

Minutes
October 13, 2018
TOWN BOARD MEETING 12pm-12:45pm

1. CALL TO ORDER/PLEDGE TO FLAG
2. ROLL CALL

	PRESENT	ABSENT	LATE
Supervisor John C. Reilly	√		
Council-member Donald Coons	√		
Council-member Jeffery Galm	√		
Council-member Eric Mortenson			√
Council-member John Fraser Paterson	√		

MONTHLY THOUGHT:

I think a common misconception about a small town in rural America is that everyone believes the same way, and nothing could be further from the truth.

Ree Drummond

It's passionately interesting for me that the things that I learned in a small town, in a very modest home, are just the things that I believe have won the election.

Margaret Thatcher

Every election is determined by the people who show up.

Larry J. Sabato

NEW BUSINESS SECTION 2018

1. Public Hearing For 2018 Budget
 - a. Resolve to Open Hearing/Close Hearing
Motion CM Galm Second CM Coons
Supervisor Reilly gave a synopsis of the 2019 Budget.

Resolution 2018-33: Town Board adopts the Town Budget for 2019
Motion CM Mortenson second CM Coons

Vote 5 Yes 0 No

2. Resolution to adopt county Hazardous Mitigation Plan (see attached)
 - a. Resolution 2018-34 The Town Board resolves to Adopt the Columbia County, New York, Multi-Jurisdictional Hazard Mitigation Plan.
Motion CM Mortenson second CM Galm
Vote 5 Yes 0 No
3. Final statements and adoption of Town Resolution Church/Crock Road
 - a. Resolution 2018-35, attached
Motion CM Mortenson second CM Galm
Vote 5 Yes 0 No
4. Town Map and Town Zoning -Comprehensive Plan -Brief summary for next mtg.
For 2019 Zoning and Comprehensive plan review. The Board will look at small town simplified zoning.
5. Appointment of County Planning Board Member.
 - a. Resolution 2018-36: The Board appoints Planning Board Chairman Terry Porter as Gallatin's representative on the Columbia County Planning Board.
Motion CM Mortenson second CM Coons
Vote 5 Yes 0 No
6. Brief Overview of Town Broadband progress- G-Tel should have the town wired in 2019.
7. Reminder on Town Clean Up Day and rules.

PUBLIC COMMENT ON NEW BUSINESS

MONTHLY BUSINESS SECTION

1. Review of August Minutes for Errors/Clarifications **Resolution 2018-37: Accept September 2018 minutes for filing and posting.**
Motion CM Mortenson second CM Galm
Vote 5 Yes 0 No
2. Bill Review of Non-Reoccurring items- Resolution **2018-38: Approve September 2018 bills for payment.**
Motion CM Mortenson second CM Coons
Vote 5 Yes 0 No
3. Highway Superintendent Comments/Report: Read and Filed
4. Comments of Code Enforcement Officer: Read and Filed
5. Clerk Report: Read and Filed
6. Assessor Comments: There were 2 small claims hearings from the 2018 revaluation, 1 resulted in no reduction of assessment and the other had a small decrease in assessment. The Article 7 complaint was dismissed with no reduction of assessment.
7. Historian Comments: Filed.

8. Supervisors report
9. Resolution 2018-39- The Board resolves to replace the AED Pads for the 4 AED's for a cost of approximately \$850.
Motion CM Mortenson second CM Coons.
Vote 5 Yes 0 No

PUBLIC COMMENT ON MONTHLY BUSINESS

OLD BUSINESS DISCUSSION

MOTION FOR ADJOURNMENT

Motion CM Mortenson second CM Coons.

RESOLUTION 2018-34

Adoption of Columbia County, New York, Multi Jurisdictional Hazard Mitigation Plan

Town of Gallatin

Town Board

667 County Route 7 Gallatin, NY (Mailing: PO Box 67, Ancram, NY 12502)

RESOLUTION

WHEREAS, The Town of Gallatin, with the assistance from Ecology & Environment, Inc., has gathered information and prepared the Columbia County, NY Multi-jurisdictional Hazard Mitigation Plan
; and

WHEREAS, the Columbia County, NY Multi-jurisdictional Hazard Mitigation Plan has been prepared in accordance with the Disaster Mitigation Act of 2000; and

WHEREAS, The Town of Gallatin is a local unit of government that has afforded the citizens an opportunity to comment and provide input in the Plan and the actions in the Plan; and

WHEREAS, The Town of Gallatin has reviewed the Plan and affirms that the Plan will be updated no less than every five years;

NOW THEREFORE, BE IT RESOLVED by the Gallatin Town Board that Town of Gallatin adopts the Columbia County, NY Multi-jurisdictional Hazard Mitigation Plan as this jurisdiction's Natural Hazard Mitigation Plan, and resolves to execute the actions in the Plan.

