

**From:** [jchrisman@townofcanandaigua.org](mailto:jchrisman@townofcanandaigua.org)  
**To:** ["Cathy Menikotz"](mailto:Cathy_Menikotz@townofcanandaigua.org); [tfennelly@townofcanandaigua.org](mailto:tfennelly@townofcanandaigua.org); [gdavis@townofcanandaigua.org](mailto:gdavis@townofcanandaigua.org); [ldworaczyk@townofcanandaigua.org](mailto:ldworaczyk@townofcanandaigua.org); [jsimpson@townofcanandaigua.org](mailto:jsimpson@townofcanandaigua.org)  
**Cc:** ["Doug Finch, Town Manager"](mailto:Doug_Finch@townofcanandaigua.org)  
**Subject:** 4351 Tichenor Point Drive -- Public Comments  
**Date:** Wednesday, February 17, 2021 6:28:59 PM

---

#### Public Comments:

Ted Spall stated he wanted to specifically address Supervisor Menikotz' comments. He is also not an attorney. He has experience in the development of land, and so forth, and deed restrictions. He thinks if you compare, and he does not have the map of the 11 lots that she has, if you compare where the driveway is on there, which is Glenmede Avenue, it is much further to the south then what you are showing with the current driveway. He noticed that the name has been changed to Tichenor Point Drive now. In addressing the sewer pump station, when that went through, there must have been some discussion with the neighbors about the pluses and minuses of having sewer and where it would be located. There must be an agreement approving that location and maybe at the same time approving the relocation of the driveway to the west around the pump station. So you are speaking a little bit here out of touch because it takes an unanimous decision of the four land owners on Tichenor Point to approve any changes in that park area. He maintains that the park area is larger than she shows, and he maintains that if no one objected to the relocation of the driveway, you cannot use that as a precedent to establish your own driveway and own parking. The neighbors and the taxpayers have no idea what the Town's development plans are. He asked if there are any sketch plans to show people where parking lots are, where buildings are proposed in the future, where the driveway is going to be because there is a site distance issue coming down that hill going north or south. He would like to know if the Town is subject to a SEQR review with the NYS DEC before this moves ahead. Lastly, on the proposed permissive referendum, he is understanding the timetable, where does the Town stand with who is going to vote on it. Is it going to be restricted to Town of Canandaigua tax payers or anyone above the age of 18? Who is going to be allowed to vote on spending taxpayer money? He is assuming it is going to be the taxpayers.

Arron Mills stated that he appreciates all the presentations that have been given but being limited to speak for three minutes limits a lot of what we say. He would like to bring up two things. Mr. Spall keyed one up for him as he does not think he would be able to vote. He is not a primary resident of Canandaigua. This is his secondary residence. He thinks many of the people on the call are in the exact same position. So, while he feels a vote is important, we must ask ourselves, and Town Manager Finch please answer this or he will follow up if he does not hear an answer, of the Town's tax base, in dollars and cents, not in residents, in the actual dollars paid of your tax base, how many of those dollars can vote versus not vote. He has never voted in a single Canandaigua voting election of any sort. So, would he be able to vote? So putting out for a voting referendum sounds great but in reality you may not hear their voice. He thinks that is a problem. I think the way Canandaigua Lake is and the way the tax base is structured, there is an intrinsic issue. This is unique and the Town must look at that and how we vote. Secondly until tonight when Supervisor Menikotz discussed the threat of litigation from the neighboring residences, there was very little talked about those neighbors. He looks at litigation as a last resort. Especially the threat of litigation. But that is something that our courts reserve to protect people's interest. He has been involved in litigation. He avoids it at all costs possible. But what we must sit back and look at and begin to focus on is the residents neighboring this park and how does that affect them. We can all agree, at least I think that those residents all agree, and they are vocal about it, that this will negatively impact them. This is not a simple solution. He believes that there should be more public access to this Lake. This is the not the right place. The Town must look at where this park is going, look at the neighbors, and please start including that the neighbors surrounding this park are opposed to this park. He went to Onanda Park today. He loves Onanda Park. He read a sign that it became a park in 1989. It was an YMCA camp since 1909 or 1919. That is a long time ago. We love that park. You have to

understand how long it has been there and how established it is.

