

A Public Hearing was held February 12, 2004 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing was to consider the creation of Water District No. 5 in the Town of Marilla. The proposed Water District is located in the northeast segment of the Town of Marilla bordering the Town of Alden in Erie County and the Town of Bennington in Wyoming County. The roads included in the District are Clinton Street, east of Eastwood Road to the Bennington town line, Cayuga Creek Road and Exchange Street to the Alden town line. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published in the Alden Advertiser, the Elma Review and East Aurora Advertiser as well as posting it on the Official Bulletin Board pursuant to the provisions of the Town Law. Officials present were:

John R. Foss, Supervisor
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman
Warren Handley, Councilman

Approximately (58) persons were in attendance. Supervisor Foss stated that the Public Hearing on the creation of Water District No. 5 was now open and asked if there was any interested person who desired to be heard.

Hearing no comment from those in attendance, the hearing was closed at 7:35p.m.

Respectfully Submitted,

_____ Town Clerk

Joyce French ó residing at 11031 Bullis Road asked what the restriction will be for outside vehicles and equipment?

Public Hearing
February 12, 2004

A Public Hearing was held February 12, 2004 at 7:36 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing was to consider the proposed Golf Course (Links at Mystic Pines) to be located on Stolle Road and Eldridge Road. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published and posted pursuant to the provisions of the Town Law. Approximately (58) persons were in attendance. Officials present were:

John R. Foss, Supervisor
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman
Warren Handley, Councilman

Supervisor Foss stated that the Public Hearing on the proposed Links at Mystic Pines Golf Course was now open and that owner Dan Handy and architect Rich Little from BHNT Architects will be giving a presentation and it will then be open for questions and comments from the public.

Dan Handy stated this will be an upscale golf course, the same level of some of the finest in the area. It will be a link style course which provides the opportunity to remove less soil, there will be very few cuts maybe two or three for the whole course.

Architect Rich Little explained that the two parcels totaling about 193 acre of farmland would be converted into the Golf Course, with the maintenance portion on Eldridge Road and the club house and Golf Course on Stolle Road. The Golf Course will be an eighteen hole course, the front portion of the course on Stolle Road will be the only area to enter for public access. The club house will be about a 9000 square foot building that will have

a pro shop, locker rooms and a restaurant area with future expansion to be a banquet facility. The club house will be a new structure on the site the existing barn will be converted to a cart barn. At the start of the project the club house will be designed as a pre-engineered building it will have the pro-shop, a lounge area and toilet facilities, the rest of the structure will be left open or unused for possible future expansion to a banquet facility. The existing barn will be converted to a cart barn by basically insulating, weather proofing it and closing it off to park the vehicles in out of the weather. The maintenance facility will also be converted from another structure, it is currently an open structure with a roof and three sides, we will be taking this building and closing it in, weather proofing and insulating it to bring it up to standards. This structure will have office space, a lunch room and accommodations for facilities people. He then opened it up for questions.

Resident Marion Makuch on Stolle Road asked if the speed limit on Stolle would be reduced to 35 mph due to the increase in the volume of traffic?

Supervisor Foss explained that the Town Board would take a look at this after the Golf Course goes in.

Resident Mike Buehlmann on Timothy Lane asked if the Golf Course is a public or private course and if the Club House would look like a metal pre-engineered building?

Mr. Little answered that it is a public golf course and the building would have stone base and will not look like a pre-engineered building.

Residents Joyce and Ken French on Bullis Road commented that they are satisfied with the golf course, it is better then having a housing development go in.

Supervisor Foss stated that he had done some research and the assessment on a golf course can range anywhere from \$75,000 to \$150,000 per hole. The total assessment can be anywhere from 1 ½ to 2 ½ million with no additional services needed from the Town, unlike a housing development. He had also spoke to the Supervisor in Newstead, they have two golf courses within a mile of each other on the same road about the same size as Stolle Road and traffic is not their problem, their problem is drainage. We are addressing that problem with the Town Engineers and Dan Handy and his engineers.

Elma Resident Lynn Johnston from Stolle Road asked where the main entrance would be?

Mr. Little responded that the main entrance will be on Stolle Road.

