

A Public Hearing was held April 8, 2010 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 Local Law No. 2 of the year 2010 entitled "Amendment to the Zoning Law for Temporary Storage Units and Temporary Accessory Structures of the Town of Marilla". This local law will amend the zoning law to provide for regulation of such temporary storage units and temporary accessory structures including, but not limited to, regulation of placement of temporary storage units and temporary accessory structures and the duration of time that they shall be allowed on the property and includes the requirement to obtain a permit if the temporary storage unit or temporary accessory structure is to remain on the property beyond the time permitted in this local law. 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:

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

Approximately (22) persons were in attendance. Supervisor Gertz asked if there was any interested person who desired to be heard.

Hearing no comment the Public hearing was closed at 7:33 pm.

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Public Hearing  
April 8, 2010

A Public Hearing was held April 8, 2010 at 7:34 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 Local Law No. 3 of the year 2010 entitled "Rezoning of Real Property on Coleman Road and Zoning Map Amendment". The purpose of this local law is to amend the zoning law of the Town of Marilla to rezone a parcel of land on Coleman Road which has always been used for agriculture but was rezoned to R-R. This law will return the zoning to A which zoning is consistent with the Comprehensive Plan of the Town of Marilla which encourages agriculture. 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:

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

Approximately (22) persons were in attendance. Supervisor Gertz asked if there was any interested person who desired to be heard.

Hearing no comment the Public hearing was closed at 7:36 pm.

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Public Hearing  
April 8, 2010

A Public Hearing was held April 8, 2010 at 7:37 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 Local Law No. 4 of the year 2010 entitled "Local Law Establishing Training Standards for Planning Board and Zoning Board of Appeals Members of the Town of Marilla". This local law provides minimum training standards for Planning Board and ZBA Members of the Town of Marilla including the minimum number of hours that will be required and the training programs that are considered acceptable to the Town of

Marilla as well as enumerating training programs that are not deemed to be acceptable in order to assist such members in selecting training programs to attend. 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:

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

Approximately (22) persons were in attendance. Supervisor Gertz asked if there was any interested person who desired to be heard.

Planning Board Member Richard Janiga stated that he had comments on behalf of the Planning Board. They had reviewed the changes at their last meeting and provided the Town Board with the Planning Board's recommendations. They feel on line training should be made available. He asked that their recommendations become part of the public record;

Recommendation One: To make changes to the Minimum Training Requirements Law for Planning Board and ZBA Members:

A recommendation was made at the March 18, 2010 Planning Board meeting regarding the Minimum Training Requirements. The Planning Board accepted a motion by Richard Janiga and seconded by Debbie Zimmerman for the Town Board to make changes to the Minimum Training Requirements Law.

The issues that were discussed at the meeting were:

- 1) Online Training should be allowed as acceptable training because:
  - a. It is a valuable tool that many other business use and accept
  - b. It allows new members to get introductory Planning Board and Zoning Board information at any time because it is always available.
  - c. It is in the development stages and will continue to grow with more material available to members.
  - d. NYS accepts it as acceptable training.
  - e. It is the only training tool that requires members to take a test.
  - f. It is available to members who learn best through reading and studying without outside distractions.
  - g. It would allow for members to train with topics that they need more study in if the Board as a whole does not feel the need to train in.
- 2) Training Requirements should allow for more in-town training because:
  - a. The training sessions held in the Town of Marilla in the past have been excellent and most training sessions go beyond the 2 hours required.
  - b. Not all training sessions attended at other towns were as valuable as the ones held in Marilla. Members would rather attend a training session that they know will be valuable and pertinent to them from the start.
  - c. Other towns do not always allow members from other Town Boards at their meetings. Members of the Planning Board are not always aware of the training sessions that other towns are having.
- 3) Training for New Members should only be two hours instead of four hours within six months of the initial appointment because:
  - a. If a new member is appointed at the end of the year, four hours is a lot of training to get in a short amount of time.
  - b. New Members are just getting their feet wet and should not be overwhelmed.
- 4) The Planning Board would like to make sure that extra training hours obtained in one year would carry over to the next year.
- 5) The Planning Board would like to see a working relationship with the Town Board if special circumstances are needed due to lack of training. A grace period of six months was suggested so the needed training could be obtained.

The Planning Board is recommending the new law reads (changes are in bolded type):

SECTION 3. MINIMUM TRAINING REQUIREMENTS

- A. *All members and alternate members (hereinafter individually or collectively referred to as "Member" of the ZBA and Planning Board) shall be required to **attend a minimum of two hours** of relevant training courses within six months of their initial appointment and thereafter attend training sessions of not less than four hours every year thereafter.*
- B. *Non-compliance with these minimum requirements relating to training shall be **reviewed by the Town Board and may result in cause** for removal from office and **baring** such member from reappointment for an additional term.*
- C. *No changes were noted.*

SECTION 4. APPROVED TRAINING COURSES

*Training sessions which relate to the duties of the member of the ZBA and the members of the Planning Board may include programs offered by the NYS Department of State, NYS Association of Towns, NYSDEC, NYS Planning Federation, the Erie County Department of Environment and Planning, Erie County Cooperative Extension as well as such in house training sessions as may be established by the Town conducted by the Town Planner and/or Town Attorney. **No more than two hours maximum can be obtained online with no course to be repeated each year.** No more than two of the four hours annual training requirement may be obtained through in house training session. Each Member must receive a minimum of two of the four hour annual training requirements through outside training programs. **Omitted Sentence.** Each Member shall submit to the Town Clerk and the Chairman of their respective Board documents verifying their compliance with the training requirements on or before January 1 of the year following which such training was completed.*

The vote of the member is as follows:

- Debbie Zimmerman - aye
- Dave Muench - aye
- Chairman Jay Walkowiak - aye
- Vinney Beisiegel - aye
- Richard Rose - aye
- Nathan Barnard - aye
- Richard Janiga - aye

Hearing no further comment the Public hearing was closed at 7:40 pm.

