

A regular meeting of the Marilla Town Board was held December 13, 2007 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

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

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

Communications

1. A request from Leon Berner and Jack Willert to rezone 43 acres on Clinton Street from Agricultural to Commercial.

Committee Reports

Councilman Gertz reported for Highway Superintendent Dave Pierce that one of the plow trucks is currently down and they are working on getting that up and running. They are currently working on the floors at the Community Center.

Councilman Spanitz reported that that the next Planning Board Meeting will be next week on December 20th at 7:00 pm. She stated that they will have a brief meeting and then have a two hour training class as required by New York State.

Councilman Handley wanted to thank everyone for the great success of the Tree Lighting Ceremony. He especially wanted to thank the Kiwanis, youth groups, and vendors. The Marilla Puppeteers from the Marilla Baptist Church did a wonderful job mesmerizing kids and adults for forty five minutes, they were great. He also wanted to give a hats off to the Pavilion Committee Members for the great job with all of the concert and events this year.

Supervisor Foss reported that the town accounts at the end of November all look very good and he anticipates the town will again be in a solid financial position entering 2008. The Town should, as in the past, be able to do whatever needs to be done, whether it is another October storm or a lot of snow the Town will be able to fund the situation without raising taxes. The Town Board and Town employees have done a good job of providing services at a reasonable price, we have the lowest town taxes in Western New York. He stated there are those who want to reduce the size of government in a regionalism movement, but I warn this Town Board and future Boards what services will also be removed. The best example he can give is two years ago when the County had a budget crunch (the red and green budgets) they cut our snowplowing, Library funding, road maintenance, and deputy patrols. He suspects the County just wants our tax dollars without providing the services.

He stated on December 22nd beginning at 6:00 pm until whenever at the Marilla Grill there will be a welcome home party for Jason Nesci. He was seriously injured in Iraq. He asked everyone to stop and thank Jason and support the fundraiser for the children of two of his comrades who were killed in action. There is no cost for this event but please take the time to purchase a \$5 split club ticket. Drinks will be on a cash basis and finger food will be provided by the Marilla Grill and the Kiwanis Club of Marilla.

Open Board Presentations From the Public

Bush Gardens Resident Peter Reader discussed some issues the Mobile Home Park Residents are having with the new current owner. The new owners Bush Gardens MHC, LLC, located in Pittsford, NY, had separate water meters installed at each mobile home throughout the park and they are breaking all over the park. The residents have tried to contact the owners but nothing has been done. Residents are worried about the wiring underneath the mobile homes lying in water. They are also concerned that they will be billed for the water that is leaking out.

Supervisor Foss responded that he would contact Erie County Health Department and find out what was reported. He stated that the owners of the Park are a private enterprise and the Town is limited to what it can do. He suggested that the residents ban together and start a home owners association and hire one attorney to make it more affordable.

Town Attorney Nathan Neill suggested that they document everything and have it fixed and then sue for damages and losses from a result of the Park Owners negligence.

Town Engineer Marie Nowak stated that she will contact the Health Department, she thinks they have some control over the water system.

The Bush Garden Residents thanked the Town Board for any help or guidance they could give them.

Old Business

Motion: Councilman Specht moved, seconded by Councilman Spanitz to approve Minutes from the Public Hearings and Regular Meetings held on 11/8/07. Motion Carried.

New Business

Motion: Councilman Gertz moved, seconded by Councilman Handley to approve the following resolution for the Joint Municipal Agreement with Alden:

WHEREAS, the Town of Marilla and the Town of Alden have received a grant for shared municipal services with respect to the joint planning for the construction of water districts in each Town with the design and construction to be coordinated to allow the Town of Alden to receive water through water lines constructed as part of Town of Marilla Water District No. 5; and

WHEREAS, as a part of this grant, the Towns of Marilla and Alden need to enter into a Joint Municipal Cooperation Agreement addressing cost sharing, responsibilities and project administration relating to the grant; and

WHEREAS, the attorneys for the Towns of Marilla and Alden have negotiated a proposed agreement.