Resident Rick Snyder on Eldridge Road stated that he feels the golf course is a great idea for Dan Handy who would like to get out of farming and do something prosperous with the land. As a resident he would prefer to see a golf course versus a development and he is a builder. He also stated that he doesn't think traffic will be a problem.

Resident Ronald Hibsich from Eldridge Road stated that he is in favor of the golf course, he feels it will help the economy.

Supervisor Foss asked Dan Handy about how many new employees do you anticipate?

Mr. Handy answered about 15 employees.

Resident Robert Spengler from Eldridge Road asked if the banquet facility would be available for rental when it's built.

Dan Handy stated that yes it would be available for rental, it looks like about 4 or 5 years before we add on the banquet portion.

Resident Mike Buehlmann from Timothy Lane asked if the parking lot would be paved?

Mr. Little stated that only the entrance drive and the main loop will be paved, the remainder will be stoned.

Resident and Planning Board Member Rich Janiga from Two Rod Road commented that this project has its pro and cons but it fits the nature of the Town. He feels confident that most concerns can be addressed.

Resident Bill Gonsa from Stolle Road asked if there would be any future plans for adding more holes?

Mr. Handy responded that there are no plans because the course would have to cross the road which is not a good thing to do.

Elma Resident, Lynn Johnston asked what problems are the power lines if any?

Mr. Handy responded that the power lines are not on his property and are actually in Elma.

Hearing no further comment the hearing was closed at 7:55 p.m.

Respectfully Submitted,

_____ Town Clerk

Regular Meeting
February 12, 2004

A Regular Meeting of the Marilla Town Board was held February 12, 2004 at 8:00 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

John R. Foss, Supervisor
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman
Warren Handley, Councilman

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

Communications

Communications were received and read from:

- a. New York State Department of Agriculture and Markets informing the Town that the grant application for PACE had not been selected.
- b. Warren Cullen requesting appointment on the Conservation Advisory Board.
- c. Victor Ball requesting appointment on the Conservation Advisory Board.
- d. Notice of approval from County Executive Giambra for funding from the Erie County Consortium Community Development Block Grant Program for the Rural Transit Service for \$195,018.
- e. Arts Council in Buffalo & Erie County informing the Town of the awards ceremony on February 26th at 4:00 pm, attendance is required to receive grant award.
- f. Tri-Town United Soccer seeking permission to use the soccer fields for the 2004 season.

Committee Reports

Supervisor Foss reported for Highway Superintendent Dave Pierce that there have been ice problems and water damage at the Community Center, they have added roof vents and insulation to , luckily it's been covered by insurance.

Councilman Specht reported that the T-1 line is currently hooked up on three stations; Supervisor's, Bookkeeper, Court Clerk. We are not going to touch the Assessors and Tax

Collector's stations until after tax season. He also comment on how nice the Town's Web page looks, you can reach the web site at www.erie.gov/marilla.

Supervisor Foss reported that the Town Clerk worked on the web page with the County. The Sesqui-Centennial preparations are moving along at a fast pace as the event is fast approaching. The committee will be meeting next Tuesday to finalize the program and start final planning for all the events that are to be part of the program. The Town Board plans to devote most of the Spring newsletter to times and dates of each activity and any other information that may be helpful to residents. The official celebration begins July 25th thru August 1st. A wonderful program has been planned in conjunction with the Marilla Firemen and their Carnival. We will also be posting on our new website a listing of events and other important information.

In Financial; Kotas and Kotas are currently working on our annual financial report to the State Comptrollers Office. The report will be finished by the end of the month and sent to the appropriate agencies. We are also working on our annual borrowing's and the bid date will be around April 1st. Interest rates are still low, in the 1% to 2% range and that certainly helps our budget numbers.

Water Districts; The engineers will report later on Water District 5 and I have no news on the combined water district with other Towns. The map, plan, and report is being prepared and hopefully it will be completed in the near future so we can move this project along.

Open Board Presentations From the Public

None

Old Business

Motion: Councilman Spanitz moved, seconded by Councilman Handley to approve Minutes from the Regular Meetings held on 1/8/04 and the Special Meeting held on 1/20/04. Motion Carried.