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Public Hearing  
April 8, 2010

A Public Hearing was held April 8, 2010 at 7:41 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 Local Law No. 5 of the year 2010 entitled "Local Law For the Appointment of Alternate Members to the Planning Board, Zoning Board of Appeals and Conservation Advisory Board of the Town of Marilla". This local law eliminates the need to delay or impede meetings. At times it is sometimes difficult to maintain quorum on the Planning Board, Zoning Board of Appeals and the Conservation Advisory Board because members are ill, are on vacation or find that they have a conflict of interest with respect to a specific matter before such board. In such instances, official business cannot be conducted which may delay or impede adherence to required timelines and even if a quorum is available may result in decisions being rendered on important matters on less than full board, The use of alternate members in such instances is hereby authorized pursuant to the provisions of this Local Law. 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:

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

Approximately (22) persons were in attendance. Supervisor Gertz asked if there was any interested person who desired to be heard.

Hearing no comment the Public hearing was closed at 7:44 pm.

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Regular Meeting  
April 8, 2010

The regular meeting of the Marilla Town Board was held on Thursday, April 8, 2010 at 7:45 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

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

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

**Communications**

Communications were received and read from:

a.

**Committee Reports**

Highway Superintendent Ronald Unverdorben reported that there are new rules for recycling plastic and said they are posted at the Recycling Center and he hoped residents would follow them. He stated that the company they bring the plastics to will refuse the entire load if there is an unacceptable plastic in the load. He said the last load the Town received \$1.80 for the entire load, it doesn't pay well for plastics. Big rubbish pick-up will be May 3<sup>rd</sup> beginning at 7:00 am.

Councilman Spanitz stated the Planning Board Meeting will be held on April 15<sup>th</sup> at 7:00 pm, the Library Board Meeting will be held on April 20<sup>th</sup> at 6:30 pm.

Councilman Ackerman reported that she attended a Historical Society Meeting on March 22<sup>nd</sup>, they are working on making century house signs for houses in Marilla that are over 100 years old. She said they will be sponsoring a garage sale at the Community Center Parking Lot on July 17<sup>th</sup> as a fund raiser. She reported that the Historical Society has a new treasurer, Becky Pucci. She attended their Boy Scout Program honoring 100 years on March 29<sup>th</sup> and commented how nice it was.

Councilman Handley reported that Boy Scout Brian Stelmaszyk is working on an Eagle Scout project and making benches for the Town Park, he is also working on a garden. He reported that he and Councilman Ackerman attended an Erie County Farmland Protection Board Meeting. He said the Memorial Day Parade will be on May 30<sup>th</sup> with the Parade beginning at 12:00 pm, this year we are recognizing WWII Veteran's. Hot dogs and soft drinks will be served by the Kiwanis Club and the Marilla Veteran's will be selling Chicken dinners, \$7 pre-sale and \$8 the day of the celebration.

Councilman Darrow reported that the Car Show Committee did not have a meeting this month. He attended a CAB Meeting which are now being held on the first Thursday of every month. They are looking into recycling and at the Town's Comprehensive Plan.

Supervisor Gertz stated that it has been a busy month. Many Town Employees will be attending Houghton College on May 5<sup>th</sup>. He said they will be approving the Highway Employees work agreement. The Town's financial numbers for the first quarter of the year look good,

**Open Board Presentations From the Public**

None

**Old Business**

Motion: Councilman Spanitz moved, seconded by Councilman Ackerman to approve the minutes of the Public Hearing held on 3/11/2010 and the Regular Board Meeting held on 3/11/2010. Motion Carried.

**New Business**

Motion: Councilman Ackerman moved, seconded by Councilman Darrow to approve Local Law No. 2 of the year 2010 as follows;

A Local Law known as Local Law No. 2 of the Year 2010 entitled "Amendment to the Zoning Law for Temporary Storage Units and Temporary Accessory Structures of the Town of Marilla"

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. 2 of the Year 2010 entitled "Amendment to the Zoning Law for Temporary Storage Units and Temporary Accessory Structures of the Town of Marilla".

SECTION 2. PURPOSE

Recently a number of companies have been renting temporary storage units to property owners for temporary placement upon their property. The purpose of this local law is amend the zoning law to provide for regulation of such temporary storage units and temporary accessory structures including, but not limited to, regulation of placement of temporary storage units and temporary accessory structures and the duration of time that they shall be allowed on the property and includes the requirement to obtain a permit if the temporary storage unit or temporary accessory structure is to remain on the property beyond the time permitted in this local law.

