

A Public Hearing was held November 8, 2007 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Proof of publication in the Alden Advertiser, the Elma Review and 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:

John R. Foss, Supervisor  
Barbara Spanitz, Councilman  
Fred Specht, Councilman  
Absent: George Gertz, Councilman  
Warren Handley, Councilman

Approximately (17) persons were in attendance. Supervisor Foss stated that the Public Hearing was called to order. The purpose of the hearing was to consider the new contract for the year 2008 with the Marilla Fire Company. The following general terms of said new contract shall be for fire protection to the Town of Marilla Fire Protection District:

- (a) The Marilla Volunteer Fire Company shall answer and attend all fire calls in said District.
- (b) For such services, the Marilla Volunteer Fire Company shall be paid a sum of \$240,900.00.
- (c) The Marilla Volunteer Fire Company shall maintain and operate its fire station at West Avenue, Marilla, New York.
- (d) The Marilla Volunteer Fire Company shall insure all of its equipment against all liability and shall protect the Town of Marilla from liability for any accident in which any fire company vehicle may be involved.
- (e) This contract shall continue until December 31, 2008.
- (f) Such other incidental terms as may be necessary or proper.

Supervisor Foss asked if there were any interested persons who desired to be heard. Hearing no comments from those in attendance, the hearing was closed at 7:33 p.m.

Respectfully Submitted,

\_\_\_\_\_ Town Clerk

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Public Hearing  
November 8, 2007

A Public Hearing was held November 8, 2007 at 7:34 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Proof of publication in the Alden Advertiser, the 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:

John R. Foss, Supervisor  
Barbara Spanitz, Councilman  
Fred Specht, Councilman  
Absent: George Gertz, Councilman  
Warren Handley, Councilman

Approximately (17) persons were in attendance. Supervisor Foss stated that the Public Hearing was called to order. The purpose of the hearing was to review the Preliminary Budget for the year 2008 and to give citizens an opportunity to express their views concerning the budget or any part therein. Supervisor Foss asked if there were any interested persons who desired to be heard.

Ronald Dompkowski asked if it was in the budget for health benefits for part-time Workers?

Supervisor Foss responded there were no health benefits for part-time workers.

Resident and former Supervisor and Judge Pete Ziccardi stated that he has several issues that he would like the Board to address. He stated that he has been in retirement except for the last 6 to 8 months. He went back to 1994 when he had set the salary for the Supervisor at \$15,000 reduced from \$22,000. He felt that \$22,000 was an outlandish salary, he did some research, he is a chemist by profession so research is second to his nature. He checked area towns that are comparable in population, water districts and lights and \$15,000 was still more than most of these towns. The Board was in full agreement and he has the minutes of that meeting, he did not want to read them. The Board did grant that and it was part of his campaign to reduce salaries because these are all part-time positions. He still feels that the position of Supervisor is a part-time position. The following year in 1995 the Town Board restored the Supervisor's salary without comment to \$22,000 and that salary has gone up an average of 3% every year since then and over the period since 1994 if you were to count that \$15,000 to the \$22,000 kick this comes to about a 93% increase in salary. Now for the most part the Board over these years has gained a total of perhaps 40%, the only other positions that have gained more than 40% over this period of time are the Highway Superintendent of about 70% and the Town Clerk at about 84%, the Building Inspector at about 56% and the Historian at about 50% over all these years. The Highway Superintendent in 1994 or so was given the added responsibility of taking care of buildings and grounds and he was given a salary increase of some \$4000. This had been a responsibility of primarily the Board before this time. The responsibility was taken from the Board and given to the Highway Superintendent. The Highway Superintendent wears many hats and he has a salary for the Sanitation, the Park and so forth and so on. He has no problem with the Highway Superintendent having more than one responsibility, before the present Highway Superintendent, we had a full time farmer who was our Highway Superintendent. In fact, Russ Webster had 2 farms and still maintained a working type of Highway Superintendent, you are talking big money and he doesn't know if the Board has done any research of other towns and salaries in the area and where is this Town compared to salaries in other towns? He doesn't have a problem if the Town's salaries are comparable to other municipalities but now the question of medical coverage comes up. He has nothing against medical coverage for our workers and incidentally we probably have the best workers employed in the town than any other town as far as he is concerned. A monthly premium of health coverage depending on what type of premium you have, on family coverage you are talking between \$11,000 to \$12,000 a year. Now when you put that on top of the salary they are getting, that's a big hunk of money. The Highway Superintendent's coverage is about the same about \$12,000 in addition to his salary, the Supervisor has a little different coverage, a little cheaper it's about \$8,000 per year plus his salary. Now the Town Board is proposing a 3% increase in salary across the board for 2008, he sees nothing wrong with that because the consumer price index and the information he got from the State Audit and Control, the consumer price index this year was 2.78% and it has averaged over the last 5 years at 2.72% per year, he has no complaints about the town giving themselves a 3% raise. Mr. Ziccardi's question is must you give yourselves a raise every year? Other municipalities don't, some do, some give less than 3%. Secondly, what was the Town Board's rationale for giving elected officials medical coverage? Are you elected officials? All of you are elected officials, some of you may be appointed, what about the Council people? Perhaps they should receive medical coverage, he doesn't quite get it. Mr. Ziccardi doesn't buy the fact that the Supervisor's job is a full time position, he hasn't done enough of an investigation of the other two positions so he really doesn't know. MR. Ziccardi looked up town law and there is nothing in town law about setting the hours for any elected official. Each of you are responsible to yourself and you are responsible to the electorate, you serve at our convenience and the best benefit you can receive from us is getting re-elected and you get re-elected by doing a good job. But when Mr. Ziccardi sees these other things occurring where you are getting more and more benefits without comment, without people stepping up to the plate, he says my god why aren't we involved in this, and one councilman said that he should be going to the meetings. Mr. Ziccardi would if he could, but he can't. He doesn't buy the East Aurora Advertiser or the Alden Advertiser, but he does know that the Buffalo News has a circulation of over 12,000 in our three towns, and he thinks it would be better if the Town Board would consider having the Buffalo News perhaps in addition to the other two. Because ladies and gentlemen you may think you are doing a good job, you talk about surpluses and so forth, that's fine, but if you've got those surpluses you can give us a break, lower the sanitation, show the people that you're