New Business

Motion: Councilman Specht moved, seconded by Councilman Gertz to approve Insurance package with Thompkins Insurance for \$50,275 for 2004. Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gertz to authorize the Supervisor to sign the Negative Declaration of proposed Water District No. V for the State Environmental Quality Review Act as follows:

WHEREAS, the Town Board of the Town of Marilla has received an petition for the Creation of Water District No. 5 in the Town of Marilla; and

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 9 (State Environmental Quality Review Act-SEQRA) of the Environmental Conservation Law, the Marilla Town Board has reviewed the Waterline Installation proposed for areas of the northeast segment of the Town of Marilla bordering on the Town of Alden in Erie County and the Town of Bennington in Wyoming County; and

WHEREAS, the Town Board of the Town of Marilla has determined it is duly qualified to act as lead agency with respect to compliance with SEQRA which requires environmental review of certain actions undertaken by local governments; and

WHEREAS, pursuant to Resolution adopted on November 6, 2003, the Town Board determined that the propose action was a Type I Action under SEQRA and that it was the agency with the broadest governmental powers for investigating the impact of the proposed action and the greatest capacity for providing the most thorough environmental

assessment of the proposed action and the most local agent with permitting authority, and pursuant to such resolution the Town of Marilla has undertaken to conduct a coordinated review; and

WHEREAS, all the involved agencies required to be notified under SEQRA have been notified and has received responses from most of agencies notified and no agency has contested the determination of the Town of Marilla to act as lead agency, but responses have identified areas of concern that must be addressed by the Town of Marilla; and

WHEREAS, the Town of Marilla has determined that the proposed project will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public, and is consistent with social and economic considerations

NOW, THEREFORE, BE IT

1. RESOLVED, that the Town Board of the Town of Marilla, after considering the action proposed herein, in reviewing the Environmental Assessment Form, reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the project with respect to potential environmental concerns, determines that the action will not have a significant effect on the environment and that a Negative Declaration is hereby issued, based upon the following reasons; 1. Since the project involves the construction of waterlines primarily within the existing Right-of-Way (ROW) of the Road, with only a few possible exceptions where obstacles or prior facilities require some deviation, there will be no significant adverse affects on wildlife, plant or fish habitats, or on open space or recreation in the Town.

2. Review of the project area by the NYSDEC it is indicated that 3 archeological sites may lie in or near the project area but the Town will apply for clearance from NYS Office of Historic Preservation before construction commences, undertake such studies as shall be directed by such agency and follow all required guidelines during construction so as not to adversely impact any archeological site. We will require a determination by NYS Office of Historic Preservation based upon the Phase I Archeological Survey before progressing the project to completion. In addition NYSDEC has indicated that the project may require a permit because the tributaries of Cayuga Creek are protected state waters. Any stream crossings, work within protected state waters or work within a wetland's buffer will be in accordance with State requirements and proper erosion and sediment control will be utilized. In addition, the Town will obtain the required permits from NYSDEC prior to undertaking any construction within protected state waters.

3. During construction, there will be increases in energy usage, noise, dust and odor and minor traffic disruptions, however, these will result in small to moderate impacts of limited duration. Long term energy changes due to increased pumping by the ECWA will be minor.

4. The project will have no significant effects on air quality or the character of the community.

5. The project will not adversely affect public health and safety, but actually will improve public health and safety through improved fire fighting capabilities and by providing a better and safer water supply source.

6. The Town has followed the procedures as required under the Agriculture and Markets Law and a Final Notice of Intent has been filed with the Department of Agriculture and Markets and the Town has found the proposed action to be consistent with the social, economic and other essential considerations, and, to the maximum extent practicable, adverse

agricultural impacts will be avoided and/or minimized.

7. The purpose of the waterline installation is to provide water to those in need of a proper water supply. Any growth or development that may occur after this installation will need to meet the requirements of SEQRA and the Towns zoning and land development requirements. All the District is located in the Towns Agricultural (A) District which prohibits major subdivision.