SECTION 3. AMENDMENT OF ZONING LAW

A new provision is to be added to the Zoning Law to be designated as Section 700-45. A. of the Code of the Town of Marilla which Section shall read as follows:

**§ 700-45A. 1. Temporary Storage Units**

A. Definitions. As used in this Section the following terms shall have the meanings indicated:

PORTABLE/TEMPORARY STORAGE UNITS: (Also known as PODS, SAM, etc.) A portable (or temporary) transportable container, storage unit, shed-like container, or other portable structure designed for and used for the temporary storage of building materials, household goods, personal items, or other materials for use on a limited basis.

B. Enforcement. The provisions of this chapter shall be enforced by the Town of Marilla Building Inspector/Code Enforcement Officer (C.E.O.) or his/her representative.

C. Intended Use. Temporary storage units are intended for the temporary storage of building materials, household goods, personal items, or other materials off-site, and are not intended for retail/commercial sales and storage activities on-site.

D. Duration.

- 1.) Temporary storage units may be placed on or at a property in the Town for a time period of thirty (30) calendar days. At the end of the thirty (30) day period, the unit must be removed from the premise within a ten (10) day grace period. The time period begins on the date of delivery of the unit to the property site. In the event the applicant wishes to extend the time period that is granted under this Section, an extension may be issued by the Building Inspector/C.E.O. if requested (see Section § 700-45A. 1. E). Extension requests must be made prior to the expiration of the ten (10) day grace period. In no case shall a temporary storage unit be placed on or at a property more than sixty (60) consecutive days or more than sixty (60) days in a calendar year unless special circumstances arise as listed in Sub-Section 2.

- 2.) The following circumstances shall grant an applicant a permit for the placement of a temporary storage unit on or at property for a period of time which exceeds the period set in paragraph 1.) above:
  - a) In the event of fire, or any other natural disaster which causes substantial damage to the primary structure of the property, a temporary storage unit may be placed on or at property for a period of time while repairs are made as determined necessary by the Building Inspector/C.E.O. Once repairs have been made the temporary storage unit shall be removed from the property within ten (10) days. In the event the applicant wishes to extend the time granted past that allowed under these circumstances, a new application for a permit pursuant to section 1 must be submitted.
  - b) The renovation, expansion, or any other alteration to an existing permanent structure on a property may require the removal of personal property from the structure and/or storage of said personal property outside of the structure on the property. The period of time the temporary storage unit may be located on or at said property shall be determined by the Building Inspector/C.E.O based on the type of work being performed and/or ten (10) days after the building permit issued for the required work expires.
- 3.) Any temporary storage unit which is not removed at the end of the initial time period permitted under this Section or granted under the permit issued will be subject to a daily fine set by the Town Board until the matter is resolved by the owner or property manager of the property in violation of the Town of Marilla Code. If the temporary storage unit is not removed after ten (10) days from initial notice of the violation by the Building Inspector/C.E.O, or poses a threat to the health, safety, and welfare of residents and visitors, the Town may have the unit removed without notice, with the cost of such removal, as well as the cost associated with the administration of its removal, assessed against the property on which the temporary storage unit was located.

E. Permit Required.

- 1) Application: After the initial thirty (30) day time period has been exhausted, a permit must be applied for and secured approval of the issuance of a permit from the Building Inspector/Code Enforcement Officer on such form as may be prescribed. Such application shall contain and be accompanied by plans and specifications and sufficient detail to show the following:
  - a) Names, addresses, and telephone numbers of the owner or manager of the property on or at which the temporary storage unit is to be placed; and
  - b) The name, address, and telephone number of the individual or company which owns the temporary storage unit; and
  - c) General map of property location showing all lot lines, existing structures and the proposed location of where the temporary storage unit will be placed.
- 2) Issuance: Building Inspector/C.E.O., after finding that the application and plans and specifications comply with the provisions hereof, shall approve the issuance of a permit for the temporary location of such temporary storage unit. Location of the unit shall conform to the approved application, plans and specifications.

F. Size. Temporary storage units shall be no greater than 1,152 cubic feet in size and shall not exceed 144 square feet in area and eight (8) feet in height.

G. Number of Units. Only one (1) temporary storage unit may be stored on property at any given time unless special circumstances arise as listed in Subsection D.2.

H. Location. The placement of any temporary storage unit shall be subject to the following requirements:

- 1.) The unit must be placed on the driveway or hard packed surface of a property, and must adhere to the rear and side setback requirements of the respective zoning district.

- 2.) No temporary storage unit may be placed in a public Right of Way (ROW) or on the front yard of the property unless permitted by the Building Inspector/C.E.O. due to unusual circumstances (i.e. no driveway, no backyard/side yard, etc.). Different regulations may be applied under these circumstances, such as the amount of time the unit may be stored at the property, etc.
- I. Signage. No signage other than signage indicating the owner of the temporary storage unit may be allowed on the structure.
- J. Hazardous Materials. Storage of hazardous materials within temporary storage units is prohibited.

**§ 450-45A. 2. Temporary Portable Accessory Structures**

- A. Definitions. As used in this Section the following terms shall have the meanings indicated:

A temporary portable accessory structure is defined as any detached carport, awning, canopy, or tent made of cloth, wood, aluminum, or other materials whether or not factory constructed for the parking of automobiles or storage of property belonging to residents on the premises.

A temporary portable accessory structure is such that the use of which does not require permanent location to the ground, or attachment to something having a permanent location on the ground.

- B. Enforcement. The provisions of this chapter shall be enforced by the Town of Marilla Building Inspector/Code Enforcement Officer (C.E.O.) or his/her representative.