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

1. The Town Board does hereby approve the Joint Municipal Cooperation Agreement between the Town of Marilla and the Town of Alden for cost sharing, responsibilities and project administration.
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 December 13, 2007, the results of which were as follows:

Councilman Spantiz ó Aye
Councilman Gertz ó Aye
Supervisor Foss ó Aye
Motion Carried.

Councilman Specht ó Aye
Councilman Handley ó Aye

Motion: Councilman Gertz moved, seconded by Councilman Spantiz to approve the following resolution to authorize Nussbaumer & Clarke, Inc. to conduct a study on the water tank to see if it can be raised at a cost of \$12,000. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Specht to authorize the Supervisor to prepay Lush Lawn to receive a discount for services at the Town Hall and Soccer Fields. Motion Carried.

Supervisor Foss stated that the Organizational Meeting will be held on January 10th at 7:30 pm.

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

WHEREAS, the Town of Marilla has requested that the Marilla Free Library remain open and continue to provide cultural and recreational programs for the Town of Marilla for the year 2008; and

WHEREAS, the Marilla Free Library has agreed to remain open and to continue to provide such cultural and recreational programs for the Town of Marilla for the year 2008; and

WHEREAS, the parties have negotiated and agreed that the amount required to allow the Marilla Free Library to remain open and provide such services for the year 2008 is \$18,000, which amount has been provided for in the adopted budget of the Town of Marilla for the year 2008.

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

1. That the Town Board does agree to provide the Marilla Free Library with funding in the amount of \$18,000 for the year 2008 in return for the Marilla Free Library remaining open and providing cultural and recreational services to the Town of Marilla, including, but not limited to providing free library services, conducting reading workshops for youth, facilitating cultural development, promoting literary arts and providing public meeting rooms for other cultural and educational organizations.
2. That the Supervisor is hereby authorized to execute a Contract between the Town of Marilla and the Marilla Free Library, in form as presented at this meeting.
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at regular meeting of the Town Board of the Town of Marilla on December 13, 2007, the results of which were as follows:

Councilman Spantiz ó Aye

Councilman Specht ó Aye

Councilman Gertz ó Aye

Councilman Handley ó Aye

Supervisor Foss ó Aye

Motion Carried.

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

WHEREAS, the Town of Marilla previously established Water District No. 5 of the Town of Marilla but Water District No. 5 was never constructed due to the withdrawal of funding anticipated for the construction and is now in the process of modifying the proceedings to update the costs and to get the necessary approvals to continue with the district and to reapply for funding; and

WHEREAS, if Water District No. 5 is constructed, it will allow the Town of Alden to obtain water from the Erie County Water Authority on behalf of a proposed Water District No. 5 of the Town of Alden, but in order for Alden to obtain water through the lines of the Town of Marilla a number of modifications will be necessary to the water lines and other facilities for Water District No. 5 of the Town of Marilla to increase the capacity;

WHEREAS, the Town of Marilla and the Town of Alden believe that it would be in the best interest of the residents of both Towns to jointly plan the construction and pursue funding for the construction of water lines to ensure that any water lines constructed are sufficient to meet the needs of both Towns for water service;

WHEREAS, a shared municipal services grant has been obtained toward the joint planning of the water system and the parties wish to enter into this agreement addressing cost sharing, responsibilities and project administration pertaining to the grant; and

WHEREAS, the Grant requires that the Town of Marilla establish a Project Implementation Committee.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board hereby establishes for the purposes of implementing the Alden- Marilla SMSI Grant a Project Implementation Committee of the following persons: Supervisor John R. Foss; Councilperson George Gertz; Town Attorney: Nathan S. Neill and Town Engineer Marie Nowak, whose duties shall be to work towards the implementation of the Grant.
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 of the Town of Marilla on December 13, 2007, the results of which were as follows:

Councilman Spantiz ó Aye	Councilman Specht ó Aye
Councilman Gertz ó Aye	Councilman Handley ó Aye
Supervisor Foss ó Aye	

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gertz to refer to the Planning Board the request for rezone of 43 acres from Agricultural to Commercial by owners Leon Berner and Jack Willert. Motion Carried.