David Felten stated before any referendum occurs, he thinks the taxpayers deserve to have a full plan for traffic and safety. Traffic is a nightmare as he has pointed out three times. And the safety is an issue as well. Especially the neighbors who will be literally surrounded or who are very closely adjacent to this park. Talk about a negative impact. In the meanwhile, the Town needs to have a plan. Not assessing traffic in February during a blizzard. But assessing traffic and a plan for the traffic and a safety plan during the peak Canandaigua time of enjoyment of the Lake. Because it is going to be a whole lot busier in June, July, August, and September than it is in January and February. He thinks that they deserve to have a plan, not a workshop, not a discussion group, a written plan that the taxpayers can look at and say is this something they want. Otherwise, it will turn into a nightmare. There is going to indeed be litigation.

Ted and Patricia Brewer stated that he is interested, as everyone is, in providing the best possible access to the Lake. Those of us that are on the Lake realize what a wonderful asset it is. They are pleased to see others enjoy it. He has an idea that he would like to see the Town examine as it relates to Atwater Park. For those that do not know, Atwater Park is about 200 to 300 feet across the town line into the City. It is a City Park but almost literally borders the Town of Canandaigua. It is a very large property. He is unsure how many acres it is. He would suspect that it is 6, 8, 10 acres or more. It has a lot of frontage maybe 1,000 feet or so. It has shallow water that would be excellent for swimming with kayaking already allowed there. Mr. Brewer had a conversation with Bob Palumbo the Mayor of Canandaigua. He is receptive and welcomes the Town of Canandaigua in working on some sort of joint venture to establish a more vibrant park at Atwater. He would point out that since it is already a park, it is not a giant intrusion into a residential neighborhood that people are not expecting. Additionally, as a joint venture between the City and the Town, the cost could be far smaller than any of the ideas that are being entertained right now. Additionally, the Town has, as part of its park objectives, developing relationships with other municipalities and governments for joint ventures. It seems to him that this falls right within the Town's objective statement and it is a wonderful opportunity to be explored. If successful, it could come to a wonderful culmination for a fraction of the money that we are talking about now. Probably no tax increase.

Matt McGuire stated that as a former employee of Canandaigua, he worked at Onanda Park. Very often in the past 10 years, he thinks it is a underutilized property. He thinks that development of that and some improvements would be a much better use of taxpayer money rather than this new park. Working there and seeing when the busy hours are, it is only overcrowded or packed on a few weekends out of the year. On weekdays and weeknights, it is rarely used. He thinks that further education of the population that asset is there would be a beneficial thing to do rather than spend a ton of money on a new park.

Dan O'Brien stated that he articulated in his letters concerns on behalf of his clients. He certainly does not condone harassing the appraisers for doing their job. He is a firm believer in the rule of law. While litigation is always an option whenever there is a dispute, he does agree that it is the last resort. Even though he is a litigator, he works feverously to try and avoid it as much as possible. To that end, he is certainly willing to discuss this with Mr. Nadler or Mr. Saunders. He thinks the issues that have arisen and are sort of persistent here and need to be addressed by the Town. He agrees with the Town that it certainly is going to be an issue of fact as to what exactly the scope of those easements' rights are and what they cover geographically. But that is only one of several key issues that have been recurring here. The other one is the State Environmental Quality Review Act (SEQR). He does not think this an action that is subject to a short review. He thinks the Town needs a full-blown coordinated review. The Town will probably have a finding of significance because of the proximity to the Lake and the traffic issue. The Town will have to bring in the State and County. With the respect to the cost of the property, that is a legitimate concern and a big question as to how