doing something. You talk about all of the accounts being on the plus side, you have a surplus of a half a million or so, hey, even if it's ten bucks off a house. One final point about hospitalization, Mr. Ziccardi talked to several people from town who are having difficulty in meeting medical coverage, many of them are retired and it's pretty tough. For those who are earning State Retirement they get what they call co-benefit, their increase depends on the cost of living, for example the cost of living index is 2.78 their increase on retirement is 1.23 %. One person he talked to had a raise of two dollars and some cents and another person had twenty some dollars. Ladies and gentlemen, it bothers me when elected officials who are not destitute, you didn't run for office to get Blue Cross and Blue Shield or Independent Health, you took your job to give something of yourself to the Town and Mr. Ziccardi doesn't feel that you should accept health benefits while taxpayers have to pay for your health benefits that cannot afford it themselves.

Supervisor Foss thanked Pete and stated that he disagreed with a lot of his numbers. Supervisor Foss felt Mr. Ziccardi bringing up all of that stuff from 1993 and 1994 gave him the right to do the same thing. He does remember when Mr. Ziccardi got elected as he worked on his campaign, very hard for him. He also came into his office almost on a daily basis to help Mr. Ziccardi do the job as Supervisor.

Mr. Ziccardi tried to respond.

Supervisor Foss stated that it was his turn to speak, Mr. Ziccardi had his turn to speak and he did not interrupt him. He stated that at the time Mr. Ziccardi was Supervisor he couldn't run a board meeting, he didn't understand the budget, he didn't understand fiscal business, and he didn't understand payroll. Mr. Ziccardi couldn't do the job, reducing his pay to \$15,000, he didn't earn that. It was a god send and from the guy that led them, Bud Specht, Supervisor Foss told Bud after a period of time thank heaven he resigned. It was better to have Earl Jann back in here, he could at least run things. Supervisor Foss said Mr. Ziccardi can talk all he wants but let's go back to the facts, in 1996 Supervisor Foss took over this job, he won the election, it wasn't given to him, he only won it by one vote, but he won it with a lot of help. The salary was \$22,855, when Supervisor Foss did the budget that fall he reduced his salary by 10 % for the following year and he also reduced the Councilman's salary by 5 %. From 1998 until 2007 he is absolutely right Supervisor Foss has raised it 3 % each year like every other employee. Supervisor Foss has received health insurance along with the Highway Superintendent and the Town Clerk and the full time Highway men since he had this job. It's in the minutes and if the Board wishes to take that away they can certainly do so. It was offered to him and he took it, he doesn't take retirement from the Town but Mr. Ziccardi got retirement which probably cost as much as health insurance. We each pick and choose what is available to us, so Supervisor Foss did take it. He thinks the most important thing is let's not think about what this is going to cost us but what kind of job the person is doing. Look at our general fund tax, it's still zero, our highway tax is the lowest in Erie County, our sanitation tax is the lowest in Erie County for towns that pick it up. We are, but we weren't back in 1996, but we are now in a very healthy and good position financially. If you want to try and hire people that can't do the job i.e.; Joel Giambra, you can see what's happened this last 8 years. That is what you are going to get. Supervisor Foss stated that all he is saying to Mr. Ziccardi is that he has done his job. Now let's go to a few things that he does, Mr. Ziccardi says he is not full time, he doesn't argue one way or the other. He calls himself and the newly elected Supervisor says he is going to do the same thing, full time available. When anything comes up he is always there, to talk to Dave, Dawn, the Board Members or anyone else that has worked with him here, he is always there. He gave a couple of examples; this summer he went to a conference in Lockport all day, GFOA, he happened to accidentally, Nathan Neill was there with him, meet two ladies, one from Grand Island and the other from around Rochester. Supervisor Foss was complaining about the Town's compensation rates and what the town was doing, this was actually 2 years ago. This last year the town went through the process of getting switched over to this compensation carrier because he went to a meeting. The town is now saving between 25 and 30 thousand dollars a year and it will continue every year. It doesn't happen by itself, it happened because he was there and he expects George will be there too at least he hopes George is. Let's take the Sheriff patrols, we were going to lose them, a lot of us Supervisors put an awful lot of time in to make sure they stayed on board and we did get it done. Let's take a third area the Library, it's probably the one thing Supervisor Foss fought for more than anything else. He can't tell