- C. Exemptions. Tents, gazebos, and canopies used for residential recreational purposes shall not be governed by these regulations.

- D. Duration.

- 1.) Upon visual discovery by the Building Inspector/C.E.O and/or through registration of a complaint, a temporary portable accessory structure may not be maintained or erected for a period of time exceeding 30 days and shall not be erected for more than 120 calendar days per year. In the event a property or business owner wishes to maintain an erected structure longer than the established timeframes, a permit must be obtained from the Building Inspector/C.E.O.

- 2.) Any temporary portable accessory structure which is not removed at the end of the initial time period permitted under this Section or granted under the permit issued will be subject to a daily fine set by the Town Board until the matter is resolved by the owner or property manager of the property in violation of the Town of Marilla Code. If the temporary portable accessory structure is not removed after ten (10) days from initial notice of the violation by the Building Inspector/C.E.O, or poses a threat to the health, safety, and welfare of residents and visitors, the Town may have the structure removed without notice, with the cost of such removal, as well as the cost associated with the administration of its removal, assessed against the property on which the temporary portable accessory structure was located.

- E. Permit Required.

- 1) Application: After the initial thirty (30) day time period has been exhausted, a permit must be applied for and secured approval of the issuance of a permit from the Building Inspector/Code Enforcement Officer on such form as may be prescribed. Such application shall contain and be accompanied by plans and specifications and sufficient detail to show the following:

- a) Names, addresses, and telephone numbers of the owner or manager of the property on or at which the temporary portable accessory structure is to be placed; and

- b) The name, address, and telephone number of the individual or company which owns the temporary portable accessory structure; and

- c) General map of property location showing all lot lines, existing structures and the proposed location of where the temporary portable accessory structure will be placed.

- 2) Issuance: Building Inspector/C.E.O., after finding that the application and plans and specifications comply with the provisions hereof, shall approve the issuance of a permit for the temporary location of such temporary portable accessory structure. Location of the structure shall conform to the approved application, plans and specifications.
- F. Size. Temporary Portable Accessory Structures shall be no greater than 200 square feet for residential property uses in all zoning districts and no greater than 400 square feet for commercial property uses.
- G. Number of Structures. Only one (1) temporary portable accessory structure may be stored on property at any given time. In the event a property or business owner wishes to maintain a second Temporary Portable Storage Structure, a permit shall be required through an application to and review by the Building Inspector/C.E.O.
- H. Location. The placement of any temporary portable accessory structure shall be subject to the following requirements:
  - 1.) All structures must be located in the rear or side yard, and shall be required to satisfy the requirements for placement and setback of either an accessory building or a principal building, as the case may be, for the established zoning regulations of the district. No structure shall be placed within the front yard of the property.
  - 2.) The location and size of the temporary portable accessory structure shall be of such character that, in general, it will be in harmony with the existing development of the district in which it is proposed to be situated and will not be detrimental or obnoxious to adjacent properties in accordance with the zoning classification of such properties, as set forth in the Zoning Code of the Town of Marilla.
  - 3.) The erection or construction of the temporary portable accessory structure shall meet all the fire-resistance requirements of the Fire Prevention Law and the Building Code of New York State.

#### 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 affect 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.

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Handley – Abstained

Councilman Ackerman – Aye

Councilman Darrow – Aye

Supervisor Gertz – Aye

Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilman Handley to approve Local Law No. 3 of the year 2010 as follows:

A Local Law known as Local Law No. 3 of the Year 2010 entitled “Rezoning of Real Property on Coleman Road and Zoning Map Amendment”

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. 3 of the Year 2010 entitled “Rezoning of Real Property on Coleman Road and Zoning Map Amendment”.

#### SECTION 2. PURPOSE

The purpose of this local law is to amend the Zoning Law of the Town of Marilla to rezone a parcel of land on Coleman Road which has always been used for agriculture but was rezoned to R-R to return the zoning to A and which zoning is consistent the Comprehensive Plan of the Town of Marilla which encourages agriculture.

#### SECTION 3. AMENDMENT OF ZONING LAW

The Zoning Classification of the following described area presently zone R-R under the Zoning Law of the Town of Marilla is hereby amended and the property therein rezoned A.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Marilla, County of Erie and State of New York, being part of Lot Number five (5), Township ten (10), Range five (5) of the Buffalo Creek Reservation and further distinguished as Subdivision Lot Number nine (9) as shown on a map entitled "Grandview Heights Part III" filed in the Erie County Clerk's Office under Cover Number 2424.

SECTION 4. AMENDMENT TO THE ZONING MAP

The Zoning Map of the Town of Marilla adopted by the Town of Marilla pursuant to Local Law No. 1 of the Year 1999 and incorporated under Section 700-2 of the Code of the Town of Marilla is hereby amended to incorporate the zoning classifications of the parcels described in Section 3.

SECTION 5. 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 affect the validity of the remaining portions thereof.

SECTION 6. WHEN EFFECTIVE

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

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Handley – Aye

Councilman Ackerman – Aye

Councilman Darrow – Aye

Supervisor Gertz – Aye

Motion Carried.

Motion: Councilman Ackerman moved, seconded by Councilman Darrow to approve Local Law No. 4 for the year 2010 as follows:

A Local Law known as Local Law No. 4 of the Year 2010, entitled "Local Law Establishing Training Standards for Planning Board and Zoning Board of Appeals Members of the Town of Marilla".