Supervisor Foss stated that the settlement meeting will be held on Friday, December 28th at 9:00 am.

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

WHEREAS, the Town of Marilla needs to purchase a generator for the Town Highway Garage to provide backup power in the case of a power failure to insure the communications system remains operational; and

WHEREAS, the Marilla Fire Company currently has a generator at the Marilla Fire Hall which they need to replace as it is not sufficient for its current needs in the case of a power failure but that generator would be sufficient for the Town Highway Garage; and

WHEREAS, the Marilla Fire Company is anticipating funding will be received by them as a result of an agreement entered into by the Town

of Marilla at the time of the October 2006 Storm cleanup which funding can be used for the purchase of a generator; and

WHEREAS, the Town Board has determined that the purchase of the generator from the Marilla Fire Company is in the best interest of the residents of the Town as it helps both the Town and the Marilla Fire Company by providing funding to allow the Marilla Fire Company to acquire a new generator and serving the needs of the Town Highway Garage.

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

1. The Town Board does hereby authorize the purchase of an existing generator currently located at the Marilla Fire Hall from the Marilla Fire Company for the sum of \$20,000.
2. That as a condition of this purchase, the Marilla Fire Company will agree to repay the \$20,000 to the Town upon receipt of the anticipated funding resulting from the October 2006 Storm.
3. The Supervisor is authorized to purchase the generator from the Marilla Fire Company and enter into any agreements required in connection with such purchase.
4. 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 December 13, 2007, the results of which were as follows:

Councilman Spantiz ó Aye
Councilman Gertz ó Aye
Supervisor Foss ó Aye
Motion Carried.

Councilman Specht ó Aye
Councilman Handley ó Aye

Motion: Councilman Handley moved, seconded by Councilman Gertz to approve Allied Sportsmen of WNY Inc. 2008 renewal license and the extended hours they requested for 2008. Motion Carried.

Report of Town Officials

Building Inspector John Fronczek submitted a written report with 3 building applications received totaling fees of \$ 485.00, building permits issued with a value of \$153,000.00, 17 inspections were made, and no complaints were acted on. A total of 138 acts of official business were made for the month of November.

The Planning Board minutes have been received and posted, they will be meeting next Thursday at 7:00 pm.

Conservation Advisory Board minutes have been received and posted.

Marilla Fire Company representative George Gertz asked residents to keep the fire hydrants clear from snow. He also stated that the Fire Company has been fortunate to receive grants the last few years to enable them to purchase gear a few years ago and now the new radios, without these grants they would not be buying this equipment.

Town Historian Hubert Kutter stated that it has been a great honor for him being the Historian while John has been Supervisor. John has given him and the Historical Society a lot of help as well as the Library which would have closed without John's efforts. On behalf of the Library Board he thanked John Foss for what he has done for the Library. He also thanked the Town Board for the \$18,000 for the Library. He hoped John has a great retirement and good luck in the future.

Open Board Presentations

Councilman Handley thanked Mr. Kutter for his kind words and stated that this was his seventh year doing the Tree Lighting Ceremony. He stated that he owes a lot of credit to Supervisor Foss and the Kiwanians that were doing it before him. When he first got involved with the Kiwanis, the custom for the tree lighting ceremony was to sing out around the tree and then come in for a Town Board Meeting. With the help of Debbie Specht, they began to build from that. They found that working with the youth groups was a great way to promote the event, and a lot of its success is owed to the youth groups and residents. This was the first year a lot of people complimented the Town for having such a community spirited event. The look on the children's faces especially when Santa Claus arrives is priceless. We communicate with Santa on walkie talkies over the PA system, and this year seconds after Santa said he was just flying over New York City a low flying jet flew overhead and seconds later Santa came whipping around the corner with two elves. To see the look on the kids and parents faces makes it all worthwhile. Councilman Handley wanted to thank the youth groups but it's the Firemen as well that are making this a big success. Every year they dedicate their time volunteering to control traffic for the hayrides, which last for quite a long time. It was also nice to see so many people going into the Museum, and seeing so many kids going to sit on Santa's lap made it all worthwhile. He wanted to thank everyone for all their help and any contributions that were made. This year the vendors really kicked up a lot of money also.