you how many meeting he went to screaming and yelling at Mike Mahaney, the executive director of the Library Association. Supervisor Foss stated they kept us in the system, now the Marilla Library is getting more funding than they did before. Supervisor Foss said he has gotten to know those people down there, and he goes to 3, 4 or 5 meetings a year to the downtown library and he is the only Town Supervisor there. Marilla is doing better than anybody else because we show up and he expects that is going to happen. The rest of the Board Members do the same thing, they go to meetings, they take care of business. He thinks the worst thing you can do, it's not going to affect him he is leaving, you can criticize him all you want, he can just smile at you, but he thinks it's a mistake for the Town and any other town to buy the cheapest one you can buy. He feels it's best to have competent people that are going to do the job and he thinks that is one reason why the Town of Marilla is kind of revered. He hates to tell residents how many people want to know where can they buy a lot in Marilla because they are hard to find. People want to move to Marilla because of its reputation and programs; our car show, our Christmas Tree Lighting Ceremony, Our Concerts, Historical activities, on and on and on. Supervisor Foss stated that he does not apologize for what he has taken for salary, if this Board feels it is necessary to change it then they should change it by a resolution and he doesn't have a problem with that. It hasn't come up but it's amazing that during election time it does, but actually this is the first time it has ever come up. Supervisor Foss thinks he has earned his money at least he feels that way, he thinks we are fortunate to have the employees that we have. The Town's sanitation is cheaper because we have two guys out there as well as the guys before them that hustle like nobody else hustles in Erie County. The Highway Department is one of the cheapest in Erie County and the roads are plowed before anyone else's, when the town had the storm last fall you could get out of Marilla but you couldn't go anywhere after that. He stated we had them plowed, give Dave and his men credit. Our Park is a gem of Erie County, he asked if residents saw the article on Emery Park in the News, what a disaster that is. The County wanted to take over the Town's Park and he absolutely refused them 5 years ago. He asked when you need an operation are you going to hire a doctor or some crack? Supervisor Foss said to be careful, he is hopeful that the County with a new change in administration things will get better. That's his answer to his salary and his health benefits, however if this board and it is this board's decision, if they want to pass a resolution to eliminate health insurance for the Supervisor or the Town Clerk or the Highway Superintendent, he doesn't recommend it, but they can do so, that's how we got it in the first place.

Peter Ziccardi responded that he did not wish to get involved in a debate with Supervisor Foss. Mr. Ziccardi stated that he did go for training, but times were difficult. To say that he didn't know anything was absurd, he served on that Board for eight years in co-existence with being a judge for 19 years. Mr. Ziccardi was Chairman of the Zoning Board of Appeals, a representative for EMW Boys and Girls Club, he was into all types of politics. He stated that John has done a lot. He helped John and John helped him and that was beside the point. Mr. Ziccardi stated that the question is that we have people that can't afford medical insurance in this town and to him it is almost immoral for elected officials to take hospitalization, when these people in town can't afford it but they are paying for your hospitalization through taxes. Two former Board Members have told him that when this was first introduced, he has no idea what year that was, when this came as a line item under health coverage nobody stepped up to the plate to comment on it. Mr. Ziccardi asked them didn't they realize what the ramifications would be, they were setting a horrible precedence here. He asked now will all the other elected officials ask for hospitalization? He doesn't know of any place in the private sector where a part time position gets hospitalization, he doesn't know of any. That it one of the biggest problems with our economy today is health care costs. That's all he had to say and he appreciated everyone for listening.

Supervisor Foss responded he couldn't disagree with him more, he's earned every penny of it and he does not apologize and again it is up to the Town Board. He thinks he has earned that as much as Mr. Ziccardi has earned his retirement benefits which he is collecting every day. These are benefits that have been provided by the Board and he thinks he has earned them.

Ronald Dompkowski asked in light of what Mr. Ziccardi has said, he agrees with him where can you go in the private sector and get free health benefits? Everybody has to contribute, he thinks this whole Board should be contributing to their health benefits.

Supervisor Foss responded the only one on the Board that gets health insurance is him. No other Board member has asked for it and he doesn't know where Mr. Ziccardi has come up with that.

Mr. Dompkowski asked if anyone else has health coverage through the town?

Supervisor Foss stated three people have health coverage; the Town Clerk, Highway Superintendent, and the Town Supervisor by resolution back in 1994 or 1995, and full-time employees that are more than 20 hours. That is what we are currently doing, if someone wants it changed it can be changed only by the Town Board.

Mr. Dompkowski asked to make a motion.

Supervisor Foss responded that he couldn't make a motion you can comment.

Mr. Dompkowski stated that he would like to get this into action for employees to contribute to their health insurance.

Supervisor Foss responded that the Town Board will be negotiating with the men in the near future and we will see where it goes.