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. 4 of the Year 2010 entitled "Local Law Establishing Training Standards for Planning Board and Zoning Board of Appeals Members of the Town of Marilla" which local law shall be incorporated into the Code.

SECTION 2. PURPOSE AND INTENT

The Town Board believes that due to the increased complexity of the laws governing municipal activities that it is imperative that members of the Planning Board ("Planning Board") and the Zoning Board of Appeals ("ZBA") receive adequate training in order for those boards to function effectively. The State of New York has recently enacted amendments to the § 271 and § 267 of the Town Law to require a minimum number of hours of training for all members of such board including alternates. This local law provides minimum training standards for Planning Board and ZBA Members of the Town of Marilla including the minimum number of hours that will be required and the training programs that are considered acceptable to the Town of Marilla as well as enumerating training programs that are not deemed to be acceptable in order to assist such members in selecting training programs to attend.

SECTION 3. MINIMUM TRAINING REQUIREMENTS

- A. All members and alternate members (hereinafter individually or collectively referred to as "Member" of the ZBA and Planning Board) shall be required to attend a minimum of four hours of relevant training courses within six months of their initial appointment and thereafter attend training sessions of not less than four hours every year thereafter.
- B. Non-compliance with these minimum requirements relating to training shall be deemed a proper cause for removal from office and shall be bar such member from reappointment for an additional term.
- C. The reasonable costs of such training courses, seminars, workshops or continuing education courses shall be a Town charge up to a maximum amount established by the Town each year as part of the Town's budget process. Members shall also be reimbursed for travel and meal expenses according to

Town policies. Such training sessions shall be approved in advance by the Town Board.

#### SECTION 4. APPROVED TRAINING COURSES

Training sessions which relate to the duties of the member of the ZBA and the members of the Planning Board may include programs offered by the New York State Department of State, New York State Association of Towns, New York State Department of Environmental Conservation, New York State Planning Federation, the Erie County Department of Environment and Planning, Erie County Cooperative Extension as well as such in house training sessions as may be established by the Town conducted by the Town Planner and/or Town Attorney. No more than two of the four hour annual training requirement may be obtained through in house training session. Each Member must receive a minimum of two of the four hour annual training requirements through outside training programs. No self study or on line training shall be acceptable towards the completion of the training requirements. Each Member shall submit to the Town Clerk and the Chairman of their respective Board documents verifying their compliance with the training requirements on or before January 1 of the year following which such training was completed.

#### SECTION 5. LACK OF TRAINING NOT TO AFFECT THE VALIDITY OF MEMBERS' ACTIONS.

Notwithstanding the foregoing, the failure of a member of the Planning Board or ZBA to obtain such training shall not affect said persons' appointment to serve on such Board, to entertain applications, to vote on such applications, or the validity of such Member's actions, or the validity of any Decision order or action of such Board.

#### SECTION 6. PROCEDURE FOR REMOVAL OF A MEMBER

The Chairperson of the ZBA and the Chairperson of the Planning Board shall notify the Town Board in writing on or about February 1 in any year of any Member who fails to comply with the minimum training requirements for the prior year. In the event such Member of the ZBA or Planning Board has failed to complete the minimum training requirements as set forth in Section 3 and 4 above, then the Town Board may remove such Member for cause as herein provided.

- A. Notice. Such Member shall be mailed a written notice specifying the nature of the failure of such Member to meet the minimum requirements of Section 3 and 4 above.
- B. Public Hearing. Such notice shall specify a date, not less than ten (10) or more than thirty (30) days from the date of mailing of such notice when the Town Board shall convene and hold a public hearing on whether or not such member should be removed from service on such Board. Such notice shall also specify the time, date and place of such hearing.
- C. Public Notice. Public Notice of such hearing shall be published in the official newspaper of the Town specifying the time, date and place of the hearing at least ten (10) days prior to the date of the public hearing.
- D. Conduct of Hearing. The public hearing shall be conducted by the Town Board. The Member shall be given the opportunity to retain an attorney, present evidence, call witnesses to refute the charges and cross-examine witnesses. A record of such hearing shall be made. The decision of the Town Board shall be reduced to writing together with specific findings of the Town Board with respect to the charge against such Member. A copy of such decision and such findings shall be filed in the Office of the Town Clerk and mailed to the Member within thirty (30) days following the completion of the hearing.
- E. Action by the Town Board. Following the hearing and upon a finding that such Member has not met the minimum training requirements established by this Local Law, the Town Board may:
  - i. remove such Member from the ZBA or Planning Board
  - ii. issue a written reprimand to such Member without removing such Member for such Board; or
  - iii. if the Town Board shall find that the reasons for failing to meet the minimum training requirements are excusable due to illness, injury or other good and sufficient cause, the Town Board may elect to take no action.

#### SECTION 7. REMOVAL FOR CAUSE

Nothing contained herein shall be deemed to limit or restrict the Town Board's authority to remove a Member from the ZBA or Planning Board for cause (i.e., for other than the reasons enumerated herein). The procedural provisions of Section 6 of this Local Law shall govern any hearing to remove any Member for cause.

#### SECTION 8. SEPARABILITY

If any section of this Local Law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this Local Law.