ADOPTED this 13th Day of October at the meeting of the Gallatin Town Board

*John C. Reilly*_____
(Supervisor)

*Lisa DeLeeuw*_____
(Clerk)

2019

**TOWN BUDGET
TOWN OF GALLATIN**

COUNTY OF COLUMBIA

CERTIFICATION OF TOWN CLERK

I, Lisa De Leeuw, **Town Clerk**, certify that the following is true and correct copy of the **2019 budget for**
the **Town of Gallatin**, adopted by the **Town Board** on the

Lisa De Leeuw, Town Clerk

Date

TOWN OF GALLATIN

CODE	FUND	APPROPRIATIONS	LESS ESTIMATED REVENUES	LESS UNEXPENDED BALANCE	AMOUNT TO BE RAISED BY TAXES
A	GENERAL	451,059	451,059	-	-
DA	HIGHWAY	<u>511,000</u>	<u>183,438</u>	<u>-</u>	<u>327,562</u>
	TOTAL	962,059	634,497	-	327,562
FIRE DISTRICTS					
SF	GALLATIN	<u>290,311</u>	<u>-</u>	<u>-</u>	<u>290,311</u>
	GRAND TOTAL	<u>1,252,370</u>	<u>634,497</u>	<u>-</u>	<u>617,873</u>

TOWN OF GALLATIN

GENERAL GOV'T SUPPORT		ADOPTED BUDGET 2017	ADOPTED BUDGET 2018	ADOPTED BUDGET 2019
TOWN BOARD				
Personal Service	A1010.1	11,782	11,000	11,000
Contractual	A1010.4	0	0	0
TOTAL		11,782	11,000	11,000
TOWN JUSTICE				
Personal Service	A1110.1	37,500	37,000	37,000 (Includes Clerks)
Personal Service - Clerk	A1110.1	0	0	0
Contractual	A1110.4	8,500	8,500	8,500
TOTAL		46,000	45,500	45,500
SUPERVISOR				
Personal Service	A1220.1	10,250	10,250	10,250
Contractual	A1220.4	0	0	
TOTAL		10,250	10,250	10,250
BOOKKEEPER	A1320.4	10,600	10,000	10,000
TAX COLLECTOR				
Personal Service	A1330.1	1,000	1,000	1,000
Contractual	A1330.4	1,800	1,800	1,800
TOTAL		2,800	2,800	2,800
ASSESSORS				
Personal Service	A1355.1	35,586	35,500	35,500 (Includes Clerk)

Personal Service	A1355.1	0	0	0
Contractual	A1355.4	1,750	1,000	6,000
TOTAL		37,336	36,500	41,500
TOWN CLERK				
Personal Service	A1410.1	25,076	24,712	24,662
Contractual	A1410.4	2,500	1,750	1,750
TOTAL		27,576	26,462	26,412
TOWN ATTORNEY	A1420.4	4,000	2,000	5,000
ENGINEER	A1440.4	4,000	1,000	1,000
ELECTIONS	A1450.4	-	-	-
TOWN OF GALLATIN				

GENERAL GOV'T SUPPORT		ADOPTED BUDGET 2017	ADOPTED BUDGET 2018	ADOPTED BUDGET 2019
BUILDINGS				
Personal Service	A1620.1	2,000.00	2,000.00	2,000.00
New Contruction	A1620.2	-	-	-
Contractual	A1620.4	18,000.00	16,000.00	22,000.00
TOTAL		20,000.00	18,000.00	24,000.00
CENTRAL PRINTING	A1670.4	-	-	-
SPECIAL ITEMS				
Unallocated Ins	A1910.1	23,200.00	23,000.00	23,000.00
Municipal Dues	A1920.2	600.00	600.00	600.00
Contingent	A1990.4	-	-	-

TOTAL		23,800.00	23,600.00	23,600.00
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GENERAL GOVT SUPPORT		<u>198,144.00</u>	<u>187,112.00</u>	<u>201,062.00</u>
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PUBLIC SAFETY

POLICE

Contractual		-	-	-
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DOG CONTROL

Personal Service	A3510.1	2,137.00	2,137.00	2,200.00
Contractual	A3510.4	500.00	500.00	500.00

TOTAL		2,637.00	2,637.00	2,700.00
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BUILDING INSPECTOR

Personal Service	A3620.1	18,799.00	18,500.00	18,500.00
Equipment	A3620.2	-	-	4,500.00
Contractual	A3620.4	750.00	750.00	1,650.00

TOTAL		19,549.00	19,250.00	24,650.00
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TOTAL PUBLIC SAFETY		<u>22,186.00</u>	<u>21,887.00</u>	<u>27,350.00</u>
TOWN OF GALLATIN				

		ADOPTED	ADOPTED	ADOPTED
		BUDGET	BUDGET	BUDGET
		2017	2018	2019
HEALTH				

REGISTRAR

Personal Service	A4020.1	-	-	-
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Contractual	A4020.4	-	-	-
TOTAL		-	-	-
TOTAL HEALTH		-	-	-
TRANSPORTATION				
HIGHWAY SUPT				
Personal Service	A5010.1	56,500.00	56,750.00	57,500.00
Contractual	A5010.4	-	1,500.00	1,500.00
TOTAL		56,500.00	58,250.00	59,000.00
GARAGE				
Contractual	A5132.4	13,000.00	12,000.00	12,000.00
TOTAL TRANSPORTATION		13,000.00	12,000.00	12,000.00
ECONOMIC ASSISTANCE & OPPORTUNITY				
MEALS ON WHEELS	A6140.4	-	-	-
Veterans Services	A65104	-	-	-
AGED PROGRAMS	A6772.4	-	-	2,500.00
TOTAL E A & O		-	-	2,500.00

