

Public Hearing

A Public Hearing was held April 14, 2011 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Proof of publication in the Alden Advertiser, Elma Review and the East Aurora Advertiser as well as posting it on the Official Bulletin Board of the Town was presented by the Town Clerk. Officials present were:

George Gertz, Supervisor
Barbara Spanitz, Councilwoman
Warren Handley, Councilman
Elizabeth Ackerman, Councilwoman
Donald Darrow, Councilman

Approximately (12) persons were in attendance. Supervisor Gertz stated that the Public Hearing was called to order. The purpose of the hearing was to hear comments on two flag lot applications on parcels owned by Leon Berner with the SBL#129.00-6-10.11. Supervisor Gertz stated that one of the applications had been withdrawn and they would only be considering one flag lot. Supervisor Gertz asked if there were any interested persons who desired to be heard?

Resident Betty Robins asked where the Flag Lot is located?

Hearing no further comment from those in attendance, the hearing was closed at 7:32 p.m.

Respectfully Submitted,

Town Clerk

Regular Meeting
April 14, 2011

The regular meeting of the Marilla Town Board was held on Thursday, April 14, 2011 at 7:35 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

George Gertz, Supervisor
Barbara Spanitz, Councilwoman
Warren Handley, Councilman
Elizabeth Ackerman, Councilwoman
Donald Darrow, Councilman

Supervisor Gertz called the meeting to order and the Pledge of Allegiance to the Flag was given.

Communications

None

Committee Reports

Highway Superintendent Ronald Unverdorben reported that Spring Rubbish Pick-up would begin on May 2nd. He also reported that there have been no work related injuries for Town Workers in 6.5 years, this reduces the Town's workers compensation rates.

Councilwoman Spanitz reported that the Historical Society will be hosting the Civil War Encampment at the Town Park on June 25th and 26th. She also reported that Sharon Kelly was appointed to the Erie County Library Board of Directors who happens to be Supervisor George Gertz's wife.

Councilwoman Ackerman reported that the Planning Board will meet next Thursday April 21st at 7:00 pm.

Councilman Handley reported that the Concert Series is established, the Memorial Day Parade will be on May 30th at 11 am, this year there will be a Movie Night with a giant screen in July at the Pavilion. The schedule can be found on the Town website. He

reported that he is currently working on a survey for residents to fill out on a Plan for Farmland Protection.

Councilman Darrow reported that Car Show Chairman Vinney Beisiegel was successful in getting the Dukes of Hazard Star; John Schneider for the 2 Day Car Show Event.

Supervisor Gertz reported that 4 years ago the Town joined a self insured consortium for workers compensation. He said the Town received a \$90,000 check recently as a rebate. He explained the average cost for our insurance over the last for years is \$37,000 a year, this is a huge savings to the Town. He said in the long run it works out well and he thanked Ron and his Men for doing a good job.

Open Board Presentations From the Public

None

Old Business

Motion: Councilwoman Spanitz moved, seconded by Councilman Darrow to approve the minutes of the Regular Board Meeting held on 3/10/11.
Motion Carried.

New Business

Motion: Councilman Darrow moved, seconded by Councilman Handley to set the Public Hearing date for May 12th 2011 at 7:30 pm for Local Law No. 1 of the Year 2011 in regards to a six month Moratorium on Flag Lot Applications.

Roll Call Vote:

Councilwoman Spanitz ó Aye Councilwoman Ackerman - Aye

Councilman Darrow ó Aye Councilman Handley óAye

Supervisor Gertz ó Aye

Motion Carried.

Motion: Councilwoman Ackerman moved, seconded by Councilwoman Spanitz to set the Public Hearing date for May 12th 2011 at 7:35 pm for Local Law No. 2 of the Year 2011 in regards to amending the Code pertaining to the Vehicle and Traffic Provisions of the Town of Marilla.

