

Public Hearing

A Public Hearing was held May 12, 2011 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Proof of publication in the Alden Advertiser, Elma Review and the East Aurora Advertiser as well as posting it on the Official Bulletin Board of the Town was presented by the Town Clerk. Officials present were:

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

Approximately (21) persons were in attendance. Supervisor Gertz stated that the Public Hearing was called to order. The purpose of the hearing was to hear comments on Local Law No. 1 of the year 2011 to amend Local Law #2 of 2005 known as òFlag Lotsö adopted by the Town Board of the Town of Marilla on August 11, 2005 to establish a moratorium in regard to the issuance of Flag Lot Permits in the Town of Marilla. Supervisor Gertz asked if there were any interested persons who desired to be heard?

Hearing no comment from those in attendance, the hearing was closed at 7:31 p.m.
Respectfully Submitted,

_____ Town Clerk

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

_____ Town Clerk

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Approximately (21) persons were in attendance. Supervisor Gertz stated that the Public Hearing was called to order. The purpose of the hearing was to hear comments on Local Law No. 3 of the year 2011 to amend Section A710-2(B) (1) of the Code of the Town of Marilla to revise the construction permit fees for commercial construction in Town. Supervisor Gertz asked if there were any interested persons who desired to be heard?

Hearing no comment from those in attendance, the hearing was closed at 7:34 p.m.
Respectfully Submitted,

Town Clerk

Regular Meeting
May 12, 2011

The regular meeting of the Marilla Town Board was held on Thursday, May 12, 2011 at 7:35 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

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

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

Communications

None

Committee Reports

Highway Superintendent Ronald Unverdorben reported that they picked up 3 ½ times the amount of rubbish for last week's big pickup.

Councilman Spanitz reported that the Historical Society will be having their next meeting on Monday, May 23rd at 7:00 pm.

Councilman Ackerman reported that the next Planning Board Meeting will be Thursday, May 19th at 7:00 pm.

Councilman Handley reported that the Memorial Day Parade will be on Monday, May 30th at 11:00 am. The Parade will begin on Tomarsue Drive and Two Rod Road at 11:00 am, hot dogs purchased by the Town will be served by the Kiwanis Club. During the Ceremony a plaque will be dedicated to Civil War Veterans by an Eagle Scout Applicant. Iroquois School 7th and 8th Grade Select Chorus and Orchestra will open the concert series again this year on June 2nd at 5:15 pm at the Gazebo. He also stated that he is looking for new members for the Pavilion Committee; any interested Resident should contact him.

Councilman Darrow reported that the Car Show Meeting will be held next Wednesday at the Marilla Grill. The next CAB Meeting will be on Thursday, June 2nd at 7:00 pm.

Supervisor Gertz stated that he along with Warren and Don attended the Houghton College annual seminar, also some Planning Board and ZBA Members attended. It is a daylong seminar with various classes for all Town Offices. He said it was very informative and inexpensive to attend. He reported that this morning he attended a Municipal Law Seminar put on by Hodgson and Russ which was very informative on all aspects of Town Law and changes that may occur. He stated that he received an anonymous letter from a Resident that he cannot help without knowing who to contact.

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 4/14/2011 and the Regular Board Meeting held on 4/14/2011. Motion Carried.

New Business

Motion: Councilwoman Ackerman moved, seconded by Councilman Darrow to approve the following resolution for Local Law No. 1 of 2011 a moratorium on flag lots:

A Local Law known as Local Law No. 1 of the Year 2011 entitled "Amendment of Local Law #2 of 2005 known as "Flag Lots" adopted by the Town Board of the Town of Marilla on August 11, 2005 to establish a moratorium in regard to the issuance of Flag Lot Permits in the Town of Marilla."

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

SECTION 1. PURPOSE AND INTENT

The Town Board of the Town of Marilla currently has under review amendments to the Zoning Code in regard to permitting of flag lots in the Town. Subsequent to the adoption of Local Law 2-2005 the Town has received a number of applications for flag lot permits. The integration of flag lots within the town's existing pattern of predominantly residential and agricultural land use emphasizes the need for suitable siting, land use and zoning standards and controls to create a harmonious balance and development plan and to protect the health, safety and welfare of its residents. The existing provisions of §700-12 of the Zoning Code of the Town of Marilla may not create and meet suitable land use and zoning standards and controls to the creation of such harmonious balance and development plan. The Town Board desires to review and address, in a careful manner, the establishment, placement and development of flag lots on a comprehensive and town wide basis and to amend and/or adopt appropriate land use provisions in the Zoning Code to achieve these purposes.