TOWN OF GALLATIN

		ADOPTED BUDGET 2017	ADOPTED BUDGET 2018	ADOPTED BUDGET 2019
CULTURE & RECREATION				
PARKS				
Contractual	A7140.4	2,500.00	1,500.00	2,500.00
HISTORIAN				
Personal Service	A7510.1	1,620.00	1,620.00	1,620.00
Contractual	A7510.4	50.00	-	-
TOTAL		4,170.00	3,120.00	4,120.00
CELEBRATIONS				
Contractual	A7550.4	500.00	100.00	100.00
TOTAL CULTURAL & RECREATION		4,670.00	3,220.00	4,220.00
TOWN OF GALLATIN				

		ADOPTED BUDGET 2017	ADOPTED BUDGET 2018	ADOPTED BUDGET 2019
HOME & COMMUNITY SERVICES				
ZONING				
Personal Service	A8010.1	1,500.00	1,250.00	1,250.00
Personal Service - Sc'try	A8010.1	-	-	-
Contractual	A8010.4	250.00	250.00	15,250.00 (Zoning review consultant)

TOTAL		1,750.00	1,500.00	16,500.00
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PLANNING

Personal Service	A8020.1	3,600.00	3,000.00	3,000.00
Contractual	A8020.4	250.00	300.00	250.00
Refuse and Garbage	A81604	4,500.00	2,500.00	2,500.00

TOTAL		8,350.00	5,800.00	5,750.00
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**TOTAL HOME AND
COMMUNITY SERVICES**

<u>10,100.00</u>	<u>7,300.00</u>	<u>22,250.00</u>
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UNDISTRIBUTED

Social Security	A9030.8	15,250.00	15,500.00	15,500.00
Unemployment	A9050.8	180.00	180.00	180.00
Disability	A9055.8	100.00	-	-
Hospitalization	A9060.8	44,000.00	38,000.00	38,000.00
Other Benefits-Retirement	A9189.8	4,400.00	2,500.00	7,500.00

TOTAL		<u>63,930.00</u>	<u>56,180.00</u>	<u>61,180.00</u>
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Other Budgetary Puroposes-Reserv A962		32,000.00	71,910.00	61,497.00
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TOTAL APPROPRIATIONS		<u>400,530.00</u>	<u>417,859.00</u>	<u>451,059.00</u>
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TOWN OF GALLATIN

		ADOPTED BUDGET 2017	ADOPTED BUDGET 2018	ADOPTED BUDGET 2019
REVENUES				
LOCAL SOURCES				
Property Taxes	A1001	-	-	-
Payment in Lieu of Taxes	A1081			
Tax penalties	A1090	7,000.00	6,000.00	6,500.00
Sales Tax	A1120	209,000.00	255,360.00	276,724.00
Franchise Fees	A1170	2,930.00	2,930.00	3,500.00
DEPARTMENTAL				
Clerk Fees	A1255	500.00	500.00	500.00
Dog Control Fees	A1550	-	-	-
Recreation Fees	A2012	-	-	-
Zoning Fees	A2110	100.00	100.00	400.00
Planning Fees	A2115	1,000.00	500.00	200.00
Local Municipal Aid	A2389	12,665.00	12,700.00	12,500.00
USE OF MONEY				
Interest	A2401	1,400.00	1,250.00	-
LICENSES				
Dog License	A2544	1,000.00	800.00	800.00
Certificate of Occupancy	A2545	1,000.00	2,000.00	2,000.00
Building Permits	A2555	10,000.00	6,500.00	8,000.00
Permits, other	A2590	-	-	-
FINES				
Fines & Forfeitures	A2610	115,000.00	75,000.00	83,000.00
Dog Cases	A2611	-	-	-
SALES OF PROP				
Minor Sales	A2655	-	-	-
Sales of Equipment	A2655	-	-	-
MISCELLANEOUS				
Insurance Recovery	A2680	-	-	-

Refunds	A2701	-	-	-
Gifts & Donations	A2705	-	-	-
Miscellaenous	A2770	-	-	-
STATE AID				
Per Capita	A3001	4,935.00	4,935.00	4,935.00
Mortgage Tax	A3005	34,000.00	28,000.00	32,000.00
Other	A3089	-	-	-
Real Property Tax Service	A3840	-	-	-
Youth Program	A3820	-	-	-
Code Enforcement	A3995	-	-	-
Fund Balance	A909	-	-	20,000.00
Greenway/FEMA	A9999	-	21,284.00	-
TOTAL REVENUE		400,530.00	417,859.00	451,059.00
UNEXPENDED BALANCE		-	-	-
TOTAL REVENUE & BALANCE		400,530.00	417,859.00	451,059.00