SECTION 9. EFFECTIVE DATE

- A. This local law shall take effect immediately upon filing in the office of the New York State Secretary of State.
  - A. This Local Law shall apply to all members and alternate members of the ZBA and Planning Board regardless of the date of their appointment to such boards.
  - B. Prospective Members and alternate Members of the ZBA and Planning Board shall be notified of the requirements of this Local Law prior to their appointment to such board.

Councilman Handley stated that the Planning Board has done a lot of work and he respects their input. He feels the online training should not count as the required training credit but could be used as an additional tool for members that wish for more information. They are not limited to 4 hours of training.

Councilman Spanitz said that maybe online training would be something the Town allows in the future, the State is working on improving the material on line.

Supervisor Gertz stated that they reviewed the Planning Board recommendations but the Town Board feels they should broaden their horizons on training outside the Town. He said the State requires 4 hours a year, a couple of weeks ago it was in the news that a Fire Company in New York State was in trouble for fraud and improper training.

Roll Call Vote:

Councilman Spanitz – Aye	Councilman Handley – Aye
Councilman Ackerman – Aye	Councilman Darrow – Aye
Supervisor Gertz – Aye	

Motion Carried.

Motion: Councilman Ackerman moved, seconded by Councilman Handley to approve Local Law No. 5 of the year 2010 as follows:

A Local Law known as Local Law No. 5 of the Year 2010, entitled “Local Law For the Appointment of Alternate Members to the Planning Board, Zoning Board of Appeals and Conservation Advisory Board of the Town of Marilla”.

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. 5 of the Year 2010 entitled “Local Law For the Appointment of Alternate Members to the Planning Board, Zoning Board of Appeals and Conservation Advisory Board of the Town of Marilla” which local law shall be incorporated into the Code.

SECTION 2. PURPOSE AND INTENT

It is sometimes difficult to maintain a quorum on the Planning Board, Zoning Board of Appeals and the Conservation Advisory Board because members are ill, are on vacation or find that they have a conflict of interest with respect to a specific matter before such board. In such instances, official business cannot be conducted which may delay or impede adherence to required timelines and even if a quorum is available may result in decisions being rendered on important matters on less than a full board. The use of alternate members in such instances is hereby authorized pursuant to the provisions of this Local Law.

SECTION 3. AMENDMENT OF PRIOR LAW

Chapter 608 of the Code of the Town of Marilla originally adopted by Local Law No. 1 of the year 2000 and amended in its entirety at the time of the adoption of the Code by Local Law No. 2 of 2006 is amended as follows:

§608-1. A. and B. are amended to read as follows:

- A. The Planning Board shall consist of seven members and up to three Alternate members appointed by the Town Board who shall be constituted and empowered as set forth in §271 of the Town Law, as amended from time to time, with the following exception. The Alternate members shall also be authorized to participate not only in situations where a regular member of the Planning Board has a conflict, as provided for in §271 of the Town Law, but also where a Planning Board member is absent for any other reason. All Alternate members shall be entitled to participate in deliberations but the Chairman of the Planning Board shall designate at the beginning of the meeting as to which Alternate member or members shall be entitled to vote if more Alternate members are present than regular members are absent.

- B. The Town Board as a condition of appointment requires each Planning Board member, including Alternate members, complete the training and continuing education requirements as set forth in the Town Law together with any additional training requirements adopted by the Town of Marilla.

§608-2. Term of office; removal is amended to read as follows:

The terms of office of the seven regular members shall be as set forth in §271 of the Town Law. The Alternate members of the Planning Board shall be appointed for terms as specified by the Town Board at the time of their appointment. The provisions for removal from office shall be those specified in Local Law No. 4 of the Year 2010 entitled Local Law Establishing Training Standards for Planning Board and Zoning Board of Appeals Members of the Town of Marilla.

§608-3. Attendance at meetings is amended to read as follows:

Each member appointed to the Planning Board, including the Alternate members, shall be required to attend at least 75% of the regularly scheduled meetings of the Planning Board and shall not fail to attend more than three consecutive regularly scheduled meetings in any calendar year. Failure to meet these attendance standards shall be ground for removal by the Town Board.

§608-5. Powers and duties is amended to read as follows:

The Planning Board shall have the powers and duties as set forth pursuant to §271 of the Town Law but the Alternate Planning Board members shall be entitled to participate not only when one or more of the regular members has a conflict but also when one or more of the regular members are absent for any reason.

Chapter 704 of the Code of the Town of Marilla originally adopted by Local Law No. 1 of the year 2000 and amended in its entirety at the time of the adoption of the Code by Local Law No. 2 of 2006 is amended as follows:

§704-1. A. and B. are amended to read as follows:

- A. The Zoning Board of Appeals, hereafter referred to herein as the "Board of Appeals" shall consist of five members and up to three Alternate members appointed by the Town Board who shall be constituted and empowered as set forth in §267 of the Town Law, as amended from time to time, with the following exception. The Alternate members shall also be authorized to participate not only in situations where one or more of the regular members of the Board of Appeals has a conflict, as provided for in the §267 of the Town Law, but also where one or more members of the Board of Appeals are absent for any reason. All Alternate members shall be entitled to participate in deliberations but the Chairman of the Board of Appeals shall designate at the beginning of the meeting as to which Alternate member or members shall be entitled to vote if more Alternate members are present than regular members are absent.
- B. The Town Board as a condition of appointment requires each Board of Appeal member, including alternate members, complete the training and continuing education requirements as set forth in the Town Law together with any additional training requirements adopted by the Town of Marilla.