Therefore, the Town Board of the Town of Marilla finds it prudent and necessary to enact a moratorium applicable to flag lots. This moratorium is intended to ensure that no approvals for such land use application be granted until this Board can complete its planning studies and has had an opportunity to consider and/or enact appropriate amendments to the Zoning Code.

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the provisions of Article XVI of the Town Law and Section 10 of the Municipal Home Rule Law.

SECTION 3. APPLICATION

This law shall apply to flag lot permits in the Town.

SECTION 4. DURATION

This law shall be in effect for six (6) months from and after its adoption.

SECTION 5. SCOPE OF CONTROL

During the effective period of this local law, no board or agency of the Town shall accept, process, review, recommend or grant approval for a flag lot permit which has not been filed at the time of the adoption of this law.

SECTION 6. VARIANCES

Should any owner of property affected by this local law suffer an unnecessary hardship in the way of carrying out the strict letter of this local law, then the owner of said property may apply to the Town Board of the Town in writing for a variation from strict compliance with this local law upon submission of proof of such unnecessary hardship. For the purposes of this local law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a permit during the period of the moratorium imposed by this local law.

Upon submission of a written application to the Town Clerk by the property owner seeking a variation of this local law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days written notice in the official newspaper of the Town. At said Public Hearing the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard and the Town Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this local law. If the Town Board determines that a property owner will suffer an unnecessary hardship if this local law is strictly applied to a particular property, then the Town Board shall vary the application to this local law to the minimum extent necessary to provide the property owner relief from compliance with this local law.

SECTION 7. EXISTING ACTIVITIES

The development of all projects already approved or for which permits have been issued may be continued and shall not be affected by the terms and provisions of this Local Law.

SECTION 8. SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence or part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect.

SECTION 9. EFFECTIVE DATE

This Local Law shall take effect immediately upon the adoption by the Town of Marilla Town Board and filing with the New York Secretary of State.

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

Motion: Councilman Handley moved, seconded by Councilwoman Spanitz to approve the following resolution for Local Law No. 2 for the Year 2011 to amend the vehicle and traffic law as follows:

A Local Law known as Local Law No. 2 of the Year 2011 entitled "Amendment to the Vehicle and Traffic Provisions of the Code 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 2011 entitled "Amendment to the Vehicle and Traffic Provisions of the Code of the Town of Marilla".

SECTION 2. PURPOSE

The purpose of this local law is to amend the provisions of Chapter 428 of the Code of the Town of Marilla to better regulate parking by clarifying restrictions and penalties for violations.

SECTION 3. AMENDMENT TO VEHICLE AND TRAFFIC
PROVISIONS OF THE CODE OF THE TOWN OF MARILLA

Chapter 428 of the Code of the Town of Marilla originally adopted on 4-3-1967, amended on 7-23-1974, 5-7-1979, 5-3-1982 and codified as Chapter 200, Article I of the 1999 Code of the Town of Marilla, amended by Local Law No. 2 of the Year 1999 and renumbered as Chapter 428 at the time of the adoption of the Code pursuant to Local Law No. 2 of the Year 2006 and is amended to read as follows:

ARTICLE I Parking

§ 428-1. Definitions.

For the purpose of this article, the words "vehicle", "owner" and "park" shall have the meanings as defined in the Vehicle and Traffic Law of the State of New York.

§ 428-2. Parking on sidewalk or between sidewalk and curb prohibited.

No person shall park a vehicle or any portion thereof upon any sidewalk or between the sidewalk and curb or between the sidewalk and the parking lane on any street which has no curb.

§ 428-3. Parking of vehicles for sale in street prohibited .

No person shall park a vehicle upon any roadway of any street for the express purpose of displaying such vehicle for sale.

§ 428-4. No-parking and no-standing signs.