Monica Pierce stated that she is a little partial to the Highway Superintendent, he is her husband. He does do an excellent job and sometimes people don't realize the cost of family. They have spent many Holidays without him, weekends, and vacations they have had to put on hold in the winter months so that he could do his job. Part of his salary, as she understands, are health benefits which have been reduced over the years. They actually started with the Cadillac of insurance with Blue Cross and Blue Shield and they no longer have that, they have taken decreases in their health insurance coverage. So when you say they are going up, they have actually taken decreases in the coverage that they receive. So she thinks it's unfair to say they are getting more than they are entitled to. Certainly Dave works very hard for that and has gotten the support of this community and is elected every single year. The Supervisor and Town Clerk put in many hours and it's the truth that they are on call and if something comes up at 11:00 at night, Dave gets up and he goes out. She is sure John and Dawn put in extra time as well. She said there is a cost of living factor that goes on, and those in the private sector do also get that as well as other people being paid by taxes like our teachers. They are also funded, their salaries come from the community and tax dollars and they get health insurance benefits as well. She thinks yes you have to think about all of this stuff, you want to be cost effective. She thinks the Town Board is very cost effective and you don't want to start taking things away. Dave is nearing his retirement years, and you are going to have to have someone come in and keep the equipment modernized, keep the roads plowed, keep the town park nice. If you continue to decrease those and take things away, no one is going to want to run and do this for the community.

Supervisor Foss responded that on the health insurance we were Traditional Blue until about 2002 and we switched over which cost the men, they lost benefits. We went to Blue Cross and Blue Shield which probably cut our costs a third if not more. A year and a half ago we bid it out again and we went with Independent Health and we cut our costs approximately 20% at that time. The Town Board has been looking to keep our costs down. He stated the other side of the coin is he thinks our men deserve what they get, they are not over paid, they are not a union shop so we save those costs. Supervisor Foss stated that they are paid through the general fund and in the general fund there is zero taxing, you pay no tax in that area. Mr. Ziccardi doesn't understand that in the special districts, the fire district or sanitation district you cannot take money out of the general fund or highway or other areas to put into there, it's not allowed. There are state laws and rules that must be followed. He appreciates their comments, but he feels our people are fairly compensated and the biggest mistake we can make is to try and go the cheap way, you're going to get what you pay for.

Mary Lou Dompkowski asked when Mr. Pierce retires is he going to get his health insurance 100% paid for?

Supervisor Foss stated that stating a few years ago Mr. Giambra took the County on that

basis where he wanted to go to one health insurance company. To get this done with union employees he offered that they would be covered after retirement. The towns and villages could have joined with him, the Town of Marilla refused. He thinks that's a mistake the towns and villages would have made and the county has made it now, once someone retires you pay their health benefits. That's a cost that this board would be putting on a board in the future and he doesn't think that is fair. These are the things that a place like New York City has billions of dollars and those kind of costs and Marilla has none. When you leave employment here there is no cost to the Town of Marilla. He has been adamant about not being a part of that because he doesn't think that is fair to both the future employees and the taxpayers. These costs are called unfunded mandates and they are retirement costs that you haven't paid for and they are health insurance costs that you guarantee in the future. Erie County is going to be coming up against that wall in about 5 or 6 years, you are going to be hollering and screaming, but to his knowledge none of the towns went in with that. We stayed on our own for that very reason because if people retire at 55 are you going to pay their health insurance at a cost of 10 or 12 thousand a year which might be 15 thousand by then and you pay that for 10 years it's a major cost. Supervisor Foss stated that the Town hasn't opted to do that.

Highway Superintendent Dave Pierce stated that he had one thing to say that Mr. Ziccardi keeps referring to a part-time position, if he thinks his position is part-time why doesn't he get up and come out with him at 2:00 am and check the road.

Mr. Ziccardi asked if he wanted him to try?

Highway Superintendent Dave Pierce also stated if you want to go back to 1994, we can keep going back to when they had out houses. We shouldn't go back we should go forward.

Ronald Dompkowski questioned Mr. Pierce's comment about getting up at 2:00 in the morning? He added that he took the job knowing that responsibility and he has no complaints.

Highway Superintendent Pierce responded that he did know and doesn't mind.

Supervisor Foss responded that the Highway Superintendent took the job with health insurance being there. He got elected knowing it was there, Dave got elected knowing it was, Dawn was elected knowing it was there and our full time employees who are appointed.

Mr. Dompkowski replied that the benefits were there but there comes a time when you have to contribute, the town could get the insurance a little cheaper with so much co-pay from the employees.

Mr. Ziccardi had questions about the court. He was looking through the budget and didn't see any money appropriated for a full-time town prosecutor for vehicle infractions.

Supervisor Foss responded that Mr. Ziccardi was wrong, there is not a full-time prosecutor, he is right about that. The Town of Marilla can't afford a full-time prosecutor.

Mr. Ziccardi stated that the Town has a prosecutor for non-moving violations.

Supervisor Foss responded that we have a prosecutor that comes in 2 days a month that handles the court work.

Mr. Ziccardi asked if they are handling V & T?