you value that frontage. The frontage that the appraisers have considered available and given full frontage value to, is not the same as the frontage that would be present as a result tie line measurement. He thinks we have some significant safety concerns. He agrees with Mr. Felten that the road can be very busy. He has lived off the West Lake Road for almost 30 years. People do not adhere to that 35 MPH speed limit. And in fact, they go even faster when they go down the hill from Foster Road toward what would be the entrance to this park. So those are all significant issues. He thinks we need a full-blown environmental review before we can make a decision. He thinks a referendum is certainly necessary given the indication from the Town Board that the public needs to weigh in on this. He is certainly willing to discuss our concerns with any of the other attorneys who are involved in this matter.

Marion Cassie referenced what someone mentioned earlier and stated not getting the answers to questions. Some of the items that had questions asked about them have been posted. One of the questions that she has asked several times, and would like an answer to, you have both mentioned going through with the Tichenor Point purchase would cause the Town to exceed the 2% tax cap. What she would like to know is if the Town exceeds the 2% tax cap and does all the appropriate paperwork for voting to exceed the tax cap, what does that mean to us as a town, what does it mean to individual taxpayers, and what are consequences of exceeding the 2% tax cap? Are there funds in the future that the Town would not have access to? For example, individuals got a rebate from the State and we were able to get that because the Town had not exceeded the tax cap. She believes that money has gone away but there are other monies that might come into play. She does know the answer and she would like the Town to answer ... what are the consequences to the Town and the taxpayers for exceeding the 2% tax cap?

Jeff Twombly stated that he wanted to expand on what Mr. McGuire told us about the usage levels at Onanda Park and how there is excess capacity there. Maybe adding a few parking spots to handle the peak times would suffice. In reading through the surveys, they were cited as part of the rationale for going through with the purchase in the first place. They really talked more about the idea of expanding Kershaw Park, the swimming and kayaking areas within that and parking areas that seem to be an issue. We are a single community here in Canandaigua. He really does not understand the concept by the Town that they need to have town ownership of the parks rather than collaborating with the City to bring Kershaw to its full potential and expanding on Atwater also. They are both much more convenient to a larger group of people. If a new park is developed at Tichenor Point, it really is just going to siphon off some demand from Onanda Park. He cannot imagine that it is truly going to bring in significant other people who don't already use the parks. He does not think that there are that many deterred by some peak demand issues at Onanda Park. He completely understands there is an emotional attachment to this concept of buying lake frontage but asking the taxpayers to take on an 11% or 12% tax increase for the foreseeable future for its purchase and to maintain it just seems like it is not a fiscally responsible thing to do when there are a lot of other options for enhancing parks and enhancing water access that do not require those kinds of investments. A fraction of that money could apply to host of other investments that the Town could make like increasing the hiking and biking trails, improving safety on West Lake Road, putting in biking lanes, things like that. He thinks it's time to start having some workshops where, you just do not post answers to questions, but we actually have some dialog about some of the questions that we have. One of the biggest issues that we have as property owners next to it is we have not seen demand estimates for the park, we have seen no detailed plans for what is really going to be there, and we have no idea why the Town is so concerned about the deed restrictions. Whether it is about moving a road or whether it is about putting up structures or whatever. Without detailed plans we really are lost as to what is exactly the grand scheme and idea for this park. You have to understand we do not live next to the park. When you show the pictures, you are showing the top of their house. We are going to be surrounded on three sides by this park. We have invested a lot of our money in what we thought would be our dream home. We realized that the Kellogg's would be selling one day but we thought it would be developed into one or two homes. We never dreamed that the Town would try to shoehorn a park into this neighborhood of four houses. We are concerned about the

Town's ability to provide security after hours. We are concerned about the decrease in our property value. Understand, we have nothing against trying to have people have access to the Lake. But we just think this is the wrong spot for it trying to shoehorn it into this little area that has been private residents for years and years and years.