No person shall park any vehicle under his control between no-parking signs or permit the same to stand between no-standing signs which are placed on the street by the police to control the parking or standing of vehicles at funerals, weddings or church services or where street repair work is taking place or utility lines are being repaired or where an accident has occurred or other town sponsored events.

§ 428-5. No parking or standing in certain places. [Amended 7-23-1974; 5-3-1982; 9-12-1994]

No person shall permit any vehicle under his control to be parked or to stand in the following places:

A. West Avenue between Two Rod Road and Webster Lane, both north and south sides.

B. West Avenue between Webster Lane and Bullis Road, east side only.

C. East Avenue and the remainder of West Avenue between November 1 and April 15 of each year, from 10:00 p.m. to 10:00 a.m.

§ 428-6. Winter parking. [Added 5-7-1979; amended 5-3-1982]

The parking of vehicles is hereby prohibited on all county roads and Town highways within this Town between 2:00 a.m. and 8:00 a.m., from November 15 to April 1.

§ 428-7. School bus loading and unloading zones.

Notwithstanding the provisions of this article, the parking and standing of school buses for the purpose of loading and/or unloading of passengers shall be permitted in the following places which are hereby designated as "school bus loading and unloading zones."

§ 428-8. Fire Hydrants.

No person shall park any vehicle under his control in front of a fire hydrant.

§ 428-9. Removal of vehicles.

In case of violation of any of the parking or no-parking provisions hereof, the Town is hereby authorized to hire a tow car and cause any such vehicle parked in violation of the provisions hereof to be towed away to some suitable place within the Town. Any such vehicle shall remain in the custody of the Town until the towing charges are paid. In parking violations, the provisions of this section do not take the place of the provisions of § 428-11 hereof, but are in addition thereto.

§ 428-10. Parking on premises or property other than highways or public roads.

A. No person shall park, stand, store or leave a motor vehicle upon any publicly or privately owned premises or property, parking areas or parking lots, excluding roads and highways, without the consent and permission of the owner or lessee of such premises. [Amended 5-3-1982]

B. Signs.

(1) Parking lot or parking area.

- (a) To effectuate the prohibition on such premises as above described, a conspicuous sign or signs shall be posted at the entrances to such parking lot or parking area informing the public as to the permitted conditions of parking thereof. A sign as hereinafter described shall be deemed substantial compliance with this section:
[Amended 3-11-1999 by L.L. No. 2-1999]

PARKING RESTRICTED (six inches) EXCEPT FOR (LIST PERSONS OR CONDITIONS PERMITTED ONLY) (four inches)
ALL OTHERS KEEP OUT (six inches) UNDER PENALTY OF LAW (two inches) POLICE ENFORCEMENT (two inches)

- (2) Such sign or signs shall be at least three feet high by four feet wide, with red lettering of a size not less than above indicated upon a white background. The words "police enforcement "and "under penalty of law" on such signs shall be construed, among other things, to mean a request by the owner or lessee that the police or special patrolmen shall enforce the provisions of this section against persons parking, standing, storing or leaving vehicles on such premises without the consent of the owner or lessee, and that the police are authorized to enter upon such premises to enforce the provisions of this article. Such sign or signs shall state the conditions of parking or the persons authorized by the owner or lessee to use said premises for parking, or both; and persons not included within such authorization or violating the regulations and conditions set out on said signs shall be deemed to be using said premises unlawfully without the authority and consent of the owner or lessee.

(3) Parking prohibited.

- (a) Where an owner of premises desires to prohibit completely, parking thereon, he may notify the public to that effect by a conspicuous sign or signs placed on said premises stating in

substance: [Amended 3-11-1999 by L.L. No. 2-1999] NO
PARKING POLICE ENFORCEMENT UNDER
PENALTY OF LAW