Roll Call Vote:

Councilwoman Spanitz ó Aye Councilwoman Ackerman - Aye

Councilman Darrow ó Aye Councilman Handley - Aye

Supervisor Gertz ó Aye

Motion Carried

Motion: Councilman Darrow moved, seconded by Councilwoman Ackerman to set the Public Hearing date for May 12th, 2011 at 7:40 pm in regards to revising permit fees for Commercial Construction.

Roll Call Vote:

Councilwoman Spanitz ó Aye Councilwoman Ackerman - Aye

Councilman Darrow ó Aye Councilman Handley - Aye

Supervisor Gertz ó Aye

Motion Carried

Motion: Councilwoman Spanitz moved, seconded by Councilwoman Ackerman to approve the following resolution on the Standard Work Day as follows:

WHEREAS, the Town Board has been advised by the State of New York that the Town of Marilla has to establish standard work days for elected and appointed officials and will report the days worked to the New York State and Local Employees Retirement System; and

WHEREAS, the Town Board has discussed the issues presented and what other municipalities have adopted and adopted a resolution on May 13, 2010 establishing standard work days; and

WHEREAS, the Town Board has been advised that there were a

couple of errors in the standard work day resolutions which need to be corrected.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

1. The Town Board does hereby adopt the following standard work day for elected and appointed officials.
 - a. Town Supervisor 6 hrs
 - b. Town Board Member 6 hrs
 - c. Town Justice 6 hrs
 - d. Town Clerk 6 hrs
 - e. Superintendent of Highways 6 hrs
 - f. Clerk to Town Justice 6 hrs
 - g. Secretary to Supervisor 6 hrs
 - h. Assessor 6 hrs
 - i. Deputy Town Clerk 6 hrs
 - j. Assistant Code Enforcement Officer 6 hrs
 - k. Code Enforcement Officer 6 hrs
 - l. Dog Control Officer 6 hrs
 - m. Clerk, Part time 6 hrs
 - n. Clerk Typist Assessor 6 hrs
 - o. Laborer 8 hrs
 - p. Motor Equipment Operator 8 hrs
 - q. Mechanic 8 hrs
 - r. Part Time Laborer 8 hrs
 - s. Part Time Park Attendant 6 hrs

2. That attached hereto is a listing of the standard work hours for those Town employees that are in the State Retirement system with a disclosure as to which individuals are paid hourly and participate in employer's time keeping system and which individuals must keep a three-month record of activities.

3. This resolution shall be effective immediately.

Roll Call Vote:

Councilwoman Spanitz ó Aye Councilwoman Ackerman - Aye

Councilman Darrow ó Aye Councilman Handley - Aye

Supervisor Gertz ó Aye

Motion Carried

Motion: Councilman Darrow moved, seconded by Councilwoman Ackerman to approve the following resolution:

WHEREAS the undersigned Town of Marilla from time to time receives permits from the Department of Transportation of the State of New York (herein after referred to as the "Department") allowing the Town of Marilla to temporarily obstruct, install, construct, maintain, operate or replace any facilities within the bounds of a State Highway Right-of-Way pursuant to sections 52, 103, 203, 249 and or 250 of the Highway Law; and

WHEREAS, the Department requires that the municipality file an undertaking to secure the Town of Marilla's faithful performance within the terms of any such permit and also to indemnify the State of New York (here in after referred to as the "State") and others with respect to all operations under such permits by the Town of Marilla.

NOW THEREFORE, the Town of Marilla hereby undertakes, to and with the State and the Department, that:

1. The Town of Marilla will well, truly and faithfully comply with and perform all the terms and conditions of each such permit on its part to be kept and performed, and abide by and comply with all

such conditions, rules and regulations as may be, from time to time, promulgated by the Commissioner of Transportation of the State of New York (here in after referred to as the Commissioner), according to the true intent and meaning of such permits, rules and regulations.