Julie Simmons stated she has shaky legs about purchasing this property because like what Mr. Twombly had mentioned, we have no idea what the Town's plans are. Is the Town going to clear the land and put in 20 parking spaces? With anyone who had driven down there knows that there is not enough room for that. She believes this is sacred land. She believes it should be treated like the Adirondacks. It should be forever wild. There should be protocols and details that I really see moving forward that she is unaware of. Installing trail cams that will take pictures of people that are coming after hours, noise ordinances, occupancy, etc. there just does not seem to be any rules or regulations. Often people talk about Atwater Park and Onanda Park not being utilized. She has been to Onanda Park so many times and you cannot even sit on the lawn because of the E.coli goose poop. Not to mention a very small swimming area that she is uncomfortable swimming at. She would really love to see these issues addressed and would love to be part of them moving forward. Please consider her as someone who would really love to take the time and have dialog and come up with a detailed plan. So we do not have shaky legs of just purchasing a piece of property and nothing else gets talked about, like the security and all the other issues that everyone is very concerned about.

Ryan Staychock stated that he wants to add a positive vibe to this potential acquisition. Obviously, he was quoted in the D&C from the first meeting that this should go out to referendum. He strongly supports that. All these themes of litigation he thinks are kind of not bringing to attention conservation that we hear in our town over and over again. Many, many people, he is willing to bet a strong majority of people that are watching these meetings, care deeply for a healthy environment. Clean air, clean water, and clean soil. Canandaigua Lake is the treasure and the grand of our community. For the exact reason that many people want to live on a lake and have lake access, are probably some reasons people in our community would like more access to our lake. Over and over again we hear this from our community. He does want to underscore that this is a fantastic opportunity to think about conservation. The greatest good, for the greatest number in the long run. This is an exciting parcel that should not be overburdened by paralysis analysis. We should consider putting this in the hands of the community. We should be excited and grateful that a willing seller is willing to work with us. It is really exciting. He wants to make sure that the sellers, if they are listening, thank you so much for wanting to put your beautiful piece of property in the hands of the Town.

Patrick Deagman stated that he wanted to talk about something that has not been talked about in detail as far as he is concerned and maybe this is not right time. We started this whole endeavor so that we could get greater public access to the lake. That is a very noble cause. If the Town presented that to the public, the answer would be of course. If you present it to the public and say greater public access to the lake at what price. This then brings in the economics of the whole situation. And that is where he is very concerned. He has written this down and sent it in in a letter to the Town Board. I'm sure it has been acknowledge. The bottom line we have a very premium property at a premium price in a longstanding residential neighborhood that we are looking to satisfy this objective. That price has about a 4 to 1 ratio of its assessed value to its premium value. That seems a little hefty, but he is not an appraiser. As he has heard, there was one time a consideration for the Cook property. It was never taken forward because it was too expensive. What he asks in his own mind from an economic standpoint is, okay then how do you go for this if at that time that was not viable and was considered too expensive at the time. Something seems inconsistent as far as he is concerned. The other thing is we seem to be trivializing what 11% or 12 % means to the taxpayers. The broader taxpayers. If you look at that and you are stewards of the money for the Town, he thinks this is a very poor time for us to be going and asking the tax base to take on a burden of 11% or 12 %. It is very burdensome, and probably very burdensome to many who maybe do not even live on

the lake. If you start to look at the economic environment as it sits right now, he has to tell you there is a lot of uncertainty on what 2021 and 2022 will bring because there are always ramifications after something like this. I hate to bring the broader problems in to this discussion. The fact is that he thinks it is irresponsible of the Town to be going to the taxpayer base at this time and asking for an 11% or 12 % tax increase. It is not timely.

Aaron Mills stated that he knows that you do not answer questions, but he thinks it is important to answer this question. This is not his primary residence. This is my secondary residence. You just said that it is important that the taxpayers can decide. Is he eligible to vote?

Attorney Chris Nadler stated that it is the Town's electors which means those people eligible to vote in the Town of Canandaigua are the only eligible people. That is not his decision. It is not the Town's decision. It is NYS Town Law.