- (b) Such sign shall be not less than two feet in height by three feet in width, with red lettering not less than four inches high upon a white background. Any person who parks or leaves a vehicle on such posted premises shall be deemed in violation of this section.
- C. This section may be enforced by the police or special patrolmen in the same manner as elsewhere provided for in this article for the enforcement of traffic or parking ordinances, including the use of tags, summonses and towing and any other procedure authorized by law.
- D. Proof of ownership of a vehicle shall be presumptive evidence in an action for enforcement of this section that the owner parked or caused his vehicle to be parked on such premises.
- E. If such premises adjoin or abut upon a building or structure whose entrances or exits open upon such parking area, no vehicle shall be left parked, standing or placed in such manner as to obstruct such entrances or exits, and a clear unobstructed passage shall be maintained and left open from such entrances or exits to the street or public right-of-way; such passageway shall be equal in width to the width of said entrances or exits in each instance, but in no case shall be less than five feet wide, and shall permit persons to enter and leave such building or structure with safety. A sign attached to such building or structure at the place of such entrances or exits shall inform users of such parking area as to such restrictions, and failure to obey the regulations herein contained shall be deemed a violation of this section.
- F. On demand of the police, any owner or lessee requesting police enforcement of this article shall furnish to the police a statement, in writing, signed by him or his agent, to the effect that a specified vehicle was unlawfully parked, stored or left upon his premises at a certain time or during a certain period without his consent or permission, and such owner or lessee shall be available to testify to such facts in court at the request of the police. Failure of an owner or lessee to comply with the request of the police, as above set out, shall be sufficient cause for the Chief of Police or his subordinates to cease enforcing of this article at the premises of such owner or lessee who fails to give the cooperation required herein.
- G. Violations of this section shall be punishable as provided in § 428-11 of this article.

§ 428-11. Penalties for offenses. I

Every person convicted for a violation of any of the provisions of this article shall be punished for a first conviction by a fine of not less than \$25 nor more than \$250 or by imprisonment for not to exceed 15 days, or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within 18 months by a fine of not less than \$50 nor more than \$300 or by imprisonment for not to exceed 15 days, or by both such fine and imprisonment and upon conviction of a third or subsequent violation within a period of 18 months by a fine of not less than \$100 nor more than \$400 or by imprisonment for not more than 15 days, or by both such fine and imprisonment.

ARTICLE II

Fire Lanes and Handicapped Parking

§ 428-12. Definitions.

As used in this article the following terms shall have the meanings indicated:

AUTHORIZED EMERGENCY VEHICLE - Every ambulance, police vehicle, fire vehicle, civil defense emergency vehicle and ordinance disposal vehicle of the Armed Forces of the United States.

COMMERCIAL VEHICLE - Any vehicle engaged in the delivery and/or loading of merchandise, supplies or other material or the rendering of services to stores or business establishments.

ELIGIBLE VEHICLE - Any vehicle that is issued a special license plate under § 404-a of the Vehicle and Traffic Law of the State of New York or is issued a special parking permit under § 1203-a of the Vehicle and Traffic Law of the State of New York.

EMERGENCY OPERATION - The operation or parking of an authorized emergency vehicle when such vehicle is engaged in transporting a sick or injured person, pursuing an actual or suspected violator of the law or responding to or working or assisting at the scene of an accident, authorized emergency training exercise, disaster, police call, alarm or fire or other emergency. Emergency operation shall not include returning from such service.

FIRE LANE - Any zone or area established as such pursuant to this article.

HANDICAPPED PARKING SPACE - Any handicapped parking area or space established as such pursuant to this article.

HANDICAPPED PERSON - Any person eligible to have his vehicle specially registered pursuant to § 404-a of the Vehicle and Traffic Law of the State of New York or eligible for a special parking permit under § 1203-a of the Vehicle and Traffic Law of the State of New York.

PARKING - The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

RESIDENT - A person who resides in the Town of Marilla or pays real property taxes to the Town of Marilla.

STANDING - The stopping of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

STOPPING - When prohibited, any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

TOWN - The Town of Marilla situated in Erie County in the State of New York.

VEHICLE - Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

§ 428-13. Applicability.

This article applies only to fire lanes and handicapped parking spaces established by the Town Board or its designee pursuant to this article or any amendment thereto.

§ 428-14. General restrictions.

The following restrictions are hereby imposed on parking within the Town of Marilla:

- A. The stopping, standing or parking of any vehicle in any area established by the Town Board of the Town of Marilla or its designee and marked "Fire Lane" within the geographical limits of the Town of Marilla is hereby prohibited unless herein and hereafter expressly permitted.
- B. The stopping, standing or parking of any vehicle in any area established by the Town Board of the Town of Marilla or its designee and marked "Handicapped Parking," except by vehicles that have been issued special license plates under § 404-a or special parking permits under § 1203-a of the Vehicle and Traffic Law of the State of New York, is hereby prohibited.