2. The Town of Marilla will, at its own expense, promptly complete the work allowed under each permit and within a reasonable time restore State property damaged by its work to substantially the same or equivalent condition as existed before such work was begun; and in the event that the Town of Marilla fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Municipality, may restore the property to substantially the same or equivalent condition as existed before the Municipality began the work and require the municipality to reimburse the State for any and all costs incurred by the State in such restoration;
3. The Town of Marilla will indemnify, hold harmless and defend and protect the State of New York, the Commissioner and the Department, their officials, officers, agents and be recovered against said State, or its officers, or agents, or which such State may be called upon to pay permits or the manner of doing the same, or the neglect of said Town of Marilla or its agents permits by the Municipality, its agents or servants.
4. The Town of Marilla which is self-insured, will pay any and all damages, costs, including but not limited to attorney's fees, and judgments recovered against the State, the Commissioner of transportation, the Department of Transportation and their officials, officers and employees in connection with work allowed by a permit or from use of a permit by the Town of Marilla or by any person acting by, through or for the Town of Marilla, including omission and supervisory acts of any of the entities or persons named above.
5. It is understood that this undertaking is one of indemnity only and is not to be construed as imposing on the Town of Marilla an obligation to pay claims for which there would not otherwise be a remedy in law against the State of New York.
6. Any payments required by the foregoing will be guaranteed by the full faith and credit of the Town of Marilla or its districts, as applicable, and will be paid out of current budgeted funds, or insufficient, from its liability and casualty reserve fund or from the proceeds of bonds which current laws permit the Town of Marilla, to issue to pay claims against it.

IN WITNESS WHEREOF, the Town of Marilla has cause this instrument to be signed by his designee authorize by resolution of its governing body, a copy of which is annexed hereto.

Roll Call Vote:

Councilwoman Spanitz ó Aye	Councilwoman Ackerman -Aye
Councilman Darrow ó Aye	Councilman Handley - Aye
Supervisor Gertz ó Aye	

Motion Carried

Motion: Councilwoman Ackerman moved, seconded by Councilwoman Spanitz to approve the Boys and Girls Contract for 2011 at a cost of \$5,500.

Roll Call Vote:

Councilwoman Spanitz ó Aye	Councilwoman Ackerman -Aye
Councilman Darrow ó Aye	Councilman Handley - Aye
Supervisor Gertz ó Aye	

Motion Carried

Motion: Councilwoman Spanitz moved, seconded by Councilman Handley to approve the Library Contract for \$25,000 for 2011.

Roll Call Vote:

Councilwoman Spanitz ó Aye Councilwoman Ackerman -Aye
Councilman Darrow ó Aye Councilman Handley - Aye
Supervisor Gertz ó Aye
Motion Carried

Motion: Councilman Handley moved, seconded by Councilwoman Ackerman to authorize the Supervisor to donate \$1000 to Aurora Adult Day Care Facility for 2011.

Roll Call Vote:

Councilwoman Spanitz ó Aye Councilwoman Ackerman -Aye
Councilman Darrow ó Aye Councilman Handley - Aye
Supervisor Gertz ó Aye
Motion Carried

Motion: Councilman Handley moved, seconded by Councilman Darrow to approve the Flag Lot Application for property on Two Rod Road with an SBL# 129.00-6-10.11 owned by Leon Berner.

Roll Call Vote:

Councilwoman Spanitz ó Aye Councilwoman Ackerman -Aye
Councilman Darrow ó Aye Councilman Handley - Aye
Supervisor Gertz ó Aye
Motion Carried

Motion: Councilwoman Spanitz moved, seconded by Councilman Darrow to approve the following resolution;

WHEREAS, the Town Board had previously adopted a town budget including appropriations for operation of the Town of Marilla Justice Court which included an appropriation for a part-time Court Clerk position; and

WHEREAS, the work load of the Court Clerk appears to have substantially increased such that the work cannot be completed on the basis of part-time hours only and that a full-time Court Clerk position appears necessary for the proper functioning of the Town of Marilla Justice Court and such matter having been fully discussed and considered; it is

RESOLVED, that the Court Clerk position for the Town of Marilla Justice Court is hereby authorized as a full-time position with all appropriate wages and benefits to be paid out of the funds appropriated to and revenue generated by the Town of Marilla Justice Court; and be it further

RESOLVED, that this Resolution shall take effect immediately.