Supervisor Foss responded yes, he is not going to get into the court's business. The Town has a prosecutor that we hire, from Nathan Neill's office, his partner. He thinks that she is here 2 Tuesdays a month. We don't have enough cases to hire a full-time prosecutor. We do have a prosecutor and we meet all the requirements necessary. Sometimes for people that plead a prosecutor is not required. Mr. Ziccardi would have to talk to Judge Labin or Judge Wyzykowski to see how they run their court. There is money in the

budget under the attorney section A1420.4 for prosecutor.

The Deputies Mr. Ziccardi has talked to although he is retired now, they would go to the judge that would act as the town prosecutor. In our County the DA's Office would not handle V & T they will handle misdemeanors and up, so the town has to have a town prosecutor to handle the V & T. When you have a V & T trial, the Deputy isn't trained to conduct a trial.

Supervisor Foss stated that Mr. Ziccardi apparently didn't hear him. We have a prosecutor for any trial. We do have a prosecutor for V & D. He stated a prosecutor is not required, probably 75 percent of the courts in the state of New York do not use a prosecutor, when you go out to the rural towns none of them use a prosecutor. This is something new for the Town of Marilla in the last three years. The reason being is the state is threatening to take over the courts, we don't want that, we want our courts here.

Building Inspector John Fronczek stated that the town prosecutor handles all of the appearance tickets.

Supervisor Foss stated that he doesn't come into the court, he lets the two judges run their own court. We fund it that's the Town Board's function, on their request. We do provide a prosecutor only now for the last three years.

Mary Nette Foss stated she is also a little prejudice like Monica, her husband is the Supervisor. She thinks back on the last 8 to 10 years when he took office and the mess that this town was in. The reputation this town had, the bad vibes it had with other communities, we were not a respected community at all. Her husband has earned every penny that he has gotten paid the last few years and a lot of you know that. A good organization has a good leader and that is only proven in time. Look back on the last few years and how this community has changed, how it has grown, the positive functions we have here in town. The town is now physically cleaned up, we have a beautiful center of town now. Mary Nette Foss stated that Dave's department if you look at the complaints that his department gets, there isn't any. Marilla has the best plowed roads and has been for years. So where we were about 8-10 years ago when John got in office to where we are now, she thinks everyone should be very grateful to her husband for what he has done. Honestly, she doesn't think he got paid enough for all the sleepless nights and the agony and anguish he has gone through to get this town where it is today. She thinks everyone owes him a debt of gratitude for what he has done for this community. Health insurance or no health insurance she thinks you are being very petty. She thinks we should thank him for what he has done for our community and increased your property values. If you go to sell your house now it's worth a lot more than it was 5 or 6 years ago.

Supervisor Foss said that obviously she is prejudice. His answer to that is that he calls it his job, that is what he was elected to do. Sometimes she gets a little upset at some of the meetings that he goes to but that is a job you are elected to. He doesn't begrudge any bit of it he has enjoyed it and some of you may think you bother him but not a bit. He stated he has been through a whole lot worse meetings than this and survived them. His heart rate is the same now as it was when this meeting started. He has learned to get thick skin, it has been a wonderful experience. He said Mary is prejudice but he thanked her for it.

Hearing no comments from those in attendance, the hearing was closed at 8:25 p.m.

Respectfully Submitted,

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Town Clerk

A regular meeting of the Marilla Town Board was held November 8, 2007 at 8:25 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

John Foss, Supervisor  
Fred Specht, Councilman  
Absent: 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. Willey Enterprises of WNY notified the Town of their renewal application of their liquor license.
2. Tri Town United Soccer thanked the Town for the use of the Town's Soccer fields on Eastwood Road.
3. Allied Sportsmen of WNY requesting renewal of their 2008 range license and extended shooting hours.

### Committee Reports

Highway Superintendent Dave Pierce reported that the Town Park is now closed. The plows and salters are on and they were used Tuesday night.

Councilman Spanitz reported that the next Planning Board Meeting will be held on November 15<sup>th</sup> at 7:00 p.m..

Supervisor Foss stated that the newly elected Supervisor and his deputy, Councilman Gertz is probably at this moment in the LA Airport on his way to Australia. A year ago they had gone to Australia and there was a big cyclone so this a redo of that trip.

Councilman Handley reported that the Pavilion Committee will have its final say in the Pavilion with the Tree Lighting Ceremony working with the Kiwanis which is Saturday December 1<sup>st</sup>. He did miss the last meeting due to some personal business with his wife being sick. He wanted to comment that they have had the best year that they have ever had with the Pavilion concerts. The numbers were up with the people coming down to the center of town. The Committee and a lot of the youth groups that have been involved with this pavilion concert series have done an excellent job in building the concert series that we have every summer. We've gotten better entertainment, we've gotten bigger crowds. The one thing people underestimate when we have these youth groups involved with the selling of the refreshments it really does a lot for their clubs. For example the boy scouts have purchased a trailer for their camping gear, and knowing all of these other groups; the girl scouts and 4 H's, the Historical Society, the Ladies Auxiliary from the Fire Department have all benefited from the people in town supporting their services and also helping them with their concert series. Obviously the town makes no money on the concert series but the groups that do help us do make money. He wants to thank everyone for supporting those groups because it has really done a lot for them also. They are looking forward to next year and they already have the season pretty much in gear and planned, they still have a few bugs to work out. They are looking forward to next year. The tree lighting ceremony Saturday, December 1<sup>st</sup> will start at 4:00 p.m. and will go to 7:00 p.m. there will be hayrides and a few more activities this year than in past years.