TOWN OF GALLATIN

		ADOPTED BUDGET 2017	ADOPTED BUDGET 2018	ADOPTED BUDGET 2019
GENERAL REPAIRS				
Personal Service	5110.1	137,500.00	139,000.00	142,000.00
Contractual	5110.4	106,000.00	89,000.00	104,000.00
TOTAL		243,500.00	228,000.00	246,000.00
IMPROVEMENTS				
Chips	5112.2	125,000.00	144,000.00	144,000.00
Multi Modal	5112.4	-	-	-
TOTAL		125,000.00	144,000.00	144,000.00
MACHINERY				
Equipment	5130.1	-	-	-
Equipment	5130.2	-	-	-
Contractual	5130.4	36,000.00	31,000.00	33,000.00
TOTAL		36,000.00	31,000.00	33,000.00
BRUSH & WEEDS				
Personal Service	5140.1	-	-	-
SNOW REMOVAL				
Personal Service	5142.1	3,000.00	2,000.00	-
Contractual	5142.4	44,000.00	42,000.00	44,000.00
TOTAL		47,000.00	44,000.00	44,000.00
EMERGENCY DISASTER				

	8760.4	-	-	-
EMPLOYEE BENEFITS				
Social Security	9030.8	10,224.00	10,500.00	10,500.00
Disability	9050.8	100.00	-	-
Hospitalization	9060.8	32,000.00	32,000.00	32,000.00
Uniforms	9090.8	1,500.00	1,500.00	1,500.00
Other Benefits-Retirement	9189.8	4,500.00	6,000.00	-
TOTAL		48,324.00	50,000.00	44,000.00
TOTAL EXPENSE		499,824.00	497,000.00	511,000.00
TRANSFER - CAPITAL		-	-	-
TOTAL APPROPRIATIONS		499,824.00	497,000.00	511,000.00

TOWN OF GALLATIN

		ADOPTED BUDGET 2016	ADOPTED BUDGET 2017	ADOPTED BUDGET 2018	ADOPTED BUDGET 2019
REVENUES					
Property Taxes	1001	212,779.00	302,925.00	316,674.00	327,562.00
Sales Tax	1120	89,500.00	71,899.00	36,126.00	39,438.00
Service Other Govt	2300	-	-	-	-
Interest	2401	-	-	-	-
Minor Sales	2655	-	-	200.00	-
Sale of Equipment	2655	-	-	-	-
Refunds PY Exp	2701	-	-	-	-
S/A - Chips	3501	116,577.00	125,000.00	144,000.00	144,000.00
S/A - Hwy Projects	3591	-	-	-	-
S/A - Sema	3960	-	-	-	-
F/A - Fema	4960	-	-	-	-
Interfund Transfers	5031	-	-	-	-
TOTAL REVENUE		418,856.00	499,824.00	497,000.00	511,000.00
UNEXPENDED BALANCE		88,333.00	-	-	-
REVENUES & BALANCE		507,189.00	499,824.00	497,000.00	511,000.00

TOWN OF GALLATIN

SCHEDULE SALARIES OF ELECTED OFICIALS

SUPERVISOR		10,250.00
TOWN BOARD	<u>4@</u>	2,750.00
TOWN CLERK - COLLECTOR		24,662.00
TOWN JUSTICE	<u>2@</u>	8,396.00

Equalized Total Assessed Value 338,706,316

Exemption Code	Exemption Name	Statutory Authority	Number of Exemptions	Total Equalized Value of Exemptions	Percent of Value Exempted
12100	NYS - GENERALLY	RPTL 404(1)	3	6,941,300	2.05
13500	TOWN - GENERALLY	RPTL 406(1)	8	1,172,600	0.35
13510	TOWN - CEMETERY LAND	RPTL 446	1	66,700	0.02
25110	NONPROF CORP - RELIG(CONST PR	RPTL 420-a	2	365,000	0.11
26400	INC VOLUNTEER FIRE CO OR DEPT	RPTL 464(2)	1	2,000	0.00
41120	ALT VET EX-WAR PERIOD-NON-COMI	RPTL 458-a	40	1,247,058	0.37
41130	ALT VET EX-WAR PERIOD-COMBAT	RPTL 458-a	27	1,414,260	0.42
41140	ALT VET EX-WAR PERIOD-DISABILI	RPTL 458-a	5	353,500	0.10
41160	COLD WAR VETERANS (15%)	RPTL 458-b	2	24,000	0.01
41171	COLD WAR VETERANS (DISABLED)	RPTL 458-b	1	17,150	0.01
41700	AGRICULTURAL BUILDING	RPTL 483	6	797,237	0.24
41720	AGRICULTURAL DISTRICT	AG-MKTS L 305	88	12,839,448	3.79
41800	PERSONS AGE 65 OR OVER	RPTL 467	21	2,189,714	0.65
41801	PERSONS AGE 65 OR OVER	RPTL 467	3	266,753	0.08
41803	PERSONS AGE 65 OR OVER	RPTL 467	7	323,321	0.10
41806	PERSONS AGE 65 OR OVER	RPTL 467	5	235,614	0.07
41910	IMPROVEMENTS TO 1,2,3 FAMILY R	RPTL 459-b	1	78,000	0.02
41930	DISABILITIES AND LIMITED INCOM	RPTL 459-c	4	473,000	0.14
41931	DISABILITIES AND LIMITED INCOM	RPTL 459-c	3	241,000	0.07
41933	DISABILITIES AND LIMITED INCOM	RPTL 459-c	1	59,250	0.02
47460	FOREST LAND CERTD AFTER 8/74	RPTL 480-a	25	1,739,586	0.51

