

Regular Meeting of the Marilla Town Board was held August 9, 2007 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

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

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

Communications

None

Committee Reports

Highway Superintendent Dave Pierce reported that roadsides have been mowed and intersections swept for the second time. They are finishing up the addition at the Recycling Center and making the park picnic benches for the new shelter.

Councilman Spanitz reported that the Planning Board will be holding its next meeting on August 16th in the Town Hall at 7:00 p.m. She also wanted to comment on our local Marilla Team winning the Battle of the Books in Erie County. It included students from 6th to 9th grade, ages 11 to 13, and included 22 libraries and 32 teams. Each team had to read 6 books and answer 13 questions on each book. She was very proud that our Team won and stated that the Town Board will be passing a resolution later in the meeting.

Councilman Handley reported that on August 22nd Glen Colton will be performing at 1 pm, and on August 26th we will be having a Polish Festival from 1 to 5 pm with a polish meal, Polish Heritage Dancers, and the Phocus Polka Band. He also stated that Marilla Ag Day will be on September 16, there are flyers for both the Polish Festival and Ag Day.

Councilman Specht reported that the 2 new computers and memory for some of the old ones are now all installed and everything is running better. The Car Show Committee wanted to thank all of the people that were inconvenienced. He does not have a final number at this time but it will be a substantial amount of money that will be going to Mercy Flight. He wanted to thank Marilla Residents.

Supervisor Foss stated that the budget sheets to the department heads will be coming out next week and are to be returned by September 10th. He will not be publishing the budget summary in the Town's fall newsletter due to time restraints. The budget will be completed by October 1st as required, to date all economic data looks good and tax rates will remain similar to what they are now.

He explained that he spoke to Mr. Schubert concerning the re-zone on Bullis Road and he is withdrawing his re-zone request. The Town Board had never prepared an official resolution of the zoning change. He expressed to Mr. Schubert when he first came before the Town Board that he would have to get the support of his neighbors to have this re-zone occur, this did not happen.

The CAB Board made their recommendations to the Town Board and their opinion was that none of the properties were fully ready for writing a grant. The Town Board felt that the CAB Board along with Jason Engel, their consultant, did a wonderful job of preparing but the Town Board wanted to continue to be active in the PACE Program. As a result the Town Board decided to apply using the highest rated property. In this instance it is a Horse Farm on Three Rod Road and the Town will be hiring a Grant Writer Connie Miner to write the Grant. The Town Board believes we have a good chance.

Open Board Presentations From the Public

None

Old Business

Motion: Councilman Specht moved, seconded by Councilman Handley to approve the minutes from the Public Hearings and the Regular Board Meeting held on 7/12/07. Motion Carried.

New Business

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to approve the following resolution for sanitation bid;

WHEREAS, following the review of the proposals submitted, the bid from NEI had to be disregarded as unresponsive to the bid proposal as it qualified its rate quotation, and if not disqualified would not have been the low bidder, and as a results of such bids and following the completion of the Marilla Computations, a copy of which is attached hereto, the Town of Marilla has determined that Allied Waste is the low bidder; and

WHEREAS, the Town of Marilla has been advised by Chautauqua County that the transfer station to which the Town of Marilla is currently taking its mixed municipal solid waste will be undergoing substantial repairs at the end of August and would prefer that the Town of Marilla bring its mixed municipal solid waste to another disposal site at such time; and

WHEREAS, Allied Waste has indicate that it is willing to begin accepting mixed municipal solid waste commencing in September 2007 at the rate set forth in their bid proposal.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board does hereby determine that Allied Waste Industries, Inc. is the low bidder under bid proposal received July 10, 2007 at the price of \$37.50 per ton.
2. The Town Board does hereby authorize the Supervisor to execute and deliver a contract with Allied Waste Industries, Inc. for the disposal of mixed municipal solid waste in accordance with the bid submitted on July 10, 2007 by Allied Waste Industries, Inc., in form approved by the Town Attorney.
3. The Town Board does further authorize the execution and delivery of an addendum to such agreement providing for the delivery of mixed municipal solid waste to Allied Waste Industries, Inc. commencing in September 2007 at the same price of \$37.50 per ton as provided for in the bid proposal.
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 August 9, 2007, the results of which were as follows:

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

Councilman Specht ó Aye
Councilman Handley - Aye

Marilla Computations

Chatauqua County at Fredonia Transfer Station

114 miles x \$.20/ton/mile =	\$22.80/ton
Labor 3 hrs x \$23/hr = \$69 divided by 10 tons =	\$6.90/ton
Disposal Cost	<u>\$31.00/ton</u>
	\$60.70/ton

Allied Waste

77.92 miles x \$.20/ton/mile =	\$15.58/ton
Labor 2.16666 hr x \$23/hr = \$49.83 divided by 10 tons =	\$4.98/ton
Disposal Cost	<u>\$37.50/ton</u>
	\$58.06/ton

Waste Management

25.4 miles x \$.20/ton/mile =	\$5.08/ton
Labor 1 hr x \$23/hr = \$23 = \$23 divided by 10 tons =	\$2.30/ton
Disposal Cost	<u>\$53.75/ton</u>
	\$61.13/ton

Modern

36.4 miles x \$.20/ton/mile	\$7.28/ton
Labor 1 hr x \$23/hr = \$23 = \$23 divided by 10 tons =	\$2.30/ton
Disposal	<u>\$49.49/ton</u>
	\$59.07/ton

NEI

29.6 miles x \$.20/ton/mile	\$5.92/ton
Labor 1 hr x \$23/hr = \$23 divided by 10 tons =	\$2.30/ton
Disposal	<u>\$51.00/ton</u>
	\$59.22/ton

Summary of Bid Results

The bid results with mileages as set forth in the bids are as follows;

Waste Management

C-1 Combined Elma Marilla	\$53.75/ton	8.5 miles from Elma 12.7 miles from Marilla*
C-2 Elma alone	\$35.90/ton	21 miles from Elma**
C-3 Marilla alone	\$53/75/ton	12.7 miles from Marilla*

*this is for delivery at Walden Avenue transfer station

**this is for delivery at the Chaffee landfill

Chatauqua County

C-1 Combined Elma Marilla	\$31/ton	56 miles from Elma 57 miles from Marilla*
C-1 Combined Elma Marilla	\$23.50/ton	74 miles from Elma 75 miles from Marilla**
C-2 Elma alone	\$31/ton	56 miles from Elma
C-2 Elma alone	\$23.50/ton	74 miles from Elma*
C-3 Marilla alone	\$31/ton	57 miles from Marilla*
C-3 Marilla alone	\$23.50/ton	75 miles from Marilla**

*this is for delivery to Fredonia transfer station
**this is for delivery to Chautauqua County Landfill

Modern Landfill, Inc.

C-1 Combined Elma Marilla	\$49.49/ton	13.7 miles from Elma 18.2 miles from Marilla
C-2 Elma alone	\$49.49/ton	13.7 miles
C-2 Marilla alone	\$49.49/ton	18.2 miles from Marilla

this is for delivery at East Side Transfer Station

Allied Waste

C-1 Combined Elma Marilla	\$37.50/ton	34.55 miles from Elma 38.96 miles from Marilla
C-2 Elma alone	\$37.50/ton	34.55 miles from Elma
C-3 Marilla alone	\$37.50/ton	38.96 miles from Marilla

this is for delivery at Covanta Niagara L.P.

NEI

C-1 Combined Elma Marilla \$51/ton with 14.2 miles from Elma and 14.8 miles from Marilla to the Jeffrey Avenue transfer station in Blasdell but the bid submitted was not valid as it contained qualifications not set forth in the bid specifications and as such was not responsive to the bid request.

Motion: Councilman Handley moved, seconded by Councilman Gertz to reject the fence bid and to authorize the Town Clerk to advertise the re-bid.
Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gertz to authorize the Supervisor to pay Erie County Mounted Sheriffs \$500 for their services at the Car Show. Motion Carried.

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

WHEREAS, the Marilla Free Library participated in the 2007 Battle of the Books against the other library branches in the Buffalo and Erie County Public Library system fielding a team consisting of Brett Christensen, Josh Owczarczak, Nick Specht, Mike Specht, Sarah Hanson, Michael Green, Kayla Morrett, Alex Feim and Matt Buehlmann, with Joyce Kaupa and Cathy Urquhart serving as coaches, Kaitlyn Buehlman serving as assistant coach and Joanna Barrett, Mary Reichert and Lorraine Martzolf serving as helpers; and

WHEREAS, as a result of their successful coaching and preparation and the dedication and efforts of all of the above mentioned participants, the Marilla Free Library received first place in the 2007 Battle of the Books which success the Town Board of the Town of Marilla wishes to acknowledge.

