

The regular meeting of the Marilla Town Board was held on Thursday, March 10, 2011 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

George Gertz, Supervisor
Barbara Spanitz, Councilwoman
Absent: 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

Communications were received and read from:

- a. Received a request from resident Clarence Gerhardt Jr. for a position as an alternate on the Planning Board.
- b. Received a request from resident Jen Seth-Cimini for a position as an alternate on the CAB or Planning Board.

Committee Reports

Highway Superintendent Ronald Unverdorben reported that the new recycling of electronics was now in place and regulations for residents are available on the Town website or in the Town Clerk's Office. He reported effective immediately there is a six month suspension on piping road ditches.

Councilwoman Spanitz reported that the Historical Society has some great things planned for the whole year and their next meeting is March 28th at the Community Center at 7:00 pm. The Library Board will be interviewing for a new Director for their Board on April 5th.

Councilwoman Ackerman reported that the Planning Board will meet next Thursday March 17th at 7:00 pm.

Councilman Darrow reported that the Car Show will be having a meeting on March 16th and he had no report for the CAB.

Supervisor Gertz reported that the Town Board would be looking at the fracking issue locally to see if the Town will need to address it. He will be attending a seminar put on by National Fuel to hear the other side of the fracking issue. He also reported that the Town will be receiving grant money to purchase and demolish the fire damaged structure across the street from the Town Hall and he would have more details after April 1st. The Town will also be receiving \$30,000 in grant funds from the Unified Court System to update and move the Town Court downstairs.

Open Board Presentations From the Public

None

Old Business

Motion: Councilwoman Spantiz moved, seconded by Councilman Darrow to approve the minutes of the Regular Board Meeting held on 2/10/11.
Motion Carried.

New Business

Motion: Councilwoman Ackerman moved, seconded by Councilman Darrow to approve the following resolution on the discontinuance of Old Three Rod Road;

WHEREAS, the Superintendent of Highways of the Town of

Marilla has received a written application from David H. Van Hooser, the sole owner of abutting land to Old Three Rod Road for the discontinuance of Old Three Rod Road which application requests that the Town of Marilla receive only nominal consideration of one and no/more dollars for such discontinuance; and

WHEREAS, the Superintendent has received a release from all damages from David H. Van Hooser the owner of land affected thereby and requested the consent of the Town Board for the discontinuance of Old Three Rod Road; and

WHEREAS, the Town Board has determined that the discontinuance of Old Three Rod Road will not cause any inconvenience to the public and will be a substantial savings to the Town of Marilla as it will no longer have to maintain Old Three Rod Road, that the payment of nominal consideration is sufficient and that it is in the public interest to discontinue Old Three Rod Road; and

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 9 (State Environmental Quality Review Act-SEQRA) of the Environmental Conservation Law, the Marilla Town Board has reviewed the request for discontinuance of Old Three Rod Road and has caused the preparation of a Short Form EAF; and

WHEREAS, the Town Board of the Town of Marilla has determined it is duly qualified to act as lead agency with respect to compliance with SEQRA which requires environmental review of certain actions undertaken by local governments and has determined that the proposed action is an Unlisted Action under SEQRA and that the matter which involves the discontinuance of a town highway that is no longer necessary, is a matter of only local concern and that a coordinated review is not required; and

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

1. That the Town Board of the Town of Marilla, after considering the action proposed herein, in reviewing the Environmental Assessment Form, reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the project with respect to potential environmental concerns, determines that the action will not have a significant adverse impact on the environment for the reasons set forth in the attached Negative Declaration.
2. That the Town Supervisor is hereby authorized and directed to complete and execute Part II & III of the said Environmental Assessment Form and to check the box thereon indicating that the proposed action will not result in any significant adverse environmental impacts.
3. That the requirements set forth under Section 171. 2. of the Highway Law have been satisfied with the Town of Marilla receiving the required release from property owners and determining that only nominal consideration is required from the property owners as the Town of Marilla will achieve substantial savings by no longer having to maintain a highway that does not serve any purpose and the owner will pay for all cost related to properly closing off Old Three Rod Road, provided however, that the Town of Marilla will provide the required signage to indicate that Old Three Rod Road is no longer a public highway.
4. That the Town Board does hereby consent to an Order, in form annexed hereto, discontinuing Old Three Rod Road as provided in Highway Law §171.

5. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town :

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

Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilwoman Ackerman to approve the following resolution for the Town of Alden to purchase 7 feet of the water storage tank:

WHEREAS, the Town of Marilla has entered into an agreement with the Town of Alden to allow them to receive water in the future from the Town of Marilla water lines but which agreement was conditioned, in part, upon the Town of Alden paying for the purchase by the Town of Marilla of the top 7 feet of the top 20 feet of the Marilla Water Storage Tank; and

WHEREAS, the Town of Alden has been advised that grant funding is currently available for such purchase so that even though the Town of Alden is not required to purchase the capacity at this time pursuant to the Joint Municipal Cooperation Agreement, it has elected to do so in order to utilize the grant funding currently available which will not be available in the future; and

WHEREAS, the purchase of the top 7 feet will also improve water pressure throughout the Town of Marilla; and

WHEREAS, the Town of Marilla and the Erie County Water Authority have prepared a draft agreement entitled Water Tank Capacity Purchase Agreement for such purchase.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board does hereby approve the Water Tank Capacity Purchase Agreement with the Erie County Water Authority in form presented to the Town Board.
2. The Town Supervisor is hereby authorized to execute the Water Tank Capacity Purchase Agreement with the Erie County Water Authority.
3. The date of completion of the purchase shall be as coordinated among the Town of Marilla, the Town of Alden and the Erie County Water Authority.
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 of the Town of Marilla held on March 10, 2011, the results of which were as follows:

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

Motion Carried

Motion: Councilwoman Spanitz moved, seconded by Councilwoman Ackerman to approve the following resolution on a land locked parcel in Water District 5 as follows:

WHEREAS, the Town of Marilla created the Marilla Water District Number 5 , and

WHEREAS, included within the geographic area of the said

Marilla Water District Number 5 is property owned by Clyde Dersam and identified by Tax Map No. 130.00-7-18 which property has been assessed an assessment based upon the benefits presumed to be bestowed upon it by its location within the Water District, and

WHEREAS, Clyde Dersam has submitted a request that such parcel be removed from the Marilla Water District Number 5 based upon the fact that the parcel is landlocked with no access to the benefits to be received by the various properties within the Marilla Water District Number 5 as a result of such landlocked condition, and

WHEREAS, the Town Board has investigated such claims of Clyde Dersam and concurs that said parcel, SBL #130.00-7-18 is landlocked and will receive no benefit by the said Water District Number 5, and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF MARILLA, IN REGULAR SESSION DULY CONVENED, AS FOLLOWS:

1. The parcel of real property owned by Clyde Dersam under SBL #130.00-7-18 will not be assigned any benefit units within the said Marilla Water District Number 5 as the same is landlocked and will have no benefits thereby.
2. This Resolution shall take effect immediately.

Roll Call Vote:

Councilwoman Spanitz ó Aye

Councilwoman Ackerman - Aye

Councilman Darrow ó Aye

Supervisor Gertz ó Aye

Motion Carried

Motion: Councilman Darrow moved, seconded by Councilwoman Spanitz to approve the following resolution on part-time employees paid days off;

WHEREAS, the Town Board of the Town of Marilla has previously authorized the hiring of permanent part time employees working for the Town of Marilla; and

WHEREAS, the Town Board of the Town of Marilla believes it would be in the best interests of the town to provide such permanent part time employees a limited benefit package in addition to a salary schedule,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF MARILLA, IN REGULAR SESSION DULY CONVENED, AS FOLLOWS:

- I. The general purpose of this Resolution is to set forth rules relating to a limited benefit package for permanent part time employees only, to ensure equitable and uniform treatment of such employees for the efficient conduct of Town of Marilla business.

II. Definitions:

1. Permanent part time employee shall mean any employee hired to work less than twenty (20) hours per week for more than six consecutive months and who is compensated on payroll. Seasonal employees are not permanent part time employees.
2. Calendar year shall be the period between and including January 1 and December 31.
3. PTO means paid time off.

III. Permanent part time employees shall be entitled to paid time off on an annual basis accrued in accordance with the following schedule:

1. (a) More than 75 hours in a calendar year ó 3.5 hours of PTO
(b) More than 125 hours in a calendar year ó 3.5 hours of additional PTO
(c) each additional 125 hours in a calendar year ó 7 hours additional PTO
2. The basis for the calculation of paid time off shall be the number of hours worked by the permanent part time employee in the prior calendar year.
3. Paid time off must be used in the year awarded. Such time shall not be carried over from calendar year to calendar year.
4. Paid time off must be actually taken by the eligible employee. Such benefit cannot be exchanged for additional salary.
5. The Supervisor or Department Head must be notified of and approve such time before actually taken. Approval shall not be unreasonably withheld.

IV. Renewal

1. This limited benefit package is contingent upon annual review and renewal by the Town Board.
2. This Resolution shall take effect immediately.

Roll Call Vote:

Councilwoman Spanitz ó Aye Councilwoman Ackerman - Aye

Councilman Darrow ó Aye Supervisor Gertz ó Aye

Motion Carried

Motion: Councilman Darrow moved, seconded by Councilwoman Ackerman to authorize the Supervisor to sign the Inter-Municipal Water Service Agreement with Alden for Water District #5. Motion Carried.