§ 428-15. Exceptions.

- A. The prohibitions contained in § 428-14A hereof shall not apply to:
 - (1) Commercial vehicles parked at loading docks or service entrances to stores or business establishments while said commercial vehicles are actively engaged in the delivery and/or loading of merchandise, supplies or other material or the rendering of services to such stores or business establishments.
 - (2) Authorized emergency vehicles engaged in emergency operation within the particular location of the fire lane.
 - (3) All public transit buses, such as NFTA buses, or any other services to persons or property within the particular location of the fire lane.
- B. The prohibitions contained in § 428-14B hereof shall not apply to eligible vehicles.

§ 428-16. Procedure for establishing fire lanes and handicapped parking spaces.

- A. The Town Board or its designee shall designate any area at, on or near any interior street, roadway, driveway or parking area in which any obstruction due to the parking or placing therein of any vehicle or any other physical object will cause interference with the ingress and egress of fire-fighting equipment or authorized emergency vehicles or which will create a condition dangerous to life or property in the event of fire. The Town Board or its designee shall also designate parking spaces or areas reserved for handicapped persons in accordance with the requirements of § 1203-c of the Vehicle and Traffic Law of the State of New York.
- B. The designated areas shall thereupon be marked with standard signs and/or other markings and signs which conform to accepted sign standards as set forth in the New York State Manual of Uniform Traffic Control Devices and which are deemed necessary and proper by the Town Board or its designee.
- C. Signs and markings shall be installed by and at the expense of the owner of the property within 120 calendar days after receipt of official written notice by the Town Board or its designee designating and depicting areas and locations of such signs and markings.
- D. In the event that any owner refuses or fails to install any and all required signs and markings within 120 calendar days of receiving said official notice, the Town shall promptly perform the required work, and the Town Board or its designee shall provide for the assessment of all costs and expenses so incurred by the Town in connection with any such action taken, to become a lien against the land on which such signs and markings are located.

§ 428-17. Penalties for offenses. Notwithstanding the provisions of § 428-18:

- A. Any person, persons, firm, association, partnership or corporation violating the provisions of § 428-14A of this article shall be guilty of a traffic infraction and shall, upon conviction thereof, be subject to a fine of not less than \$25 nor more than \$250.
- B. Any person, persons, firms, association, partnership or corporation violating the provisions of § 428-14B of this article shall be guilty of a traffic infraction and shall, upon conviction thereof, be subject to a fine of not less than \$25 nor more than \$250 for the first offense and not less than \$50 nor more than \$250 for the second offense occurring within a period of two years within the Town of Marilla.

§ 428-18. Enforcement.

- A. The enforcement of this article and rules and regulations promulgated pursuant thereto will be by the Code Enforcement Officer or Fire Marshal and by such special persons as may be from time to time authorized by the Town Board of the Town of Marilla in addition to any duly authorized law enforcement officer of the State of New York.
- B. Any vehicle stopped, standing or parked in a fire lane or any vehicle without a special handicapped license plate or special parking permit in a designated handicapped parking area may be removed there from and stored at the direction of the Town of Marilla. The owner or operator of such vehicle shall be liable to the Town of Marilla or its designee for the payment of reasonable charges for such removal and storage of any such vehicle.

§ 428-19. Authority of Town Board or designee.

- A. Fire lanes and handicapped parking spaces or areas shall be established by the Town Board or its designee.
- B. For purposes of this article, the designee of the Town Board shall be the Code Enforcement Officer of the Town of Marilla.

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.

Roll Call Vote:

Councilwoman Spanitz ó Aye

Councilwoman Ackerman ó Aye

Councilman Handley ó Aye

Councilman Darrow ó Aye

Supervisor Gertz ó Aye

Motion Carried.

Motion: Councilwoman Spanitz moved, seconded by Councilwoman Ackerman to approve Local Law No.3 of the year 2011 to amend Commercial Construction Permit Fees:

SECTION 1. TITLE

This Law shall be known as Local Law No. 3 of the year 2011 and titled "Amendment to Section A710-2 (B) (1) of the Code of the Town of Marilla."

