

Public Hearing was held April 12, 2007 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the meeting was to get public opinion on the adoption of proposed Local Law No. 1 of the Year 2007. The proposed Local Law will amend the B-1 Restricted Business District. The purpose of this local law is to amend the B-1 Restricted Business District to change the set back requirements, lot sizes and clarify the minimum frontage and where such frontage should be measured. The amendment to the zoning district will allow for more flexibility in developing businesses within the district. The Town Clerk published the notice of the public hearing 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 (22) persons were in attendance. Supervisor Foss asked if there was any interested person who desired to be heard.

Hearing no comment the Public hearing was closed at 7:34 pm.

Regular Meeting
April 12, 2007

A Regular Meeting of the Marilla Town Board was held April 12, 2007 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

John 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.

A dedication was held naming the Meeting Room after former Supervisor James R. Handy, he was Supervisor when the Town Hall was built and left the Town debt free when he left office. A plaque will be displayed above the Meeting Room doors.

Communications

- a. A request from Aurora Women's softball league for use of the Town Park Diamond in June, July, and up to August 15th, every Monday and Wednesday at 6:00 pm.

Committee Reports

Highway Superintendent Dave Pierce reported that the addition at the Recycling Center is framed in and the metal was ordered. The Highway Superintendents are now negotiating with the County concerning the snow plowing contract.

Councilman Spanitz reported that the Planning Board will be holding a Public Hearing on April 26th at 7:00 pm to discuss the proposed lumber yard. She also reported that the Library will hold an open house on April 17th at 6:30. She will also be attending an affirmative action meeting on Monday, April 16, 2007.

Councilman Specht reported that the CAB Board is working on the Master Plan for the Town Park. The CAB appointed Pat Blarr as Secretary for the Board and Roger Gustavel as the Chairman. He stated that this year's car show looks to be the best one yet.

Supervisor Foss stated that the town of Marilla bid its annual Bond anticipation note on March 27th and the winning bid was submitted by First Niagara Commercial Bank at an interest rate of 3.68%, last years rate was 3.74%. This is a great rate for the Town and will lower our borrowing costs for 2008. The major share of this borrowing is Water District Two and Three. A small portion is for highway and sanitation as we purchase a new Highway truck and a Sanitation Packer on a five year schedule so we can keep our trucks as modern as possible.

He stated the only other loan the Town has is for the Community Center and Fire Garage and that will be paid in full in 2008. This will mean the Town will be debt free after 2008 except for the scheduled truck purchases. This is a wonderful position for the Town to be in as it will allow for tax rates to be kept low.

He also reported that currently Bob Leary is drawing plans for the railings to be built along side the Veteranø walkway. A grant has been approved by the Community Development Consortium for this railing and we will be going to bid sometime this Spring and the project should be completed this Summer.

Open Board Presentations From the Public

None

Old Business

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to approve the minutes from the Regular Board Meeting held on 3/8/07. Motion Carried.

New Business

Motion Councilman Specht moved, seconded by Councilman Handley to approve the following resolution:

WHEREAS, New York State created the "New York State Commission on Health Care Facilities in the 21st Century" to reorganize the hospital system in New York State, and to make recommendations for the health care system, which has been plagued by financial difficulties; and

WHEREAS, on November 28, 2006 the Commission made its recommendations to Governor Pataki which included the recommendation to close St. Joseph Hospital in Cheektowaga, NY; and

WHEREAS, residents in the Town of Cheektowaga and surrounding municipalities, including the Town of Marilla, rely heavily upon the accessibility of St. Joseph Hospital, and without this hospital the lives and health of our residents would be severely jeopardized by requiring them to travel longer distances to access emergency rooms and medical treatments; and

WHEREAS, the closing of St. Joseph Hospital would have a devastating effect on the local economy by the loss of jobs and the loss of business in the area; and

WHEREAS, the Town Board of the Town of Marilla supports Assembly Bill A5382 sponsored by Assemblyman Dennis H. Gabryszak and Senate Bill S2942 sponsored by Senators Dale Volker and William T. Stachowski **NOT TO IMPLEMENT THE RECOMMENDATION OF THE COMMISSION** with regard to St. Joseph Hospital, **NOW THEREFORE BE IT**

RESOLVED, that the Town Board of the Town of Marilla strongly supports Assembly Bill No. 5383 and Senate Bill No. 2942 and memorializes the State Legislature to enact the same, and **BE IT FURTHER**

RESOLVED, that the Town Clerk be and hereby is directed to forward certified copies of this resolution to Governor Eliot Spitzer, Assemblyman Dennis H. Gabryszak, Senator Dale M. Volker, Senator William T. Stachowski, and copies to all Towns and Villages in Erie County with a request that they enact a similar resolution.