Equalized Total Assessed Value 338,706,316

Exemption Code	Exemption Name	Statutory Authority	Number of Exemptions	Total Equalized Value of Exemptions	Percent of Value Exempted
50000	SYSTEM CODE	STATUTORY AUTH NOT DEFINED	1	62,000	0.02
Total Exemptions Exclusive of System Exemptions:			254	30,846,491	9.11
Total System Exemptions:			1	62,000	0.02
Totals:			255	30,908,491	9.13

Values have been equalized using the Uniform Percentage of Value. The Exempt amounts do not take into consideration, payments in lieu of taxes or other payments for municipal services.

Amount, if any, attributable to payments in lieu of taxes: _____

RESOLUTION 2018-35

INTRODUCTION:

Over the last five months we have once again examined the issues related to access on what was once Church/Crock road.

This issue is not a recent one. There has literally been decades of litigation stemming from this 90 year plus abandonment mystery.

The Town Board has heard from the current interested parties along what is now the Town portion of Church Road and along what is now an abandoned part of the former Church/Crock Road and along what is part of the current Town portion of Crock Road. We have studied caselaw, reviewed title affidavits, researched maps old and new and have asked the town attorney to prepare an extensive history of the issue in anticipation that the town may face litigation regardless of what decisions are made or not made today.

To say that the issue is both complex, confusing and steeped in conflicting opinions and history is an understatement.

After much research, the Town Board can state the following facts with some clarity.

1. There is sufficient evidence from the 1888 map, oral history and town records to support the fact that Church/Crock road was in fact a Town Road for a period of time prior to 1928.
2. This notion is supported by the fact that the town felt it necessary to record in its minutes the official abandonment of Church/Crock Road in 1928.
3. While most of the town's records from this time period were destroyed, the Town Clerk in the late 1960s or early 1970s retrieved a copy of the 1928 minutes book when dealing with a different road abandonment issue. So we have a recording of the 1928 Minutes by Town Clerk John Paterson, referencing the exact page from where he took the 1928 minutes and these minutes are re-produced on the Town Clerks official letterhead.
4. These minutes reflect that Gallatin, in 1928, abandoned sections of six town roads under then section 234 of the Highway Law. The minutes do NOT make clear if the Town took this action under section 1 or 2 of then Section 234 the Highway Law. Section 234 is now reclassified as section 205 of the Highway Law. Section 1 is generally known as absolute or permanent abandonment and Section 2 is qualified abandonment. Permanent abandonment, as detailed by Courts and educational sources, typically can includes written request for abandonment, parcel owner releases, County Board approval and participation in a public hearing. Qualified Abandonment includes testimony from the Highway Superintendent that the Town has not maintained the road in the prior six years, that the road is not currently traveled by residents in any meaningful fashion and a town board resolution. While far from conclusive, the empirical evidence from that era tilts more toward a finding of the Town using qualified abandonment versus the more structured absolute abandonment. Admittedly, this is partially based on a lack of the more extensive documentation found with absolute abandonment at the Town and/or County level, understanding that those records may not exist either.

5. Among the six abandoned roads in 1928 are portion of Church and Karwacki. The only judicial cases dealing with "access" (versus easements by prescription and/or necessity) on these two roads have both found a right of access. The less clear is Judge Kowee's decision in 2016 Peters case that gave all rights of vehicular access to the "southern" parcel owners on Church/Crock to the north onto Crock Road. The Order, drafted by a party attorney, does not detail any analysis of qualified abandonment. However, the language in the transcript and dicta includes the judge's use of the qualified abandonment definition. More clear is the case in Lankenau vs. Gallatin when the Town and the Court agreed by stipulation that Karwacki Road was indeed a qualified abandoned road for purposes of access and the issuance of permits to construct a house.

6. The Town Board has no power to rescind a building permit. It can only recommend that the Town CEO rescind it. The reality we deal with is that both times that the a judge with jurisdiction over one of the roads listed in the 1928 minutes was asked to find access over that road as it was defined prior to 1928, the court found that access existed over the prior Town road bed.

Therefore, the Town Board resolves, at this point, that it will not request the CEO review the existing building permit for right of access unless and until a judicial decision finds against the current precedent granting access by qualified abandonment over the 1928 abandoned Town roads.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF COLUMBIA

JOHN C. LANKENAU,

Plaintiff,

AFFIDAVIT

- against -

Index No. 15-91

TOWN OF GALLATIN, THEODORE KARWACKI,
JENNIE G. HULL, WALTER ZINCIO,
GERMANTOWN TELEPHONE CO., INC., AND
JAMES KEMMCO LEASEHOLD PARTNERSHIP,

RJI # 10-91-3734

ASSIGNED JUDGE:
HON. JOHN G. CONNOR

Defendants.