BE IT FURTHER RESOLVED, that the Town Supervisor is hereby authorized and directed to complete and execute the Part III of the said Environmental Assessment Form and to check the box thereon indicating that the proposed action will not result in any significant adverse impacts; and be it further

RESOLVED, that the annexed Negative Declaration is hereby approved and the Town Clerk is hereby authorized and directed make the appropriate filings in accordance with the provisions of the General Regulations of the Department of Environmental Conservation.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on February 12, 2004, the results of which were as follows

Roll Call Vote:

Councilman Spanitz ó aye

Councilman Gertz ó aye

Councilman Specht ó aye

Councilman Handley ó aye

Supervisor Foss - aye

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to approve the following resolution for the establishment of Water District No. V in the Town of Marilla:

WHEREAS, the Town Board of the Town of Marilla (herein called "Town Board" and "Town", respectively), in the County of Erie, New York, has, pursuant to Town Law Article 12, has caused Nussbaumer & Clarke, Inc, competent engineers duly licensed by the State of New York, to prepare a map, plan and report, which proposed construction of a water distribution system to supply the District consisting of the installation along Clinton Street, Exchange Street and Cayuga Creek Road of approximately 15,050 linear feet (LF) of water lines, which lines will extend eastward along Clinton Street from the interface with Marilla Water District No. 3 to the Bennington Town Line and northerly along Cayuga Creek Road and Exchange Street from Clinton Street to the Alden Town Line, and will include necessary valves, hydrants and appurtenances, land or rights in land, preliminary costs and other improvements and costs, (the "Water Improvement"); and

WHEREAS, the maximum amount proposed to be expended for the construction of such Water Improvement is estimated to be \$824,000, which is planned to be financed by the receipt of federal and/or state grants in an estimated amount of \$365,000, and the issuance of serial bonds of the Town for \$459,000, to be finance by Rural development over 38 years at 4.5% interest, offset by any contributions from neighboring Towns based on the capacity in the system to be used by such Towns, said bonds to be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable; and

WHEREAS, the proposed District is bounded and described as follows:

ALL THAT TRACT OR PARCEL OF LAND, being part of Township 10, Range 5 of the Buffalo Creek Reservation in the Town of Marilla, County of Erie and State of New York, bounded and described as follows: BEGINNING at the northeasterly corner of the Town of Marilla;

1. Thence westerly along the northerly bounds of the Town of Marilla to the intersection of the said northerly bounds of the Town of Marilla and the centerline of Cayuga Creek;
 2. Thence in a generally southeasterly direction along the said centerline of Cayuga Creek as it meanders to the intersection of said centerline of Cayuga Creek with the easterly bounds of the Town of Marilla;
 3. Thence northerly along the said easterly bounds of the Town of Marilla top the aforementioned northeasterly corner of the Town of Marilla and the point of beginning.
- and

WHEREAS, the Town Board has given due consideration to the impact that the establishment of the District may have on the environment and on the basis of such consideration, the Town Board found that no substantial adverse environmental impact will be caused thereby; and

WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, which has been filed in the office of the Town Clerk; and

WHEREAS, the Town Board issued an Order at its January 20, 2004 meeting calling for a public hearing to be held at the Town Hall, S-1740, Two Rod Road, Marilla, New York, on the 12th day of February, 2004 at 7:30 p.m. oæclock P.M. (prevailing Time) to consider said increase and improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing; and

WHEREAS, said notices of the public hearing were properly published and posted and the public hearing duly held at the time and place stated in the notices.

NOW THEREFORE BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF MARILLA, based on the information provided at the public hearing, as follows:

The Town Board hereby determines:

1. The Petitions received have been signed and acknowledged, proven or authenticated as required by law, and are otherwise sufficient.
2. That the notice of public hearing was duly published and posted as required by law, and that said notice was mailed to residents of the proposed District, and is otherwise sufficient.
3. That all properties and property owners benefited by the improvements are included in the District.
4. That all properties and property owners included in the District are benefited thereby.
5. That it is in the public interest to establish the Water District No. 5.