Resident Shirley Limpinsel stated that she had a statement that she would like to read from Peter Ziccardi;

öCircumstances prevent him from being here this evening, he had hoped to give a response to the Supervisor for his personal attack on him but that won't be necessary. He stated that his remarks were unfortunate but as his father use to say that what people say often reflects their true character. As a tax payer and a concerned citizen questions concerning town matters are well within his rights. He is confident that more and more tax payers will take active rolls in town meetings. He wished the new board good luck as your new term begins.ö

Councilman Spanitz stated that John's leadership has been commendable, it's been great working with him and she has learned a lot from him. He is caring about the people in this town, he is fair and honest and it has been a pleasure to work with him.

Councilman Specht stated that he did his last good deed for John he is taping it, and he wished him well.

Councilman Handley also wanted to wish John well, he stated that they have agreed and disagreed and he has learned to agree to disagree. He is very thankful for a lot of things Supervisor Foss has done in the town. The one that is the biggest in his mind is the Pavilion. This year at the Pavilion Tree Lighting Ceremony he wasn't expecting his daughter to come to town and she surprised him at the Pavilion. He and Sally Kutter have discussed their desire with the Pavilion is to create memories for residents and he was surprised that his family was affected the same way. He is very thankful for that.

Councilman Gertz reported that he didn't make the last meeting and he wanted to thank voters for electing him. He will serve the entire town to the best of his ability. He wanted to thank John for preparing him for this position this past year. The Town should be proud of John's leadership and direction and the Town Board's cooperation. There are other Towns that are envious of our position, the fact that he is walking into a town that is going to be debt free with a healthy balance sheet, they would have to be envious.

Supervisor Foss stated that no one ever does this by themselves. There are probably a thousand people he could thank but the one he thinks of the most is his wife. There has not been one issue that came before the Board that he didn't discuss with his wife. Sometimes they disagree but she has been a big help with him directing the town. He stated that he doesn't do any paper work without his wife and his secretary Kim reviewing it. Kim more for the grammar and spelling and Mary for the content. He said if you're running for election, you would want Mary on your team. She knows how to win elections, he has won six of them, Mary was a key part of it. It got to the point that she could almost predict the elections. He feels that when the Pavilion was built the Town took a step up, the appearance in town. In the mid nineties Mary was on the road

with her job and he would go with her at times. If they went through a town with a gazebo they would have to stop and take a picture of it. They did this for five years until they found the property with Jeff Lewinski's help. Mary put a committee together to raise money for the gazebo and they raised \$40,000 to build the Pavilion. Mary was the head of that committee and she got it done and should be congratulated for it. He thinks that is the one thing that really stands out in town.

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

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

General Fund Claims, Vouchers 527-587	\$	27,510.36
Highway Fund Claims, Vouchers 200-224	\$	19,441.45
Special Districts		
Sanitation (SR), Vouchers 121-144	\$	23,981.13
Special Fire, Voucher	\$.00
Water District #2, Vouchers 26-28	\$	6,676.31
Water District #3, Vouchers 13	\$	1,353.40
Water District #4, Voucher 12	\$	817.40
Community Development PACE 20-23	\$	199,141.03
Community Develop. HUD	\$.00

Motion Carried.

Motion: Supervisor Foss moved, seconded by Councilman Spanitz to adjourn the meeting at 8:30 p.m. Motion Carried.

Respectfully Submitted,

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