STATE OF NEW YORK)
COUNTY OF DUTCHESS) ss:

JOHN PATERSON, being duly sworn, deposes and states
as follows:

1. That I am currently a resident of Gallatin, New York, and during the period 1968 through 1974 and served as the Gallatin Town Clerk.
2. That during the period of my tenure as Town Clerk I was requested by the Town Board to examine the old minute books and records of the Town and make an inventory of roads which had been abandoned by the Town Board in past years. During the course of those efforts I examined Book 4 of the Official Minutes of the Town of Gallatin and on pages 225 and 226 it was noted in those records that in August of 1928 a number of roads were closed by the Town Board pursuant to Section 234 of the Abandoned Highway Law of the State of New York.
3. It was recorded in this Minute Book that a portion of a Town Road from the Welton Karwacki residence south to

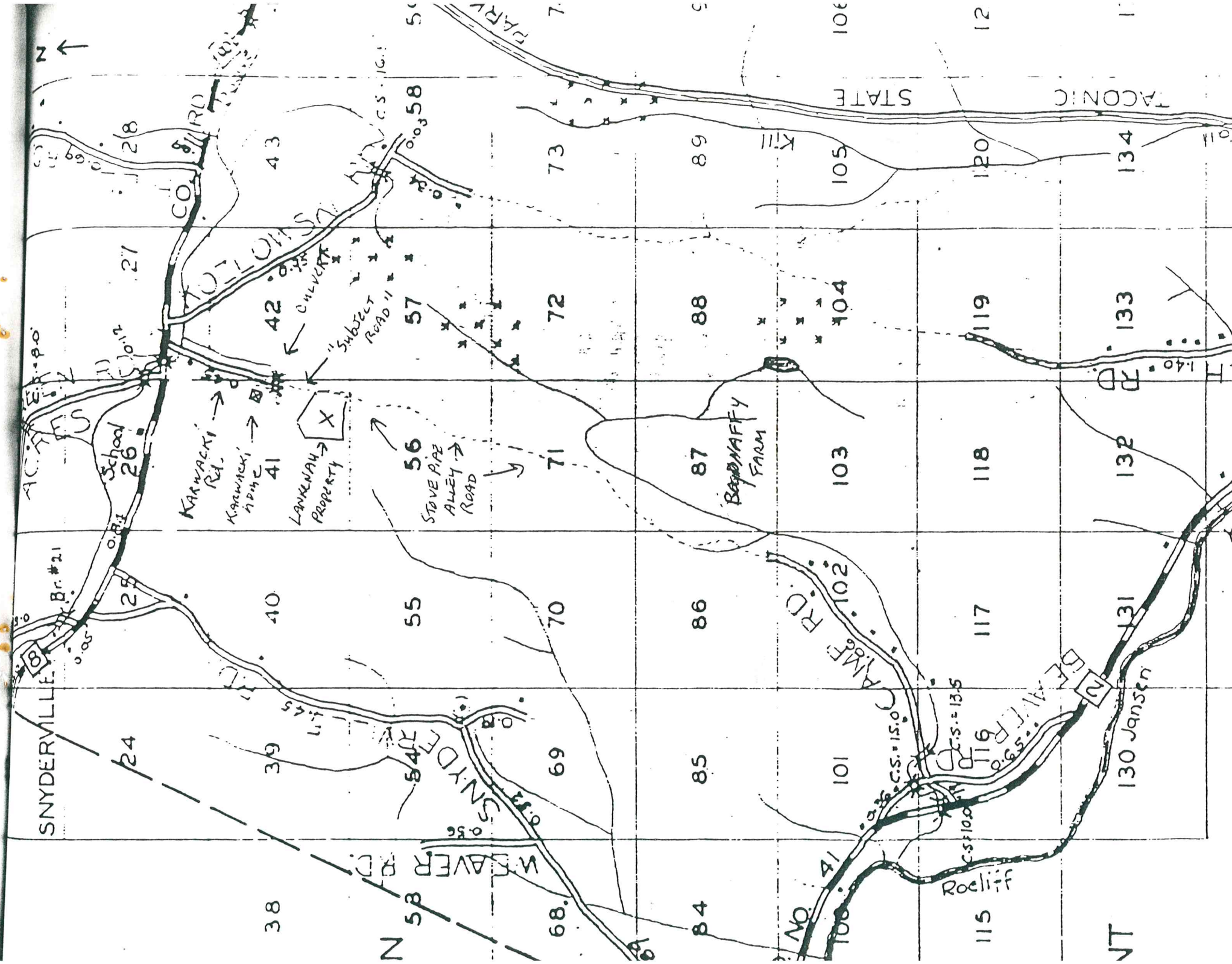
the entrance of the George Bogdanffy driveway or gate was abandoned by the Town Board at a meeting held in August of 1928. This record of abandonment was for that portion of the road shown on the map annexed hereto as Exhibit "A", from the end of Karwacki Road to Camp Road. Annexed hereto as Exhibit "B", is a copy of the list of road abandonments from Book 4 pages 225 and 226 which I prepared at the time of my inspection of these books.