DETERMINED, that it is in the public interest to establish the District as hereinabove described and referred to at the estimated maximum cost of \$824,000; and it is hereby

DETERMINED, that the parcels and lots of the District shall be benefited by said establishment of the District; and it is hereby

ORDERED that the Town Board hereby approves the creation of Water District No. 5 with the boundaries as stated above; and it is hereby

ORDERED, that the District shall be established and that the Engineer shall prepare plans and specifications and make a careful estimate of the expense for said establishment of the District, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible, and it is hereby

FURTHER ORDERED, that the expense of said establishment of the District shall be financed by the issuance of serial bonds of the Town in an amount not to exceed \$824,000, and the costs of said establishment shall be paid by a benefit assessment on the various lot and parcels of the District in the manner provided by law.

Roll Call Vote:

Councilman Spanitz ó aye

Councilman Gertz ó aye

Councilman Specht ó aye

Councilman Handley ó aye

Supervisor Foss - aye

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spanitz approve the following bond resolution for Water District No. V:

A RESOLUTION OF THE TOWN OF MARILLA
TOWN BOARD DATED FEBRUARY 12, 2004,
AUTHORIZING THE ESTABLISHMENT OF WATER
DISTRICT NO. 5 IN A MAXIMUM AMOUNT NOT TO
EXCEED \$824,000, AND AUTHORIZING THE ISSUANCE OF
SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT
NOT TO EXCEED \$824,000 OF THE TOWN OF MARILLA,
ERIE COUNTY, NEW YORK, OFFSET BY ANY FUNDS
RECEIVED FROM THE UNITED STATES OF AMERICA,
AND/OR THE STATE OF NEW YORK, AND/OR THE
COUNTY OF ERIE, AND/OR NEIGHBORING TOWNS FOR
SAID OBJECT OR PURPOSE OR REDEMPTION OF THE
TOWN'S OBLIGATION ISSUED THEREFOR, PURSUANT
TO THE LOCAL FINANCE LAW TO FINANCE SAID
PURPOSE AND DELEGATING THE POWER TO ISSUE

BOND ANTICIPATION NOTES IN ANTICIPATION OF THE
SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Marilla, Erie County, New York (the "Town"), has determined to proceed with the Establishment of Water District No. 5; and

WHEREAS, the Town Board desires to undertake the construction of a water distribution system to supply the District consisting of the installation along Clinton Street, Exchange Street and Cayuga Creek Road of approximately 15,050 linear feet (LF) of water lines, which lines will extend eastward along Clinton Street from the interface with Marilla Water District No. 3 to the Bennington Town Line and northerly along Cayuga Creek Road and Exchange Street from Clinton Street to the Alden Town Line, and will include necessary valves, hydrants and appurtenances, land or rights in land, preliminary costs and other improvements and costs incidental thereto, (the "Water Improvement"); and

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the Water Improvement.

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is the Establishment of Water District No. 5 (the "District") in the Town of Marilla. The maximum cost of said purpose will not exceed \$824,000.

SECTION 2. The Town Board plans to finance the maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$824,000 of said Town, to be offset by any federal and/or state and/or county and/or local grants, hereby authorized to be issued therefore pursuant to the Local Finance Law. The cost of such improvement is to be paid by the issuance of serial bonds, and by a benefit assessment on the various lot and parcels of the District sufficient to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is forty (40) years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on the various lot and parcels of said District a benefit assessment sufficient to pay the principal of and interest on such bonds as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00,

Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8. The expected source of funds to be used initially to pay for up to \$824,000 of the expenditures authorized by Section 1 of this resolution shall be from moneys held in various accounts of the Town. The Town then reasonably expects to reimburse such expenditure with the proceeds of the bonds or bond anticipation notes authorized by Section 2 of this resolution. This resolution shall constitute the declaration of the Town's official intent to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town had issued a negative declaration determining that the undertaking of the Project will not have a significant effect on the environment.

SECTION 12. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

(1) (a) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

(b) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

(2) Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 13. This Resolution is effective immediately.