§704-2. Term of office; removal is amended to read as follows:

The regular members of the Board of Appeals shall be appointed for a term of five years from and after the expiration of the terms of their predecessors in office. The Alternate members of the Board of Appeals shall be appointed for terms as specified by the Town Board at the time of their appointment. The provisions for removal from office shall be those specified in Local Law No. 4 of the Year 2010 entitled Local Law Establishing Training Standards for Planning Board and Zoning Board of Appeals Members of the Town of Marilla.

§704-3. Attendance at meetings is amended to read as follows:

Each member appointed to the Board of Appeals, including the Alternate members, shall be required to attend at least 75% of the regularly scheduled meetings of the Board of Appeals and shall not fail to attend more than three consecutive regularly scheduled meetings in any calendar year. Failure to meet these attendance standards shall be ground for removal by the Town Board.

Chapter 513 of the Code of the Town of Marilla originally adopted by Local Law No. 6 of the year 1996 is amended as follows:

§513-3. A. and B. are amended to read as follows:

- A. The Board shall consist of seven regular members and up to three Alternate members who shall be appointed by the Town Board. The Alternate members of the Board shall be appointed for the term as specified by the Town Board at the time of their appointment. The Alternate members shall be entitled to participate when one or more of the regular members is absent for any reason. All Alternate members shall be entitled to participate in deliberations but the Chairman of the Board shall designate at the beginning of the meeting as to which Alternate member or members shall be entitled to vote if more Alternate members are present than regular members

are absent. One of the members so appointed may be, but is not required to be, at the time of his appointment, between the ages of 16 and 21 years of age. Persons residing within the Town of Marilla who are interested in the improvement and preservation of environmental quality shall be eligible for appointment as a member of the Board. Vacancies on the Board shall be filled in the same manner as the original appointment except that a vacancy occurring other than by the expiration of term of office shall be filled only for the remainder of the unexpired term.

§513-5. Attendance at meetings is amended to read as follows:

Each member appointed to the Board, including the alternate members, shall be required to attend at least 75% of the regularly scheduled meetings of the Board and shall not fail to attend more than three consecutive regularly scheduled meetings in any calendar year. Failure to meet these attendance standards shall be ground for removal by the Town Board.

#### SECTION 4. PARTIAL INVALIDITY

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

#### SECTION 5. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State.

Councilman Handley stated that he feels an alternate would be a plus, that they could step in when a member is absent and would be educated to step in.

Supervisor Gertz said the alternates would go through the training process.

Roll Call Vote:

Councilman Spanitz – Aye	Councilman Handley – Aye
Councilman Ackerman – Aye	Councilman Darrow – Aye
Supervisor Gertz – Aye	

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Handley to authorize the Supervisor to sign a contract with Tomkins Insurance to provide health insurance to full time employees. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Ackerman to approve the 2010 Work Agreement for the Highway, Sanitation and General Fund workers. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Ackerman to approve the following resolution For EMW Creek Road Park Agreement:

WHEREAS, the Town of Marilla has cooperated for many years with the Town of Elma and the Town of Wales in the funding of Elma, Marilla, Wales Sports, Inc. which provides recreational sports activities for residents of the three Towns; and

WHEREAS, under New York General Municipal Law, Article 5-G, Section 119-o, municipalities have the authority to enter into inter municipal agreements to jointly perform services that each municipality has to power to perform separately; and

WHEREAS, the Town of Marilla received a proposal that the Towns of Elma, Marilla and Wales enter into an inter municipal agreement to help provide the required funding to maintain and upgrade the facilities that are required for the Elma, Marilla, Wales Sports, Inc. program which they already are jointly funding; and

WHEREAS, the attorney for the Town of Marilla has reviewed the proposed agreement which requires that each municipality approve all work prior to it being performed and which allows each municipality to terminate the agreement on thirty (30) days written notice to the other Towns.

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

1. The Town Board does hereby approve the Intermunicipal Agreement Between the Town of Elma, Marilla and Wales for the Provision of Shared Sports Services at Creekside Road Park in the Town of Elma which agreement provides for cost sharing in proportion to the participation of the residents of each Town in the program.
2. The Supervisor of the Town of Marilla is authorized to execute such agreement on behalf of the Town of Marilla.
3. 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 of the Town of Marilla held on April 8, 2010, the results of which were as follows:

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Handley - Aye

Councilman Ackerman - Aye

Councilman Darrow – Aye

Supervisor Gertz – Aye

Motion Carried.

Supervisor Gertz read a proclamation declaring the week of April 19<sup>th</sup> through April 23<sup>rd</sup> as Municipal Clerk's Week.

Motion: Councilman Handley moved, seconded by Councilman Spantiz to approve the following resolution for the water conservation program:

WHEREAS, the Town of Marilla has been advised by United States Department of Agriculture Rural Development (USDA) that they are required to have a Water Conservation Program in effect; and

WHEREAS, the Town Engineer in consultation with the Erie County Water Authority which is responsible for the supply and maintenance of all the Water Districts in the Town of Marilla has prepared a Water Conservation Program Form which form has been reviewed and approved by the Town Board.

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

1. The Town Board does hereby approve the Water Conservation Program Form as submitted to the Town Board.
2. The Supervisor of the Town is authorized to execute the form on behalf of the Town of Marilla and to submit the form to USDA.
3. This resolution shall take effect immediately.