Councilman Specht reported that he has 2 things; first the correct number sent to Mercy Flight from proceeds from the Car Show was \$38,000 not \$35,000. The committee decided not to carry as much money into next years car show. The other thing is the CAB Board is working on signage, apparently some of the other municipalities have right to farm signs when you drive into the community. The CAB is looking into the cost and who provides them etc. They will be working with Dave once they finally determine what is happening.

Supervisor Foss asked residents not to forget that Sunday starting at 11:45 am at the Firemen's Building for the Veteran's Day Parade. They will be coming down Two Rod and up Bullis to the Pavilion. There will be a short ceremony which should be completed by 1:00 pm. Following that, Jeff Lewinski is providing some food and a TV if you watch the Bills game in his facility this is mostly for adults. The Kiwanis will be having hot dogs and pop and coffee after the ceremony, it's free. If you want to give a donation to the Kiwanis Club you are certainly welcome to do so. Obviously that is where the Town and Jeff would prefer the children would go if you're in the parade and we like to get as many people in the parade as we can.

### **Open Board Presentations From the Public**

Resident Dick Rose said he had some questions to address the Town Highway Department. People have come to him and actually put this down in questions. Why is the town highway pick-up truck being used to put up and take down political signs, is that true or not true?

Highway Superintendent Dave Pierce responded that yesterday they went out and cleaned up the whole town, every sign in town.

Mr. Rose stated that he is just asking these questions to put the answers together.

Highway Superintendent Pierce stated that the reason why residents may have a sign on their front lawn for two weeks and he wants them cleaned up, over and done with.

Mr. Rose asked if the Highway Department was putting up political signs?

Highway Superintendent Pierce responded no they never have.

Mr. Rose asked what are the restrictions of the use of the town pick-up?

Highway Superintendent Pierce questioned restrictions?

Mr. Rose responded for personal use.

Supervisor Foss responded that it's his meeting and it's not proper, he doesn't mind him asking about that but the rest of the questions should be directed to the Supervisor and he will take it from there.

Mr. Rose asked what are the restrictions of the use of the town pick-up?

Supervisor Foss responded that Dave is the only one that has a town vehicle and it for his use and he needs to have it with him all the time or available to him as he does a cell phone and that is part of his job. We were audited on that one time and the auditor said it was perfectly the right thing to do, then he can keep track of stuff for the town. Taking it here there around town, to Alden where ever it may be is perfectly acceptable to the state auditor. This is what the Town Board wishes, because he is the key person for the town on snow plowing, safety, working with the firemen. Anytime that fire whistle blows generally Dave has to go out to or one of his men and that's the purpose of it, next question.

Mr. Rose asked why are the markings so small on the town truck and why are they magnetic and not more permanent?

Supervisor Foss responded they are what they are and he doesn't know that that makes a whole lot of difference.

Mr. Rose stated that you can't tell who that is unless you are right up along side of it. If you take a look at the other towns they've got it right across the door.

Supervisor Foss responded that's Alden and you have a much higher highway tax than you have in Marilla, like five times. So we do over here conserve and he thinks that is being a little picky. Plus our roads are plowed much sooner than Alden's and taken care of much better so he doesn't care for that comment.

Mr. Rose stated that these are questions that were presented to him, he's putting them out there and then that's it.

Supervisor Foss stated he answered it.

Mr. Rose asked if the town has a cell phone policy?

Supervisor Foss responded that the town has one cell phone and that is it.

Highway Superintendent Pierce corrected the Supervisor and said we have three, two for the park.

Supervisor Foss stated we have two for the park which we have to have up there because there is no telephone in the park. Dave has one and our dog warden has one. No other employee has a phone and that's it. We don't have a policy we just have phones for those jobs.

Mr. Rose stated that the town pays for these phones, is that correct?

Councilman Specht stated that we only pay \$50 towards the dog warden's personal cell phone.

Supervisor Foss stated that he takes that back on the dog warden we were running into problems contacting him using the pager. So we made an agreement with him just this last year that we will pay half his cell phone and he would allow us to advertise his cell phone number for when there are dog calls, it has worked much better. We currently don't hand out Dave's cell phone number it would use the minutes up. This is the policy we have for the time being and his cell phone number is not given out to just a few people at this time.

Mr. Rose asked what would change it then?

Supervisor Foss answered if the Town Board and Dave decided to do it but that decision hasn't been made.

Mr. Rose asked if Mr. Foss is telling him that it's a town phone with a restricted number to only a few people and he has it for his use.

Supervisor Foss said yes absolutely.

Mr. Rose stated that this is a private phone for Dave.

Supervisor Foss said it's for town use, at times he does have to use it for personal use. He might have to call his wife when he is out on the road. Supervisor Foss has no problem with that and neither did the auditor. We don't need everybody and his grandmother calling him on his cell phone when he is off doing snow plowing and other things. He for one would not accept that happening, it would be Dave's choice if he wanted to change it. There are ways to get a hold of us this should not be a problem.