Roll Call Vote:

Councilwoman Spanitz ó Aye Councilwoman Ackerman -Aye
Councilman Darrow ó Aye Councilman Handley - Aye
Supervisor Gertz ó Aye
Motion Carried

Motion: Councilman Handley moved, seconded by Councilwoman Ackerman to authorize the Town Clerk to advertise for bids on the Town Hall Remodeling Project. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilwoman Spanitz to appoint Clarence Gerhardt Jr. and Jen Seth Cimini to the Planning Board as Alternates for 2011. Motion Carried.

Report of Town Officials

Town Engineer Marie Nowak reported that Morsch has finished installing all of the water lines and they are now performing testing and disinfecting which should be completed by April 22nd. After they receive approval from Erie County Water Authority they will begin the tap-ins. She reported that there are several Residents she needs to get in touch with in the Water District with questions on the forms they submitted. She also said Residents need to get their service lines installed.

Building Inspector Scott Rider submitted a written report with 5 building applications received and fees totaling \$96, 5 building permits were issued with a total value of \$28,000, 7 inspections were made and a total of 110 business activities for the month of March.

Town Assessor Kandace Wittmeyer submitted her monthly report.

The Planning Board minutes have been received and posted and their next meeting will be Thursday April 21st.

The Conservation Advisory Board minutes have been received and posted.

Open Board Presentations

Councilman Handley wished the Sabres good luck.

Councilwoman Ackerman reported that she attended a meeting on the future of farms in Erie County on March 21st, Councilman Handley and Supervisor Gertz also attended. Some key points of the meeting were; the need to be proactive and plan ahead, Farms are the number one business in Marilla, the cost of open land is \$.37 while residential land uses \$1.19, farm land provides locally grown food, a scenic value, habitat for wildlife, watersheds, gives opportunity for hunting, fishing, snowmobiling and other activities. She said in 2007 Erie County had 149,000 acres of farmland. In Erie County 4500 acres of land are in conservancy of that 2000 acres are working farmland. Marilla has between 750 and 800 of those acres in conservancy. She also attended a No Farms No Food Rally in Albany, she met with 6 Legislators Assistants at various appointments throughout the day. She thanked them for restoring \$12 million dollars to the Farmland Protection Program. She explained this will help to pay out some of the Farmers that are currently in the pipeline for PACE and other conservancy programs. She said agriculture is the #1 industry in New York State and food production will need to be increased by 70 percent over the next 40 years to sustain the growing worldwide population. In the United States 100,000,000 acres were either bought or leased by other Countries to produce food. She said in New York State we lose a farm every 3 1/2 days to development, that is a symptom of a system that doesn't support our farmers.

Supervisor Gertz announced the prescription drug drop off day will be April 30th from 9-1 pm and said the flyer is posted on the Board. He reported that sales tax revenue is up this year already by \$15,000 over last year and the Town is in good financial shape.

Motion: Councilwoman Spanitz moved, seconded by Councilman Handley to approve the claims as follows:

General Fund Claims, Vouchers 132-187	\$ 22,886.72
Highway Fund Claims, Vouchers 42-63	\$ 17,787.97
Special Districts	
Sanitation (SR), Vouchers 34-46	\$ 3,481.99
Special Fire Voucher 5	\$ 14,543.39
Water District #2 Vouchers 6-8	\$ 2,695.95
Water District #3 Vouchers 4-5	\$ 5,000.87
Water District #4 Voucher 4	\$ 817.40
Water District #5 Vouchers 12-16	\$140,950.14
Cemetery Voucher 2	\$ 220.00
Community Develop. HUD	\$.00

Motion Carried.

Motion: Councilwoman Ackerman moved, seconded by Councilman Handley to adjourn the meeting at 8:06 p.m. Motion Carried.

Respectfully submitted,

_____ Town Clerk _____ Supervisor
 _____ Councilman _____ Councilman
 _____ Councilman _____ Councilman