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

1. The Town Board hereby congratulates the team members Brett Christensen, Josh Owczarczak, Nick Specht, Mike Specht, Sarah Hanson, Michael Green, Kayla Morrett, Alex Feim and Matt Buehlmann for their successful competition and the efforts of Joyce Kaupa and Cathy Urquhart as coaches, Kaitlyn Buehlman as assistant coach and Joanna Barrett, Mary Reichert and Lorraine Martzolf as helpers.

2. The Town Board further awards all the members of the team with a proclamation acknowledging their successful efforts in the 2007 Battle of the Books.
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 held on August 9, 2007, the results of which were as follows:

Roll Call Vote:

Councilman Spanitz ó Aye

Councilman Specht ó Aye

Councilman Gertz ó Aye

Councilman Handley - Aye

Supervisor Foss ó Aye

Motion Carried.

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

WHEREAS, there has recently been negative press coverage by the New YorkTimes and some local papers within Erie County suggesting that the Town court system is flawed and more specifically, alleging that the three hundred (300)year tradition of non-lawyer judges presiding over and within the local municipalities should be eliminated; and

WHEREAS, there has always been a Town Court within the Town of Marilla conveniently located and accessible to our citizens; and

WHEREAS, there are 2 Town Judgeships established within the Town of Marilla; and

WHEREAS, there are presently one non-attorney Town Justices and one attorney Town Justices within the Town of Marilla; and

WHEREAS, with their civil and criminal jurisdiction, the Town Justices in the Town of Marilla handled many hundreds of cases in the past year; and

WHEREAS, the Marilla Justice Court in Erie County, New York collected \$46,935 in fines which are utilized to fund essential public services; and

WHEREAS, the Town Court of the Town of Marilla in the past year collected \$66,015 in statutory fines, fees and surcharges on behalf of the State of York and the Town of Marilla, to help

WHEREAS, the Town Board of the Town of Marilla recognizes and appreciates the professionalism, diligence, intelligence and integrity of the non-attorney or lay justices within our town who bring a specialized experience to the bench particularly with issues unique to our community who elected them; and

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

1. That the members of the Town Board of the Town of Marilla support the continuation of the three hundred year tradition of non-lawyer or lay justices presiding in Town Courts.
2. That the members of the Town Board of Town of Marilla hereby oppose any requirement that Town Justices be attorneys.
3. That the members of the Town Board of the Town of Marilla oppose any efforts to eliminate local and convenient access to justice by our citizens; and find that the local presence of the Town Court of the Town of Marilla provides a meaningful and necessary presence within our community for judicial resolution of conflicts, continued public safety of our citizens and the protection of constitutional guarantees for all of our citizens.

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 August 9, 2007, the

results of which were as follows:

Councilman Spanitz ó Aye

Councilman Specht ó Aye

Councilman Gertz ó Aye

Councilman Handley - Aye

Supervisor Foss ó Aye

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gertz to approve Paycheckø as the Town of Marillaø payroll processing firm effective 8/1/07. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Gertz to hire Grant Writer Connie Miner at a fee not to exceed \$1500 to write the PACE Grant for Horse Farm known as Stonewall Farm, located at 474 Three Rod Road with a SBL # 130.00-5-7. Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Handley to authorize Jason Engel to negotiate with Stonewall Farms for purchase with the PACE Grant. Motion Carried.

Report of Town Officials

Town Engineer Marie Nowak reported that the Town of Alden has signed the paperwork for the shared services grant, this could possibly have something to do with Water District 5 in the northeast corner of town. Alden sent the paper work on to Albany and are now waiting for Albanyø signature and the check. She stated that they would possibly be meeting with Alden next month to look at what they have left to do and how the money would be shared with Marilla.

Building Inspector John Fronczek submitted a written report with 17 building applications received with fees totaling \$1,883.00, 17 building permits issued with a total value of \$313,195.00, 16 inspections were made and two complaints were received for the month of July 2007. One stop work order was issued and one Zoning Board Application and one Special Use Permit Application. A total of 187 official code enforcement activities were performed in the month of July.