Councilman Specht asked John to remind Mr. Rose that Dave's cell phone number is shared with other municipalities in an emergency. He is not in favor of giving Dave's number out.

Supervisor Foss asked if he could imagine in a snow storm and residents roads weren't plowed, Dave would get 30 phone calls on his phone, he can't be dealing with that during emergencies and stuff. That is why we don't do it and we are not going to do it. At least for the next two months we are not going to do it. After that he has no say about it.

Mr. Rose said that was about it, Mr. Gertz wasn't here so he would wait to address him in person. He can wait until the next meeting. Those are the 3 or 4 things he wanted to cover, he's not picking on Dave or the highway department but if these questions are not cleared up, if they weren't asked they wouldn't be cleared up and the answers wouldn't be there.

Supervisor Foss stated Mr. Rose could have asked him anytime and he would have told him the same answer, but that's fine he doesn't mind answering the question here.

Marsha Canetti stated that when she went to vote she went to the town clerk's office to pay for her dog's license and the state sent out the bill and it was \$7.50 which it was always \$5 and she was told it was a mistake. She asked if we are returning the money to the people or are you going to notify them in some way.

Town Clerk Dawn Pearce responded that we would not have taken it with the wrong amount. We would return the mailed payments.

Mrs. Canetti asked if we would put a notice in the paper, it could get expensive for the town to have to mail them all back.

### Old Business

Motion: Councilman Spanitz moved, seconded by Councilman Specht to approve Minutes from the Public Hearing held on 10/11/07 and the Regular Meeting held on 10/11/07 and the Special Meeting held on 10/16/07. Motion Carried.

### New Business

Motion: Councilman Specht moved, seconded by Councilman Handley to authorize the Supervisor to sign the Firemen's Contract for the Year 2008 in the amount of \$240,900.00. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spanitz to adopt the preliminary budget as the final budget for 2008. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spanitz to approve a resolution honoring Joel Matthew Mamom, Alexander K. Tatoian, and Douglas Andreas Weber, for having completed the requirements for, and having been examined by an Eagle Scout Board of Review, was found worthy of the rank of Eagle Scout.

Roll Call Vote:

Councilman Spanitz ó Aye

Councilman Specht ó Aye

Councilman Handley ó Aye

Supervisor Foss ó Aye

Motion Carried.

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

WHEREAS, representatives of various municipalities have been meeting with representatives of Erie County to discuss proposed terms of the snow removal contract for next year; and

WHEREAS, following such negotiations, a tentative agreement has been reached with Erie County as to the general terms and conditions with the compensation for the snow removal contract with the lane mile reimbursement rate increasing five percent each year for an additional three year period commencing on September 1, 2007 and expiring on August 31, 2010 with the rates for each period to be as set forth below:

September 1, 2007 through August 31, 2008 \$2,658.60 per lane mile

September 1, 2008 through August 31, 2009 \$2,791.53 per lane mile

September 1, 2009 through August 31, 2010 \$2,931.11 per land mile

;and

WHEREAS, the Erie County Legislature has approved the proposed agreement pursuant to resolution adopted on July 12, 2007; and

WHEREAS, the Town Board believes that the proposed agreement

is in the best interest of the Town of Marilla.

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

1. The Town Board does hereby approve the snow removal contract as presented, a copy of which is attached hereto and made a part hereof.
2. The Supervisor of the Town of Marilla is hereby authorized to execute the agreement on behalf of the Town of Marilla and is directed to deliver three certified copies of this resolution, three signed agreements and insurance certificates to Erie County Department of Public Works.
3. This resolution shall be effective immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on November 8, 2007, the results of which were as follows:

Councilman Spanitz ó Aye	Councilman Specht ó Aye
Councilman Handley ó Aye	Supervisor Foss ó Aye

Motion Carried.

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

WHEREAS, Marlene and Andy Youngers (the Owners) are the owners of an approximately 21.9 acre parcel of land tax map # 139.00-1-4 (the Parcel) and have conducted agricultural operations on the Parcel continually during the period of their ownership and are intending to construct a building on the Parcel for agricultural purposes to replace existing buildings; and

WHEREAS, the Parcel was previously zoned A and rezoned to R-R without their knowledge as part of a rezoning undertaken by a prior Town board in the 1990's; and

WHEREAS, the Town Board has determined that the property has been continually used for agricultural purposes despite the rezoning and the proposed building is consistent with agricultural uses and although the proposed building exceeds the building size allowed in the R-R zone is consistent with the original A zoning and the Town Board has determined that the construction of the new building is not an expansion of a non-conforming use as the entire parcel has been in agricultural use consistently prior to its rezoning to R-R and is therefore grandfathered; and

WHEREAS, the Owners have expressed their wishes to have the Parcel rezoned back to A which zoning is consistent with the zoning of adjacent parcels which have remained zoned A and the Town Board has agreed to proceed to rezone the property back to A.