Dated: June 23 , 1992

/s/
JOHN PATERSON

Sworn to before me this
23rd day of June , 1992

/s/ Linda M. Cordella
Notary Public



JOHN F. PATERSON

Gallatin Town Clerk

R. D. 1 Box 118

Pine Plains, New York 12567

Page 225 & 226 -- August 1928

Roads Closed under section 234 of the Abandon Highway law.

North of Joe Lavigne's wood lot to the residence of Jacob Kroth
(from church road to Pen County Route 8)

From Welton Karwacki residence south to the entrance of the
George Bogdanffy Driveway or gate.
(Camp road to Karwacki road)

From the residence of Charles Rockerfeller south to Roadway
of John Skiba leading to his residence.
(Duhig road to Skiba road)

From first turn to the left above Duntz's school house east to
the Chauncy Coons turn.
(Green Hill road to route 8 & Briggs road)

From Stewart Sigler's residence east to the Rockerfeller farm.
(a small piece of road in front of the Wells farm that
has a building to close for legal right of way)

From the residence of Thomas Campbell to the Ancram Town Line.
(Mill Hill Road to Ancram Town line)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF COLUMBIA

JOHN C. LANKENAU,

Index No. 15-91
RJI No. 91-3734

Plaintiff,

- against -

Hon. John G. Connor

TOWN OF GALLATIN, THEODORE KARWACKI,
JENNIE G. HULL, WALTER ZINCIO,
GERMANTOWN TELEPHONE CO., INC. AND
JAMES KEMCO LEASEHOLD PARTNERSHIP,

NOTICE OF ENTRY

Defendants.

X

SHR:

PLEASE TAKE NOTICE that the within is a true copy of a Stipulation, Order and Judgment duly executed by the Honorable John G. Connor on September 24, 1993 and filed in the above captioned action on October 8, 1993.

Dated: October 12, 1993

JOHN C. LANKENAU
Pro Se
1740 Broadway
New York, New York 10019
(212) 489-8230

TO: WARREN S. REPLANSKY, ESQ.
Attorney for Defendant Town of Gallatin
P.O. Box 659
East Church Street
Pine Plains, NY 12567

VICTOR MEYERS, ESQ.
Attorney for Defendants Theodore Karwacki,
Jennie G. Hull and Walter Zincio
436 Union Street
Hudson, New York 12534

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OSOFSKY & REPLANSKY
ATTORNEYS AT LAW

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF COLUMBIA

JOHN C. LANKENAU,

Index No. 15-91
RJI No. 91-3734

Plaintiff,

- against -

HON. JOHN G. CONNOR

TOWN OF GALLATIN, THEODORE KARWACKI,
JENNIE G. HULL, WALTER ZINCIO,
GERMANTOWN TELEPHONE CO., INC. AND
JAMES KEMMCO LEASEHOLD PARTNERSHIP,

STIPULATION, ORDER
AND JUDGMENT

Defendants.

-----X

WHEREAS, in the within action plaintiff seeks a

determination of the status of the road (the "Subject Road") that (a) proceeds south approximately 300 feet from the southerly end of the present Town Road known as Karwacki Road located in the Town of Gallatin, County of Columbia, State of New York (the "Town"), which Town Road extends for a distance of forty-three hundredths (.43) of a mile in a southerly direction from County Route 8 to the northerly beginning of plaintiff's property on the road, as shown on a survey map (the "Survey Map") of Rockefeller and Nucci dated September 9, 1974, which map has been duly filed in the office of the County Clerk, Court of Columbia, State of New York on August 28, 1975 as Map #5481, and (b) continues along the road a distance of 640.20 feet to the southerly end of plaintiff's property, as shown on the Survey Map, for an overall distance of approximately 946 feet, which is the length of the Subject Road; and

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COUNTY OF COLUMBIA

WHEREAS, the plaintiff and the defendant Town have thoroughly investigated the facts concerning the history, and status of the Subject Road; and

WHEREAS, the Subject Road became a public highway by use by the Town pursuant to the provisions of 189 of the Highway Law of the State of New York, prior to 1928; and

WHEREAS, prior to August 1928, the Subject Road had been maintained, improved and plowed by the Town as a Town Road; and

WHEREAS, during the six year period ending August 1928, the Subject Road had been travelled and used as a public highway and the public right-of-way over the Subject Road had been so used during such period; and

WHEREAS, during the two years preceding August 1928, the Subject Road had not been usually travelled along the greater part thereof, by more than two vehicles daily, in addition to pedestrians and persons on horseback; and

WHEREAS, in August of 1928 the Town Board duly adopted and filed a resolution effecting a qualified abandonment of the Subject Road pursuant to the provisions of Section 234 of the Highway Law, as then in effect; and

WHEREAS, pursuant to the Town Board's August 1928 qualified abandonment of the Subject Road, the Town thereafter, ceased to maintain, repair, improve, or plow the Subject Road and ceased to have any obligation, and still has, and shall have no obligation in the future, to maintain, repair, improve, or plow the Subject Road; and