SECTION 2. PURPOSE AND INTENT

The purpose of this Local Law is to amend Section A710-2 (B) (1) of the Code of the Town of Marilla to revise the construction permit fees for commercial construction in the Town of Marilla.

SECTION 3. AMENDMENT

Section A710-2 (B) (1) of the Code of Marilla originally adopted on March 17, 1998 and amended on March 8, 2007 is hereby amended to read as follows:

B.	Commercial Construction			
(1)	All new construction:			
	Square foot	Fee	plus	per square foot
	0-5000	\$200.00		0.10
	5001-10,000	\$300.00		0.10
	10,001-20,000	\$400.00		0.10
	20,001 and up	\$500.00		0.10

SECTION 4. EFFECTIVE DATE

This Local Law shall take effect immediately upon its adoption by the Town of Marilla Town Board and filing with the New York Secretary of State.

Roll Call Vote:

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

Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilwoman Ackerman to set a public hearing for the Flag Lot Application for property on Liberia Road with an SBL# 157.00-3-14.1 owned by John Clapp for June 9th, 2011 at 7:30 p.m. Motion Carried

Motion: Councilman Handley moved, seconded by Councilwoman Ackerman to approve the negative declaration on the Environmental Assessment Form for Kenø Service Snowmobile and Retail Store the Town has declared itself the Lead Agency.

Roll Call Vote:

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

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilwoman Spanitz to approve the SEQRA for the proposed Snowmobile and Lawn Mower Retail Store owned by Kenneth Kelchlin.

Roll Call Vote:

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

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilwoman Spanitz to authorize the Tri-Town Soccer Club use of the Soccer Fields on Eastwood Road for the 2011 season. Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilwoman Ackerman to authorize the Supervisor to obtain two appraisals for property located at 1717 Two Rod Road. Motion Carried.

Motion: Councilwoman Ackerman moved, seconded by Councilwoman Spanitz to authorize the Highway Superintendent to purchase a new plow truck from the New York State Bid List at a cost of \$178,445.00. Motion Carried.

- Motion: Councilwoman Spanitz moved, seconded by Councilman Darrow to authorize the Supervisor to sign an agreement with Clark Patterson to provide Architectural Services for the Community Center. Motion Carried.
- Motion: Councilwoman Spanitz moved, seconded by Councilman Handley to amend the agenda. Motion Carried.
- Motion: Councilwoman Ackerman moved, seconded by Councilman Handley set a public hearing for the Flag Lot Application for property on Two Rod Road with an SBL# 157.00-7 -15.11 owned by Sandra Ells for June 9th, 2011 at 7:30 p.m. Motion Carried

Report of Town Officials

Town Engineer Marie Nowak reported that all the water mains have been installed and tested and approved by Erie County Health Department and the Erie County Water Authority. As of today there were 16 services already installed primarily on Clinton and Exchange Streets. She said the restoration is going along as the Contractor works on the services. Bennington will be connecting to the waterline at the end of Clinton Street and she will be meeting with Rural Development next week on Friday.

Building Inspector Scott Rider submitted a written report with 6 building applications received with fees totaling \$787, 6 building permits were issued with a total value of \$234,000, 5 inspections were made for the month of April. There were a total of 124 logged activities.

Town Assessor Kandace Wittmeyer reported that the tentative roll was filed with the County and will be on the Town's website. Assessment change notices were mailed. She said in the packets she submitted to the Town Board Members there are contact numbers for the State and County Veteran's Administration. She met with them regarding Veteran's Exemptions; she said there is also a packet about jobs for Vets; to help them with the transition when they come home. She also included reports from the Comptroller pertaining to county wide assessment and the response from the Assessors Association. She said there was a report on erie.gov done years ago, it was state funded and the largest tax payers sat on that study; they found it was not beneficial to the taxpayers to go to countywide assessment.

Supervisor Gertz said that the Planning Board and Conservation Advisory Board minutes were received and posted.