Kevin Saunders stated that this truly is sacred land and a treasure. He agrees with Mr. Staychock. The Town Board, you cannot win. You go out and do a comprehensive plan and you get 81.1% of the people who answered the survey say that lake access is greatly needed or somewhat needed. You go out and find sacred land at a fair market price by two appraisers and now you are in the position of being threatened and your appraisers are being threatened. It has not been by the attorneys. He has worked with Mr. O'Brien and he is the most upstanding of a person as he could imagine. He welcomes the chance to talk with him and with Mr. Nadler. With that said, some non-issues are being raised here. SEQR is not required. But if you break this up into four parcels, what has more environmental impact, a park or four parcels. The two appraisals we are using are using updated methods. It is not the outdated tie- to tie-line measurement. As both Madam Supervisor and Mr. Nadler put it, the easement issues at this early stage or mid-level stage we all believe these easement issues are not going to impact the Town's use of the property. We agree and the Kellogg's are willing to provide an updated abstract and signed survey read in. What he is going to urge, however, is I have heard you loud and clear, the Kellogg's have heard you loud and clear, that they have offered this in good faith, there is a purchase/sale agreement, we understand that the closing is supposed to be in April. We have heard you that you want to go back and ask the Town again and put this out to a referendum. Your counsel has indicated that these can be done on a dual path. That you can hear what the Town has to say and if everyone is wrong, they can stop the referendum at any point. His suggestion is to listen to the Town Attorney and do these simultaneously because by delaying an extra month the only person that is being impacted is the Kellogg's who are standing by in good faith with no downside to that. Mr. O'Brien, Mr. Nadler and himself can all talk these issues out and if before the referendum, at any point your attorney can use Article 7 to stop the referendum if there is something out there that we did not foresee. But to quote the board and the Madam Supervisor and your attorney, at this point we do not see anything that is going to impact the use of this property.

Aaron Mills stated that he would like to just say here to quote you earlier, we should let the taxpayers decide. He is undoubtedly a taxpayer and he cannot decide. While he appreciates that his comments are being taken, they are being posted, they are being listened to, and he expects that they will be answered in these workshops. We are unable to vote. He thinks a lot of people who have talked about this are not primary residents here. He is a taxpayer, and a good taxpayer, but he cannot vote in Canandaigua.

Suzanne Spall stated that she had a question about voting as well. Does that mean that anybody who is registered to vote for an election had a vote? Does that mean that if somebody is in a family and they have an 18-year-old and a 20-year-old, all those people will be able to vote but the people who pay the taxes will not be able to vote.

Town Attorney Nadler stated that the answer to that question is yes. NYS Town Law provides for

that electors, anybody who can vote for the supervisor, town board, town justices, town clerk, and town highway superintendent of the Town of Canandaigua is eligible to vote. That is not the Town Board decision. It is not the Town Manager's decision. That is not his decision. It is Town Law.

Suzanne Spall stated that an 18-year-old is not a taxpayer. Their parents might be taxpayers but not an 18-year-old.

Eli Futerman asked if the Town Supervisor can provide the information of how many dollars are collected in taxes of people who will not be able to vote versus those who will be able to vote. It seems to him, to Aaron Mills point, there are a number of us who live in Rochester and use this as a summer home or a four or five month a year home that will not be able to vote per the Town Attorney claiming it is a New York State Law. (Attorney Nadler clarified that he was not claiming that. It is a NYS Law.) It is NYS Law so it would seem to me that you would be able to tell us what the revenue that the Town receives from those us that will not be able to vote on this decision.