Motion: Councilwoman Spanitz moved, seconded by Councilwoman Ackerman to set a public hearing date for April 14th at 7:30 p.m. on a flag lot application for parcel number 129.00-6-10.11 owned by Leon Berner. Motion Carried.

Report of Town Officials

Town Engineer Marie Nowak reported that Morsch has finished installing pvc pipe all along Clinton Street to the Marilla town line and Exchange Street to the town line, and all along Cayuga Creek Road to the town line. They are now boring under Clinton Street near Eastwood Road. She said Morsch should be done soon after installing the last 500 ft of pipe, after testing and disinfecting, the connections will begin. She will be meeting with Rural Development on March 18th.

Building Inspector Scott Rider submitted a written report with 4 building applications received and fees totaling \$305, 4 building permits were issued with a total value of \$150,000, 4 inspections were made and a total of 82 business activities for the month of February.

Town Assessor Kandace Wittmeyer reported that she submitted her written report to the Town Board. She also submitted a long range plan for the Assessor's Office to comply with the Standards of Assessment set by New York State Real Property Tax Services. She reported that Western New York's housing market was the strongest in the nation with a 9% increase in price.

The Planning Board minutes have been received and posted and their next meeting will be Thursday March 17th.

The Conservation Advisory Board minutes have been received and posted.

Supervisor Gertz reported for the Marilla Fire Company to remind residents that it is flood season and to make sure their sump pumps are working. He also reminded residents to wear reflective clothes when walking.

Supervisor Gertz read Town Historian Hubert Kutterø's report as follows;

On March 24th 7:30 pm at the Marilla Community Center they will have a program on 19th Century Kitchen Gadgets. Refreshments will be served, using 19th century recipes. All are welcome to this free program. He is presently working on the wording for the Historical Markers for the three cemeteries in town. He is also providing information to Robert Claxton, formerly of Marilla, who is interested in the names of students who attended Marilla District #7 School on Porterville Road. He thanked the Town Board for appointing him Historian again.

Open Board Presentations

Planning Board Member Lorraine Martzolf stated the Planning Board approved Leon Berner's flag lot because when it was presented to the members they were told by Mr. Berner that he had an agreement with Mary Earsing. She said she found out later that he did not have an agreement.

Supervisor Gertz stated that could be discussed at next month's public hearing.

Resident Leon Berner asked about the \$20,000, he said he was at a meeting a couple of months ago and the Supervisor made a statement, he asked him to reiterate that statement again, he would like it recorded. He asked if the Town Board wanted him to sue the Town to go after his \$20,000.

Supervisor Gertz responded that the issue had been resolved and there was no further action needed from the Town Board.

Resident Earl Gingerich Jr. suggested the Town look into alternative energy sources, there are grants through New York State available for solar and wind power energy. He gave as an example putting solar panels on the highway garage. He said maybe this could be something the Town would be interested in.

Councilwoman Spanitz stated that the part time employees do a good job and she is happy to give them paid time off, this benefit will be reviewed annually and she would like to sit down and meet with the part time workers each year as they do with the Highway and Sanitation workers.

Councilwoman Ackerman stated that she will be attending the "No Farms No Food" rally in Albany on March 30th, for the second year in row. She said it was very interesting; they were able to speak with Legislatures about farmland protection. They showcased Marilla and showed them how many acres we have in the PACE Program, she is looking forward to going again. She reported that County Legislature Dino Fudoli sent out invitations for anyone interested in attending a County Farmland Protection Meeting on March 21st at 7:00 pm at the Cooperative Extension in East Aurora.

Councilman Darrow commended the Town Board for passing the part time paid days off resolution, he feels it is the right thing to do.

Supervisor Gertz stated that there will be a survey going out to residents concerning a farmland protection plan for the Town. This has to be put into place before they can look at the Comprehensive Plan.

Motion: Councilwoman Spanitz moved, seconded by Councilwoman Ackerman to approve the claims as follows:

General Fund Claims, Vouchers 89-131	\$ 74,502.71
Highway Fund Claims, Vouchers 30-41	\$ 31,157.32
Special Districts	
Sanitation (SR), Vouchers 19-33	\$ 23,023.14

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Special Fire Vouchers 3-4	\$ 28,856.89
Water District #2 Vouchers 4-5	\$ 2,588.99
Water District #3 Voucher 3	\$ 1,353.40
Water District #4 Voucher 3	\$ 817.40
Water District #5 Vouchers 8-11	\$380,275.11
Community Develop. PACE Voucher	\$.00
Community Develop. HUD	\$.00

Motion Carried.

Motion: Councilwoman Ackerman moved, seconded by Councilwoman Spanitz to adjourn the meeting at 7:55 p.m. Motion Carried.

Respectfully submitted,

_____ Town Clerk _____ Supervisor

_____ Councilman _____ Councilman

_____ Councilman _____ Councilman