Open Board Presentations

Robin Pfeil, father of Kim King who owns a home in Alden but has 25 acres of land locked acreage that is in Water District 5 in the Town of Marilla. The parcel does not have any road frontage in the Town of Marilla and he wanted to present his case publically to the Town Board. He pleaded his case to the Town Board and presented a packet of information. He questioned the Town Engineer and the Town Supervisor about allowing his Daughter to be an out of district customer. He has submitted a survey along with documentation to allow her property to be part of the district. He said frontage is not the only criteria, her parcel is in the legal description and was used when applying for the District. He contacted the Erie County Water Authority and they have no problem with her getting water as long as Alden and Marilla are in agreement. His Daughter approached her neighbor the Bloods and they would be willing to sell her one foot of frontage but were told by their Mortgage Holder they would pull their funding.

Town Engineer Marie Nowak responded to Mr. Pfeil's questions saying it is not as simple as Mr. Pfeil says it is. She said the new survey shows his daughter is not in the district because their frontage is in Alden. She said the Town would have to amend the Water District Water Supply Permit which could jeopardize the whole District. This could also jeopardize the grant money this District has received.

Mr. Pfeil showed a map and stated that his Daughter's parcel is the 8th largest parcel in the District, he has a signed survey, Erie County Water Authority said whatever the Town's will agree on is doable. He said the Bloods are happy to cooperate. He gave the Town Board a Resolution that he hoped they would pass this evening to give his

Daughter the benefit of water. He gave the Town Clerk a packet to be included as part of the Meeting.

Resident Kathy Toy of Clinton Street stated that she hoped the Town Board would allow the speed limit on Clinton Street to remain 45 mph. Her and her Husband ride bikes and do road work on Clinton Street and are worried as a safety issue.

Richard Rose of Clinton Street stated that he was instrumental at getting the Clinton Street speed reduced. He said someone at the Town Hall is working on getting it increased. He said there have been numerous accidents with fatalities on Clinton Street and Two Rod Road. School buses make four stops a day on this road and with this being a truck route it makes it a very dangerous situation.

Councilwoman Ackerman questioned the Town Engineer Marie Nowak concerning the letter her firm sent Mr. Pfeil pertaining to the cost, she asked what would those costs be for putting water on Kim Kings property?

Town Engineer Marie Nowak responded that it is a complicated situation and she does not have the costs figured out at this time. She has put a lot of time into responding to Mr. Pfeil and understands their need for water but they live in Alden and she has an obligation to the 52 Marilla Residents in the District.

Councilman Handley stated that he talked to Mr. Pfeil today and has a lot of real good points that need to be looked at. He understands they are in Alden but the waterline may already be on their property.

Ms. Nowak replied it is on no one's property the water main is in the right of way.

Councilman Handley asked about Alden's water District and was told it is not created yet.

Town Engineer Marie Nowak explained she knows where the confusion in survey is; that there is a problem with the County mapping and the property lines are incorrect.

Councilman Handley asked if Mr. Pfeil were to purchase one foot of property from the Blood's as road frontage would he then be included in the district?

Ms. Nowak responded if he had frontage in Marilla he would included as an out of district customer.

Councilman Handley asked if Ms. Kings back land was in the Water District and how it would work if Alden creates a district for the King parcel.

Town Engineer Marie Nowak responded the Water Authority requires the tap has to be on frontage in front of your house and they are not in the Town of Marilla. She explained the purpose of a water supply permit is that you have someone responsible for taking care of that water main. To include their parcel we would have to amend the water supply permit to the State and send new drawings. When applying to the State with previous water districts for out of district customers the Water Authority required the water line to cross the entire frontage with the water line so in this case the water line would be in the Town of Alden.

Councilman Handley said what he is trying to do for them is help them out as much as he can as he would do for every resident. He asked how the calculation was done for the residents in Water District 5?

Supervisor Gertz responded every parcel pays \$250 plus the appraised value of the property.

Councilman Handley said he hoped if there is any way they can help Mr. Pfeil and his family it would be greatly appreciated. He then asked Supervisor that he would like to receive the profit and loss statements that he used to receive and he had asked for them two months ago.

Supervisor Gertz stated they are in his office which they all have keys to, but he would get them in the morning for him. He said the last thing he would say with Mr. Pfeil's