SECTION 14. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said Town and is designated as the official newspaper of said Town for such publication.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Roll Call Vote:

Councilman Spanitz ó aye

Councilman Gertz ó aye

Councilman Specht ó aye

Councilman Handley ó aye

Supervisor Foss - aye

Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Specht to authorize the Supervisor to sign a contract with Lush Lawn for 2 applications at the Town Hall for \$302.19 and the Soccer fields for \$988.90. Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to authorize the Town Clerk to advertise for bids for Asbestos removal in the Town Hall.
Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Specht to approve the following bond resolution for the snow plow truck::

BOND RESOLUTION DATED FEBRUARY 12, 2004

A RESOLUTION OF THE TOWN OF MARILLA TOWN BOARD DATED FEBRUARY 12, 2004, AUTHORIZING THE ACQUISITION OF A SNOW PLOW AND ACCESSORIES THEREFOR FOR USE BY THE TOWN AT A MAXIMUM AMOUNT NOT TO EXCEED \$130,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$130,000 OF THE TOWN OF MARILLA, ERIE COUNTY, NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Marilla, Erie County, New York (the "Town"), has determined to proceed with the acquisition of a new snow plow and accessories therefor for use by the Town (the "Purchase"); and

WHEREAS, the Town Board desires to issue obligations of the Town to finance the acquisition of a new snow plow and accessories therefor.

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is the acquisition of new snow plow and accessories therefor for use by the Town of Marilla. The maximum cost of said purpose will not exceed \$130,000.

SECTION 2. The Town Board plans to finance the maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$130,000 of said Town, hereby authorized to be issued therefore pursuant to the Local Finance Law. The cost of such improvement is to be paid by the issuance of serial bonds, and by the levy and collection of taxes on all the real taxable property in the Town sufficient to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 28 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is fifteen years (15), however, the bonds issued in anticipation of the sale of said bonds, shall mature no later than five (5) years from the date of original issuance of said bonds or notes.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will not exceed five (5) years.

SECTION 6. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the real taxable property in the Town sufficient to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8. The expected source of funds to be used initially to pay for up to \$130,000 of the expenditures authorized by Section 1 of this resolution shall be from moneys held in various accounts of the Town. The Town then reasonably expects to reimburse such expenditure with the proceeds of the bonds or bond anticipation notes authorized by Section 2 of this resolution. This resolution shall constitute the declaration of the Town's official intent to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town had determined that the Purchase will not have an impact on the environment, therefore it is a Type II action under the

State Environmental Quality Review Act (SEQRA), and no further action under that statute is necessary.

SECTION 12. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

(1) (a) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

(b) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(2) Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 13. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in the official newspaper or newspapers of the Town having a general circulation in said Town and designated by the Town for such publication.

SECTION 14. This Resolution is effective immediately.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Roll Call Vote:

Councilman Spanitz ó aye

Councilman Gertz ó aye

Councilman Specht ó aye

Councilman Handley ó aye

Supervisor Foss - aye

Motion Carried.

Supervisor Foss appointed the Memorial Pavilion Committee for 2004 as follows: Councilman Warren Handley, Mary Nette Foss, Sally Kutter, John Mitton, Sally Woodard.

Supervisor Foss appointed the Sesqui Centennial Executive Committee as follows: Chairman-John Foss, Parade Marshall- Jeff Lewinski, Secretary ó Carla Miley, Historian ó Hubert Kutter, Fire District Rep- Lenny Blizniak, Kiwanis ó Warren Cullen, Decorations ó Carolyn Freeman, Fire Dept. Auxiliary ó Joyce Cullen, Councilman Fred Specht, Councilman Barbara Spanitz, Councilman Warren Handley.

The work committee is as follows: Highway Superintendent Dave Pierce, Memorial Pavilion Committee Rep. Mary Nette Foss, Historical Society ó Diane Fronczek and Mary Beth Serafin, Fire Dept. Rep Lenny Blizniak and Ronald Bourgeois, Marilla Veterans- Jerry Cook and Herb Foss, others are Earl Gingerich Jr., Kandace Wittmeyer, Fred Miley, Tim Reinhardt, Greg Pruski, Don Darrow, Sally Kutter, Ellen Kern, Paul Grunzweig, Jim Gingerich, Erma Trommetter, Warren Handley, Lorraine Martzolf, Sally Hudson, Terry Dare, Bonnie Colburn, Jim Heinrich, Gail Berger, Nancy Marciniak, Janet Stangel, Lucy Janiga, Pastor Richard Seefried, Pastor Mathew Stangel.