Ken and Wendy Reik stated that they are taxpayers, and they can vote. He believes it is unreasonable that the Town would move forward with this without the ability of residents here who are part-time that cannot vote. He does not believe that the Town should put this forward for a town vote and not allow the people who have a strong vested interest in this property and not allow them to vote. That is unreasonable. He does not know how the Town could move forward with that. The Town is choosing to move forward with a town vote. The Town is putting people with strong vested interest in these properties aside a little bit. You are not giving them the full gravity of their own vote and that is not right. At the same time, he would like to say that the town does not have a plan that you have put forward. There is no plan to look at. If one of our federal officials said that we had to pass the law in order to read what is in it. It is the same kind of a thing. Where you do not have a plan that you are actually putting forward to say what are we going to be building there, what are we going to be asked to support and fund going down the road. It is just that we are going to buy the land. Then what after that, we do not know. He thinks those questions have to be answered.

Lauren Burke stated in response to many of the comments, she would like to say that she thinks it is important for people who own property in the Town of Canandaigua and who have maintained their voting rights in Monroe County, if they are not Florida residents, they need to change their registration. This is something she did around 20 years ago before she moved to Canandaigua full-time which is around 10 years ago. All of you can change your registration immediately. She encouraged them to do so. Because this has significant financial ramifications for all of us. These are issues that have to be addressed by all people. So Aaron Mills, she hears his comments and she thinks they can impact that. If we have children who are 18 or 20 years old who are voting members, those children can also change their registration. It is time to decide which community needs more of our active participation in. Right now, she thinks it is Canandaigua. She would encourage everyone to change their registration if they are registered here as full-time people.

Eli Futerman stated that it seems to him that there are number of us who have spoken and trying to understand why we are paying taxes. He understands from the Town Attorney that we by NYS law we are not allowed to vote. Even though we are paying taxes here unless we register to vote here. But it would seem to him that if the Town was willing to answer the questions you should be able to give the members of the community, people paying taxes but not being able to vote, what percentage of people who are not voting but are paying taxes. It would seem to him that if that is a higher percentage than you realize, it is nice that you are listening to us, but it is basically what the revolution was based, taxation without representation. You are asking us to pay the taxes. Fund a park and increase our taxes by 11% or 12% and not be able to have any kind of voice in it. He thinks that is fundamentally unfair. Another resident just basically said the same thing. They are residents and voters in Canandaigua. When will we get a specific answer to the question – how many of us have tax dollars that are being paid to the Town of Canandaigua but are not residents or being able to

make a decision on this because we are not registered to vote and be involved in a referendum? Is the Town willing to get us that information? As long as the Town is willing to let us know because it sounds like if you are willing to listen from his position, the decision has already been made that the Town wants this to go through.

Laurie Twombly stated that she has two issues. The first we cannot vote in Canandaigua either. This is affecting not only the value of their property, but their taxes are going to get raised and we are going to be surrounded by a park on three sides. And we cannot vote on it. She just wants to make that a point. She knows that you cannot do anything about it. Secondly, she wanted to propose to keep the public hearing open because we need to have a workshop where we can get these questions answered.

Bill Bernatovich who lives adjacent to Onanda Park stated that his concern and frustration has been that people do not respect the border of the park and their property. We are constantly seeing people walking on their property as well as lighting campfires, leaving garbage, ripping down their posted signs. He would be sympathetic to the people who are adjacent to the proposed park just from his experience, not everyone, but there is a number of people who do not respect the border. That would be his concern about this.

Ted Brewer asked a very straight forward question following up on Eli Futerman and Aaron Mills questions. We have the Residential Lake District (RLD). Your assessor can calculate with absolute certainty the percentage of the tax base that resides on the lake. It is not the same as the voting percentage and he understand that. But there is no question that you can provide us with an idea as to the exact percentage of the residential tax base that comes off the lake and he thinks they would all like to see that.

*Jean Chrisman  
Town Clerk  
Receiver of Taxes  
Town of Canandaigua  
5440 Route 5 E 20 West  
Canandaigua NY 14424  
585-394-1120 Ext 2225*

Jean Chrisman  
Town Clerk / Receiver of Taxes  
Town of Canandaigua  
(585) 394-1120 Ext 2225