Town Attorney Nathan Neill stated that he felt we had a successful bid for the refuse disposal. He felt Chautauqua County basically set the threshold for all of the bidders. Our bid results are a result of Chautauqua County having their program in place. He stated that you could see when the bids came in they were all trying to beat Chautauqua County.

The Planning Boardø next meeting will be August 16th in the Marilla Town Hall at 7:00 p.m. and the minutes have been received and posted.

The Conservation Advisory minutes have been received and posted.

Councilman Gertz reported for the Marilla Fire Company that there will be a tractor pull at the Firemenø Grounds this Sunday at 1:00 pm.

The Historical Society has an exhibit at the Erie County Fair.

Open Board Presentations

Councilman Specht stated that the internet has been flooded with emails about the Car Show. Two of them caught his eye; the first was from the clutch artists stating ò that was one hell of a show, a great time was had by all, very organized and planned. Plenty to do and see, congrats to all that helped and attended.ö The second was from an individual ò Holy crap this was my first year going to the show from a friend who had a vehicle in the show, he heard there were a little over a thousand vehicle, what a great show. So many great cars there I barely saw any that I thought shouldnø have been there. Great Show!ö This is basically represents all the feed back that he has heard. He received a couple of negative comments, but they were not from a result of the show, just things.

Councilman Handley wanted to congratulate Jason Engels and the CAB for the job they are doing on the PACE Program. The system they have come up with in regards to

grading property, he feels is very helpful and useful to the Town Board. Hats off to the Town Board for continuing to move ahead with the PACE Program on properties to put in.

Councilman Gertz stated that Councilman Specht and himself were at the Car Show all morning they got there at 6:00 am, it got dicey at times with all the traffic coming into town. There were twelve deputies on duty all day long and they all worked really hard. He wanted to compliment the Car Show people for cleaning up the town so quickly and thoroughly. We can't complain about them coming in and leaving a mess, we can only say they do a great job. People were inconvenienced with traffic problems, we hope to resolve some of that, he spoke with Vinny already about next year. He has heard comments from people that it was the best Car Show they have ever been to. He reported that we will be having a Hazardous Waste drop off program on August 25th from 9 am to 2 pm at the Marilla Highway Garage. You can recycle computers, televisions, and cell phones. You can also bring in paint, tires and chemicals right here in town. He also wanted to congratulate the winners of the Battle of the Books from our Marilla Library. He stated that we were endanger of losing the Library last year, because of this Town Board and all of us working together we were able to keep the Library open. He stated that the Town Board wants to continue the PACE Program, even though the CAB did not recommend anyone, they are doing a good job in giving us direction.

Councilman Spanitz stated that next Friday the Library is having a pizza party for all of the kids that have participated all summer. She will be presenting on behalf of the Town Board certificates for all of the winners.

Supervisor Foss wanted to congratulate the Library and he wanted to go back and look at the whole year; Memorial Day, Marilla Carnival, the Concerts, Car Show, Re-enactment, Marilla is the place to be. He stated that of all of the things he is most proud of the Library. He looked at some numbers and we have about 170 kids in the Library's summer program, if you prorated that to a town like Amherst they would need to have 3500 kids in their program, Buffalo would have to have 7000, neither of those towns have that number kids in their program. We look back at that time and get mad at the Erie County Library Association and the County Executive, and the County Legislature, but actually it was a blessing in disguise and woke us all up. This Town Board didn't have much to do with the Library at that point and the Community wasn't doing much either, but everyone has gotten together and it has taken off and turned out great. He stated that he wanted to thank Fred and George, they did a great job on the Car Show.

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

General Fund Claims, Vouchers 319-380	\$ 29,857.97
Highway Fund Claims, Vouchers 133-147	\$ 8,555.02
Special Districts	
Sanitation (SR), Vouchers 80-92	\$ 9,270.21
Special Fire Voucher	\$.00
Water District #2, Vouchers 19-20	\$ 3,742.40
Water District #3 Voucher 10	\$ 1,353.40
Water District #4 Vouchers 8-9	\$ 2,067.40
Community Develop. PACE 14-16	\$ 3,577.50
Community Develop. HUD	\$.00

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to adjourn the meeting at 8:07 p.m. Motion Carried.

Respectfully submitted,

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