The above resolution was put to a roll call vote at a regular meeting of the Town Board held on April 8, 2010, the results of which were as follows:

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Handley - Aye

Councilman Ackerman - Aye

Councilman Darrow – Aye

Supervisor Gertz – Aye

Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilman Handley to authorize Town Assessor Kandace Wittmeyer to hire part-time help as needed within the budget. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Ackerman to approve the following for a work permit for the Marilla Car Show:

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:

Councilman Spanitz – Aye	Councilman Handley - Aye
Councilman Ackerman - Aye	Councilman Darrow – Aye
Supervisor Gertz – Aye	
Motion Carried.	

Motion: Councilman Darrow moved, seconded by Councilman Handley to appoint Lorraine Martzolf as an alternate to the Planning Board for a term to expire on 12/31/11. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Darrow to appoint Leonard Janiga as an alternate to the Zoning Board Appeals for a term to expire 12/31/11. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Ackerman to appoint Shirley Limpinsel and Judith Farmer to the Conservation Advisory Board for a term to expire on 12/31/11. Motion Carried.

### **Report of Town Officials**

Town Engineer Marie Nowak reported that they are hoping Water District 5 will be ready to go to bid by the end of the month.

Building Inspector Scott Rider submitted a written report with 4 building applications received with fees totaling \$444, 4 building permits were issued with a total value of \$30,000, 7 inspections were made for the month of March. There were a total of 138 logged activities.

Town Assessor Kandace Wittmeyer reported that RPS software has been installed on the Building Inspector's Computer; this will be very helpful and efficient for both offices. She handed out information packets to each Town Board Member including information on valuation standards, procedural standards, a list of tax rates, and a summary of the last Assessor class she attended.

Supervisor Gertz stated on behalf of the Marilla Fire Company he clarified that it was down state that was found falsifying records. He reported that the Fire Company will be receiving a \$70,000 Grant which will be used for a compressor trailer with a generator and portable lighting.

Town Historian Hubert Kutter stated that he had received several emails asking about early residents. He said on April 20<sup>th</sup> Jim Gingerich will be presenting a slide presentation at the Williston Methodist Church on the history of Marilla. He said they had a nice time at the Boy Scout Ceremony that honored their 100<sup>th</sup> year. He also reported that he had found a rare item on ebay, it was a ribbon pertaining to the Presidential Election for McKinley and Vice President Hobart.

### **Open Board Presentations**

Planning Board Member Rick Janiga expressed his disappointment in the Town Board by ignoring the recommendations of the Planning Board. He said they will abide by the new law and he asked if the Town Board could put together a network so they would know when and where other Towns would be holding training classes so they could possibly attend.

Councilman Spanitz responded that they would put together a list of where they are available.

Councilman Ackerman reported that on she attended a lobby in Albany for no farm no food with Lorraine Martzolf and Deborah Lerner. She said they met with various Senators and Assemblymen to urge them not to cut funding so drastically for farmland. She said this is very important to Marilla, it is our main business. She said it was an energizing day put on by American Farmland Trust. She said Marilla is a leader in Farmland protection with 800 acres in the PACE Program. She thanked Rick Janiga for

giving her information to take to Albany, she feels very passionate about this issue and is pleased that they attended. She also attended a dinner honoring 4 young men in Marilla for achieving the rank of Eagle Scout.

Councilman Handley stated that he did look at the Planning Board’s recommendations, he said there are 2 big training classes; one is in Rochester, it is a 3 day event and you can receive credit for 6 + hours in one day. He said Houghton College is in May is another one available, that is a one day event where they can get credit for all 4 hours. He said there are others throughout the area, he feels it is very beneficial to get as much knowledge as possible.

Supervisor Gertz stated that the Town Board is responsible for overseeing the members to get the proper training. He said 3 members went outside the Town to get their training and the Town Board will help the Planning Board members find places for them to get training. He also reported that Erie County Microenterprise Loan Program flyers are available to help small businesses borrow money. There will be a pharmaceutical drop off day on April 10<sup>th</sup> from 9 am to 1 pm at Sisters Hospital. He shared a touching email he had received from Soldier Bill O’Connor, a retired NYC Detective that is currently serving in Afghanistan. He found a note in a paperback book he took to read that said “Thank you for your service to our country, from the Citizens of Marilla”. He wanted us to know how good it made him feel and he will be sure to put the note back.

The Vouchers have been audited by all of the Town Board Members.

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

General Fund Claims, Vouchers 119-178	\$ 27,630.75
Highway Fund Claims, Vouchers 45-64	\$ 10,278.38
Special Districts	
Sanitation (SR), Vouchers 20-61	\$ 8,897.85
Special Fire Vouchers 2-3	\$274,562.00
Water District #2, Vouchers 7-9	\$ 2,788.98
Water District #3 Vouchers 4-5	\$ 4,791.88
Water District #4 Voucher 4	\$ 817.40
Water District #5 Voucher	\$ .00
Community Develop. PACE Vouchers	\$ .00
Community Develop. HUD	\$ .00
Cemetery Vouchers 3-5	\$ 836.12

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Ackerman to adjourn the meeting at 8:30 p.m. Motion Carried.

Respectfully submitted,

\_\_\_\_\_Town Clerk \_\_\_\_\_Supervisor  
 \_\_\_\_\_Councilman \_\_\_\_\_Councilman  
 \_\_\_\_\_Councilman \_\_\_\_\_Councilman