAL LAW NO. 1 OF 1990, A LOCAL LAW FOR THE REGULATION OF MOBILE HOMES, MOBILE HOME PARKS, TRAVEL TRAILERS AND TRAILER CAMPS, WITH RESPECT TO THOMAS LUMBIS**

On motion of Councilman Fletcher, seconded by Councilwoman Witherell, to accept the resolution entitled "Resolution Waiving compliance with Local Law No. 1 of 1990, A Local Law for the Regulation of Mobile Homes, Mobile Home Parks, Travel Trailers and Trailer Camps, with respect to Thomas Lumbis.

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

RESOLVED, the Town Board, at the recommendation of the Planning Board, hereby grants Applicant, Thomas Lumbis, a waiver from Local Law 1 of 1990, A Local Law for the Regulation of Mobile Homes, Mobile Home Parks, Travel Trailers and Trailer Camps, section 13 and 19.1(b) prohibiting occupancy of a travel trailer outside of a travel trailer park.

**RESOLUTION #141-16**

**AUTHORIZING CONTRACT AND PAYMENT WITH PENFLEX, INC. FOR PURPOSE OF LOSAP PROGRAM FOR WEST FOR ANN AND PILOT KNOB FIRE DISTRICTS**

On motion of Councilwoman Witherell, seconded by Councilman Fletcher, to accept resolution entitled "Resolution Authorizing contract and payment with Penflex, Inc. for purpose of LOSAP Program for West Fort Ann and Pilot Knob Fire Districts."

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

**RESOLVED**, that the Town Board hereby authorizes the Town Supervisor to accept and execute the necessary agreements on behalf of the Town of Fort Ann.

**RESOLUTION #142-16  
FOR CHAMPLAIN CANALWAY TRAIL GRANT PAYMENT REQUEST**

On motion of Councilwoman Stark, seconded by Councilman Fletcher, to accept resolution entitled "Resolution for Champlain Canalway Trail Grant Payment Request."

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

**RESOLVED**, that the Town Board of the Town of Fort Ann hereby authorizes the \$1,000.00 contribution towards the HRVC grant.

**RESOLUTION #143-16  
SETTING 2017 ORGANIZATIONAL MEETING**

On motion of Councilman Fletcher, seconded by Councilwoman Witherell, to accept resolution entitled "Resolution Setting 2017 Organizational Meeting."

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

**RESOLVED**, that the Town of Fort Ann shall hold the 2017 Organizational Meeting on Tuesday, January 3, 2017 at 7:00 p.m. at the Fort Ann Volunteer Fire Company, Inc. located at 11289 State Route 149, Fort Ann, New York 12827.

**RESOLUTION #144-16  
APPOINTING A FORT ANN PLANNING BOARD MEMBER**

On motion of Councilwoman Stark, seconded by Councilwoman Witherell, to accept resolution entitled "Resolution Appointing a Fort Ann Planning Board Member."

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

**RESOLVED**, the Town Board of the Town of Fort Ann hereby appoints Matthew Jones to serve as a member of the Fort Ann Planning Board for the remainder of Mr. Rehm's unexpired term, through 12/31/2018.

8:39 Motion was introduced by Councilwoman Witherell, seconded by Councilman Fletcher to come out of executive session.

**RESOLUTION #145-16  
APPROVING THE STIPULATION OF SETTLEMENT AND ORDER RELATIVE TO MOOSE HILLOCK  
CAMPGROUND – NY, LLC v. THE BOARD OF ASSESSORS, et. al. BEARING WASHINGTON COUNTY  
SUPREME COURT INDEX NO. 26233**

On motion of Councilwoman Witherell, seconded by Councilwoman Stark, to accept resolution entitled "Resolution Approving the Stipulation of Settlement and Order Relative to Moose Hillock Campground – NY, LLC v. The Board of Assessors, et. al. Bearing Washington County Supreme Court Index No. 26233."

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

**RESOLVED**, that Meyer & Fuller, PLLC is authorized to execute any and all documents pertaining to the settlement of the Article 7 petitions reducing the assessment on property located at 10366 NYS Route 149, Town of Fort Ann, New York, bearing tax map identification number 119.-2-1.3 to \$2,800,000.00, in accordance with the RPTL Section 727 to establish the assessment rates for the ensuing years.

8:00 p.m. public discussion was opened with Irma Hamblin thanking the Town Board for assisting in trying to resolve the Brown Cemetery issues. She also thanked those supporters at tonight's meeting for signing a petition.

Christine Milligan, commander of the Fort Ann American Legion, said her group would take part in any lawsuit and added she feels it is time the issue was settled. According to Christine this has been going on and on for (4) four years. Mrs. Milligan stated there are about 1,500 graves in the cemetery and about 200 of them belong to veterans.

Virginia Parrott, Historian, said she thinks residents would be willing to support the cemetery maintenance.

Lindsay Carte stated he was glad to hear that a meeting took place with Mr. Treadway. He asked "when a decision is wrong, why does the town have to defend it?" He further asked "What law says the town has to defend the Planning Board? It's our tax dollars that are being spent."

Supervisor Moore responded "Can you see us not defending a suit against the town?" He further added "It's common sense to me. I believe we need to do the right thing and defend the Planning Board."

Mr. Carte asked why the town was not fining Mr. Treadway for failing to meet the conditions. Supervisor Moore said the town was working with Mr. Treadway.

Tracy Monahan asked "Why don't you work with the residents?"

Floyd Ladd said that the West Fort Ann Fire Company has their new 2016 Ferrara. There will be the annual Christmas Ever Holiday Parade around Lake Hadlock.

Don Pierce confirmed the appointing of the Planning Board members is done by the Town Board.

Deb Foote asked if Mr. Treadway hasn't complied with the (6) six conditions why is Treadway been given so much time.

Deb Foote also brought up the fact that one (1) of the Planning Board members is not a Fort Ann resident.

Kevin Lovely congratulated the West Fort Ann Fire Company on their new truck. Mr. Lovely stated that the Fort Ann Volunteer Fire Company is also seeking new apparatus. Supervisor Moore instructed Mr. Lovely to get the information to him so that a public hearing can be set for February 2017.



Joan Degener said her family had a funeral at the cemetery last month and the changes Mr. Paradis made caused major issues. There were elderly people who had to walk in from the road, and to turn around, the vault truck had to back over her sister's grave.

Bonnie Graves, asked "Who let this happen?" Her family owns plots in the cemetery and said that there is no way her parents can be buried there. She said this is very upsetting and she like the other present at tonight's meeting wants answers.

8:20 p.m. public discussion was closed.

8:21 p.m. motion was made by Councilwoman Witherell, seconded by Councilman Fletcher to go into executive session for Article 7.

Motion was carried.

8:39 Motion was introduced by Councilwoman Witherell, seconded by Councilman Fletcher to come out of executive session.

Motion was carried.

**RESOLUTION #145-16**

**APPROVING THE STIPULATION OF SETTLEMENT AND ORDER RELATIVE TO MOOSE HILLOCK CAMPGROUND – NY, LLC v. THE BOARD OF ASSESSORS, et. al. BEARING WASHINGTON COUNTY SUPREME COURT INDEX NO. 26233**

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ADOPTED        AYES 4 Fletcher, Stark, Witherell, Moore  
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8:41 p.m. Motion was introduced by Councilman Fletcher, seconded by Councilwoman Witherell to adjourn.

Motion was carried.

Total Abstracts:	General:	\$ 28,813.11
	Highway:	\$ 24,112.88
	Hadlock Park District:	\$ 1,986.13

Respectfully submitted,

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Dated: December 21, 2016

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