Roll Call Vote:

Councilman Specht ó Aye Councilman Spanitz ó Aye
Councilman Gertz ó Aye Councilman Handley ó Aye
Supervisor Foss - Aye
Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to approve the \$500 donation to Iroquois Intermediate School for the 5th Grade drug awareness program. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Specht to set the date for a Public Hearing as following:

WHEREAS, the Town Board has in its possession surplus funds and funds received through grants, with which to purchase development rights in two (2) parcels of real property located at Three Rod Road, in the Town of Marilla, County of Erie and State of New York for the purposes of maintaining an open space and preserving farmland. Said parcels are all currently owned by Crystal Spring Farm, LLC and are further identified by SBL Numbers: 140.00-1-2.1 and 140.00-1-5.1 both totaling 84.07 acres.

ORDERED, that a meeting of the Town Board be held at the Town Hall, located at 1740 Two Rod Road, Marilla, New York on May 10, 2007, at 7:30 o'clock P.M. to consider the acquisition of the development rights in said real property by the Town using funds received through grants and to hear all persons interested in the subject thereof concerning the same;

FURTHER ORDERED, that the Town Clerk publish at least once in the Elma Review and the Alden Advertiser and post on the signboard 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 not less than five (5) days before the date of said public hearing.

Roll Call Vote:

Councilman Specht ó Aye Councilman Spanitz ó Aye
Councilman Gertz ó Aye Councilman Handley ó Aye
Supervisor Foss - Aye
Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to approve a resolution recognizing the week of April 29th through May 5th as Municipal Clerks Week. Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Specht adopting determination of non-significance of Local Law No. 1 for 2007:

WHEREAS, the Town Board of the Town of Marilla is considering adoption of a Local Law to amend the set back, lot size and area requirements in the B-1 Restricted Business District; and

WHEREAS, the Town Board of the Town of Marilla 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, the proposed action appears to be an Unlisted Action pursuant to the Rules and Regulations of the State Environmental Quality Review Act and the Town of Marilla has determined that a coordinated review is not required; and

WHEREAS, County Planning has also been notified as required under Section 239-m of the General Municipal Law as well as all entities required to be notified under Town Law Section 264; and

NOW, THEREFORE, BE IT

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 be it further

RESOLVED, that the Town Board of the Town of Marilla hereby finds that the proposed responses inserted in Part II of the said Environmental Assessment Form are satisfactory and approved; and 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 to file the same in accordance with the provisions of the General Regulations of the Department of Environmental Conservation.

Roll Call Vote:

Councilman Specht ó Aye

Councilman Spanitz ó Aye

Councilman Gertz ó Aye

Councilman Handley ó Aye

Supervisor Foss - Aye

Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to approve Local Law No. 1 of the year 2007 entitled "Amendment to the B-1 Restricted Business District" as follows:

A Local Law known as Local Law No. 1 of the Year 2007 entitled "Amendment to the B-1 Restricted Business District"

Be it enacted by the Town Board of the Town of Marilla as follows:

SECTION 1. TITLE

This Law shall be known as Local Law No. 1 of the Year 2007 entitled "Amendment to the B-1 Restricted Business District".

SECTION 2. PURPOSE

The purpose of this local law is to amend the B-1 Restricted Business District to change the set back requirements, lot sizes and clarify the minimum frontage and where such frontage should be measured. The amendment to the zoning district will allow for more flexibility in developing businesses within the district.

SECTION 3. AMENDMENT OF ZONING LAW

(A) Chapter 210 of the Code of the Town of Marilla, adopted March 11, 1999 by Local Law No. 1 of the Year 1999, and amended by Local Law No. 1 of the Year 2006 adopted on April 13, 2006 establishing a new B-1 Restricted Business District is hereby further amended to modify the requirements of the B-1 Restricted Business District as follows:

§700-37.D.(6) is amended to read as follows:

(6) Business Size and Set Back limitations;

- (a) maximum size of any retail business shall be 15,000 square feet
- (b) 100 foot set back shall be required from the centerline of Clinton Street and from the centerline of Two Rod Road
- (c) minimum lot size shall be 60,000 square feet
- (d) minimum width of lot shall be 125 feet which shall be measured at the location of the building

SECTION 4. SEVERABILITY

If any portion, subsection, sentence, clause, phrase or portion thereof of this local law shall for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portions thereof.

SECTION 5. WHEN EFFECTIVE

This Local Law shall become effective immediately upon its filing in the office of the Secretary of State.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on April 12, 2007, the results of which were as follows.