WHEREAS, pursuant to the provisions of Section 234-2 of the Highway Law then in effect, as a result of the Town's August 1928 qualified abandonment of the Subject Road, the Subject Road did not cease to be a highway for purposes of the public easement and public right-of-way over the Subject Road and such public easement and public right-of-way over the Subject Road continued to exist, and still exist, pursuant to the provisions of Section 234 of the Highway Law; and

WHEREAS, from and after August 1928, the Subject Road remained open to and used by the public as a highway and continued to be open to and used by the public;

WHEREAS, from and after August 1928, the owners of property abutting the Subject Road, including plaintiff and his predecessors in title, had, and now have, the right to maintain, repair, improve and plow the Subject Road for purposes of insuring and exercising the public easement and public right-of-way over the same, to the same extent that the Town would have had, had the Town not effected a qualified abandonment of the Subject Road in August 1928; and

WHEREAS, defendants the Germantown Telephone Co., Inc. and the James Kemmco Leasehold Partnership have defaulted in appearing in the within action; and

WHEREAS, defendants Theodore Karwacki, Jennie G. Hull and Walter Zincio (the "Individual Defendants") have appeared by counsel, Rapport, Meyers, Griffen & Whitbeck;

WHEREAS, the existing traveled way (the "Traveled Way") of the Subject Road is about twelve (12) feet in width; and

WHEREAS, the plaintiff wishes to have the defendant Town acknowledge and said defendant is willing to acknowledge that plaintiff (a) has the right to improve the Traveled Way by removing existing material from the Traveled Way and by adding up to about eight (8) inches of new material to the Traveled Way, as may be specified by the Town and (b) the right to improve and/or construct shoulders and drainage ditches alongside the Traveled Way and to install a new culvert, all as may be specified by the Town; and

WHEREAS, the Town moved in the within action for summary judgment dismissing the complaint herein; and

WHEREAS, plaintiff cross-moved in the within action for summary judgment for an order determining inter alia, that the Subject Road was qualifiedly abandoned; and

WHEREAS, the Individual Defendants have submitted no papers in connection with the Town's motion or the plaintiff's cross-motion and have defaulted in opposing plaintiff's cross-motion; and

WHEREAS, the plaintiff and the Town agree that the Town's motion and the plaintiff's cross-motion shall be and hereby are determined in accordance with this stipulation, Order and Judgment.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED between the plaintiff and the Town, as follows:

1. That the Subject Road became a public highway by use prior to 1928 pursuant to the provisions of Section 189 of the Highway Law of the State of New York.

2. That in August 1928 the Town duly effected a qualified abandonment of the Subject Road pursuant to the provisions of Section 234 of the Highway Law then in effect.

3. That since the Town's qualified abandonment of the Subject Road in August of 1928, the Town has had, and shall thereafter have, no duty to maintain, repair, improve or plow the Subject Road, which remained a highway.

4. That the existing Traveled Way of the Subject Road is about twelve (12) feet in width.

5. That there has been, now is and shall hereafter be a public easement and public right-of-way over the Subject Road, which easement and right-of-way shall include the right but not the duty of affected property owners including plaintiff and his assigns, grantees and successors, to maintain, repair and improve the Subject Road, its ditches, shoulders, and the culvert and to plow the Subject Road to the same extent that the Town would have had, had the Town not duly effected a qualified abandonment of the Subject Road.


6. That plaintiff, as an affected property owner, and, his assigns, grantees and successors, as owner of the property shown on the Survey Map, has, and shall have, the

right but not the duty to maintain, repair and improve, the Subject Road, its shoulders and ditches and the culvert and to plow the Subject Road for purposes of insuring and exercising the public easement and public right-of-way over the same to the same extent that the Town would have had, had the Town not duly effected a qualified abandonment of the Subject Road in August 1928.

7. In addition to plaintiff's other rights, plaintiff shall have the right (a) to improve the Traveled Way by removing existing material from the Traveled Way and by adding up to about eight (8) inches of new material to the Traveled Way, as may be specified by the Town, (b) to improve and/or construct shoulders and ditches alongside the Traveled Way and to install a new culvert, all as may be specified by the Town, and (c) to maintain the Traveled Way, the shoulders, ditches and the culvert.

8. That upon the "so ordering" of this Stipulation, Order and Judgment by this Court, the within action shall be discontinued, with prejudice, and without costs.

Dated: ~~August~~, 1993
September 14, 1993


JOHN C. LANKENAU
Pro Se
1740 Broadway
New York, New York 10019
(212) 489-8230

TOWN OF GALLATIN

BY:

Edgar S. Replansky

WARREN S. REPLANSKY

ATTORNEY FOR TOWN OF GALLATIN

PO BOX 659

East Church Street

Pine Plains, NY 12567

(518) 398-5208

SO ORDERED AND ADJUDGED
At Hudson, New York, September 24, 1993

John F. Connor
HON. JOHN F. CONNOR

OCT - 8 1993

ENTERED

2708L

JOHN C. BILLARD, CLERK

William M. Faurer
WILLIAM M. FAURER, DEPUTY