Motion: Councilman Specht moved, seconded by Councilman Gertz to appoint Warren Cullen as a member on the Conservation Advisory Board with the term to expire on 12/31/2005.

Roll Call Vote:

Councilman Spanitz ó aye

Councilman Gertz ó aye

Councilman Specht ó aye

Councilman Handley ó aye

Supervisor Foss - aye

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spanitz to permit Tri óTown United Soccer to use the Town of Marilla Soccer fields for their 2004 season upon receipt of the certificate of liability along with a 2004 schedule for the season. Motion Carried.

Report of Town Officials

Town Engineer Mike Smith from Nussbaumer and Clarkes Office reported that they are preparing the second half of the package to Rural Development as quickly as possible for Water District V. Rural Deveopment received their Federal Budget and will be disbursing the funds, we want to be one of the first in line. He also stated that the soil map that the Building Inspector had requested is done, we have superimposed the parcels on it to better show where the difficult soils maybe, when residents come in for building permits or drainage questions this will be very helpful.

Building Inspector John Fronczek submitted a written report with 4 building applications received totaling fees of \$ 600, 4 building permits issued with a value of \$.177,500, 10 inspections were made, and 0 complaints were acted on. A total of 89 acts of official business were made for the month of January.

Town Attorney Nathan Neill reported that he will be attending the Association of Towns Meeting in New York City next week.

Town Assessor Earl Dabb had no report.

Planning Board minutes were received and posted, Chairman Debbie Zimmerman reported that they will be discussing signs at the next meeting on 2/19/04 at 7:30 pm.

Conservation Advisory Board minutes have been received and posted.

Marilla Fire Company representative Michael Buehlmann reported that the Fire Company will host a chicken barbeque on March 28th. He also asked residents to please uncover and clear the fire hydrants. He stated that Chief Ron Bourgeois is offering this Spring to have the Fire Company volunteer to put up house labels for residents, they have a company with the correct size reflective labels that residents can purchase and they will install, it makes their job much easier when trying to locate a residence for an emergency call. The Marilla web site address is www.marillafire.com.

Town Historian Hubert Kutter reported that last Tuesday a couple of gentlemen asked about a local cheese factory, he had a stack of documents and pictures a foot high to show them. The one gentlemen was Joseph Joller, his father was a cheese maker in the 1920ø or even earlier, he believed to be on Liberia between Four Rod and Two Rod, if anyone has any information on a cheese factory in that area to please contact Hubert.

Open Board Presentations

Councilman Spanitz wanted to commend the Planning Board for their thorough job done on the Golf Course.

Supervisor Foss commented on the recent talk of the County and City of Buffalo merging. He hadnø received any figures or information as of yet, From past experience he felt they should first solve old issues like the Peace Bridge, and Water Front before tackling new ones. I am more cautious from their past examples, the answer is not always bigger is better. We should look in areas that can save money by combining services.

Building Inspector John Fronczek stated that the lettering on the houses or mail boxes must be 4 inches by ½ inches in size on both sides.

Resident Bill Gonsa from Stolle Road wanted to thank the Town for the courteous treatment he receives. His mailbox was hit by the snow plow and the Town Highway Department came out and fixed it promptly. He also suggested that residents should put their house numbers on the mailbox and not on the post due to the fact that in the winter the number on the post could be covered by snow.

All claims have been previously reviewed by Councilman Handley and Councilman Gertz.

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

General Fund Claims, Vouchers 5-68	\$	51,176.74
Highway Fund Claims, Vouchers 12-33	\$	21,077.24
Special Districts		
Sanitation (SR), Vouchers 3-15	\$	14,144.68
Special Fire, Voucher 1	\$	48.96
Special Lighting, Vouchers 1-3	\$	329.97
Water District #2, Vouchers 1-2	\$	2,299.01
Water District #3, Voucher 1	\$	1,231.19
Water District #4, Voucher 1	\$	743.59
Community Development PACE 1-3	\$	1,694.12
Community Develop. HUD	\$.00

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Spanitz to adjourn the meeting at 8:45 p.m. Motion Carried.

Respectfully Submitted,

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