Roll Call Vote:

Councilman Specht ó Aye

Councilman Spanitz ó Aye

Councilman Gertz ó Aye

Councilman Handley ó Aye

Supervisor Foss - Aye

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Specht to approve Independent Health as the health carrier representative from 5/1/07-4/30/08 for participating Marilla Town Employees. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Gertz to authorize Town Officials to attend Southern Tier Conference on May 9th at a cost of \$30 per person. Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Handley to approve the Aurora Women's Recreational League use of the Marilla Town Park softball field on Monday and Wednesday evenings for the months of June, July and August. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Gertz to approve the following resolution:

WHEREAS, Friends of Marilla, Inc. has agreed to construct a playground to replace the playground on the property adjacent to the Marilla Elementary School to provide a playground for the benefit of the residents of the Town of Marilla; and

WHEREAS, the Town of Marilla has funds available in the 2007 budget to support such organization and the project contemplated; and

WHEREAS, the Town of Marilla has determined that it is in the best interest of the residents of the Town of Marilla to provide funding in the amount of \$5,000 to be used to pay for portion of the cost of the construction of the playground.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

That the Town Board does hereby approve a agreement with Friends of Marilla, Inc. to provide the sum of \$5,000 which sum together with the amounts obtained from other sources shall be used to fund the costs of the construction of a playground at the Marilla Elementary School, a copy of which agreement is annexed hereto.

1. That the Supervisor is hereby authorized to execute such agreement on behalf of the Town of Marilla.
2. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on April 12, 2007, the results of which were as follows.

Councilman Specht ó Aye

Councilman Spanitz ó Aye

Councilman Gertz ó Aye

Councilman Handley ó Aye

Supervisor Foss - Aye

Motion Carried.

Report of Town Officials

Town Engineer Marie Nowak reported that they had checked with Alden concerning the shared services grant for Water District 5, Alden has not received it as of yet and the State has not notified them of when they will receive it.

Building Inspector John Fronczek submitted a written report with 9 building application received with fees totaling \$1,854.00, 9 building permit issued with a total value of \$754,000, 2 inspections were made and no complaints were received for the month of March 2007, One flag lot application with a fee of \$100, and one variance application with a fee of \$150. A total of 116 official code enforcement activities were performed in the month of February.

Supervisor Foss stated that all residents exemption applications must be in by May 1st.

The Planning Board's next meeting will be April 26th at the Community Center at 7:00 p.m. and the minutes have been received and posted.

The Conservation Advisory minutes have been received and posted.

Town Historian Hubert Kutter stated that Jim Handy had been a member of the Marilla Kiwanis Club for 41 years with perfect attendance, and he served as president twice. He was also involved with the Historical Society and donated some items from his farm. He reported that the Historical Society is having a meeting this evening to plan their Erie County Fair exhibit. He will be meeting with Pembroke Historical Society to discuss plans for their Sesquicentennial. He will also be meeting with the Re-enactors about this summer's Civil War Encampment.

Open Board Presentations

Councilman Specht told Councilman Gertz, the Disaster Coordinator, that he has his work cut out for him with the new federal regulations requiring the town to have an evacuation plan for animals. He stated at last count Marilla has 958 cows, 109 cattle, 341 heifers, 63 pigs, 47 horses, 300 chickens, 23 goats, 32 alpacas, 690 dogs and too many cats to count.

Councilman Handley stated he wanted to give hats off to the Friends of the Marilla for doing a great job in raising a lot of money for the playground. The children in town are fortunate that they could make this happen.

Councilman Gertz stated that there will be a hazardous waste and electronics/ computers recycling day on Saturday, April 28th at 9:00 am to 2:00 pm at the Erie County Highway Garage located at 9125 Sibley Road, East Concord. A flyer will be posted in the Town Hall.

Councilman Spanitz stated that the Town Board Members personally contribute to the Iroquois Parents Association to sponsor an alcohol and drug free party held after the prom, and encouraged anyone wanting to contribute that it would be greatly appreciated.

Supervisor Foss stated that he will be hosting the Association of Towns Meeting at Kodiak Jacks for the first time in 22 years.

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

General Fund Claims, Vouchers 97-148	\$ 30,009.62
Highway Fund Claims, Vouchers 58-76	\$ 21,340.60
Special Districts	
Sanitation (SR), Vouchers 15-27	\$ 14,854.60
Special Fire Vouchers 2-8	\$253,986.94
Water District #2, Vouchers 6-8	\$ 5,111.04
Water District #3 Vouchers 3-4	\$ 2,706.80
Water District #4 Vouchers 3-4	\$ 1,634.80
Community Develop. PACE 5-6	\$ 6,113.00
Community Develop. HUD	\$.00

Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to adjourn the meeting at 8:05 p.m. Motion Carried.

Respectfully submitted,

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