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

1. The Town Board does hereby agree to allow the Owners to proceed to construct the proposed building on the property based upon the determination that the use is consistent with prior uses on the property prior to the rezoning to R-R and is therefore grandfathered and directs that a building permit be granted for such construction consistent with this determination.
2. The Town Supervisor is hereby authorized to execute an

agreement with the Owners to allow the Owners to proceed with construction of the proposed building and to commence procedures to rezone the Parcel from R-R back to A and to proceed in a timely basis to undertake such rezoning subject to compliance with all legal requirements for such rezoning..

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 November 8, 2007, the results of which were as follows:

Councilman Spanitz ó Aye	Councilman Specht ó Aye
Councilman Handley ó Aye	Supervisor Foss ó Aye

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Handley to authorize the Town Clerk to publish extended shooting hours for the year 2008 for Allied Sportsmen of WNY. Motion Carried.

The Holiday Schedule for the Town Hall will be as follows; Closed ó November 22<sup>nd</sup> & 23<sup>rd</sup> for Thanksgiving, Tuesday evening December 18<sup>th</sup> for the Town Employees Christmas Party, Monday, December 24<sup>th</sup> we will close at noon and will be closed Tuesday ó December 25<sup>th</sup> , and Monday, December 31<sup>st</sup> we will close at noon and will be closed on Tuesday January 1<sup>st</sup> .

### **Report of Town Officials**

Town Engineer Marie Nowak reported that the Erie County Health has documented the problems with the wells up on Eastwood Rd, and near Cazenovia Creek and sent that request to the United States Department of Agriculture and Development to be considered for the emergency funding program. This would help to defray the cost of Water District #5. They haven't heard back from Rural Development yet, but hopefully the results will be favorable.

Building Inspector John Fronczek submitted a written report with 12 building applications received totaling fees of \$4,064.00 and the building permits issued had a value of \$949,040.00, 16 inspections were made, and no complaints. A total of 148 acts of official business were made for the month of November. Scott Rider inspected all inground pools for security fencing.

The Planning Board minutes have been received and posted, the next meeting will be held on November 15<sup>th</sup> at 7:00 pm.

Conservation Advisory Board minutes have been received and posted.

Hubert Kutter reported that he had received a request from a woman in Vermont who wanted to get some information on two people both with the last name Bauder. The woman thought they were buried in the Maplerest Cemetery. He was looking through some of his records and it turned out they were buried in Maplewood Cemetery. These are the type of questions he often gets. People are usually interested in knowing where their ancestors are buried. This woman also has a picture that shows Brent Blackman, which is important to him to see what these older residents looked like. He also stated that on November 17<sup>th</sup> at noon there will be a small ceremony at the Marilla Cemetery to honor Private Charles M. Gorndt, a Civil War Veteran. This is being sponsored by the Sons of Union Veterans of the Civil War. This is a group of people interested in determining the grave sites of all of the Civil War Veterans. Charles Gorndt is a Marilla Civil War Veteran and he was the last one to be buried in the Marilla Cemetery in 1934. Many Civil War Veterans became very old and this man was 94 years old.

## Open Board Presentations

Resident Shirley Limpinsel asked if the money from the Car Show always goes to Mercy Flight?

Supervisor Foss responded that the Town doesn't have anything to do with that, it is a privately run show that the Town Board supports.

Mrs. Limpinsel stated that the woman that headed up the Car Show's daughter has cancer and someone else is taking it over. She heard that there was a suggestion to now give the proceeds to Children's Hospital instead of Mercy Flight. She asked if that was correct.

Councilman Specht responded that he is part of that committee and it was brought up at the last meeting and it was rejected. The vast feeling of the majority was they started with Mercy Flight and we use Mercy Flight and they are staying with Mercy Flight.

Mrs. Limpinsel then asked that the piece of property on Coleman Road that was listed RR (Rural Residential) and the owners want it to be zoned as A (agricultural). She asked that the pole barn they are putting on that piece of property couldn't have been done in an RR without notifying neighbors.

Supervisor Foss responded that the Youngers came to the Town Board with their request to rezone to A. At first the Town Board was going to send them for a variance and then when they reviewed it and Attorney Nathan Neill advised the Town Board that they could be grandfathered, because it has always been used as agriculture they can operate in an agricultural manner. In that situation the pole barn is ok. The Town Board is 100 percent in favor of rezoning it back to A, because if left as RR it could be used for a subdivision.

Mrs. Limpinsel stated that she thought it was always A.

Supervisor Foss responded that it was apparently rezoned to RR back in the 1990's and Mrs. Kotas was not notified. She said she would have objected at that time. The Town Board felt sympathy for her and the situation and now they have resolved it.

Mrs. Limpinsel asked what the Youngers are going to do with the land?

Supervisor Foss responded that they are going to continue operating it as a nursery.

Building Inspector John Fronczek stated that he inspected the property today and they are putting up a new structure and tearing down an old chicken coup and garage. They are improving the property.

Mrs. Limpinsel stated are they ever! She said they took some beautiful old, old pine trees out of there, she would have killed to have those on her property. She then told the Town Historian Hubert Kutter that someone has loaned her a book from 1942, and she is hoping to find out where resident Mary Jennison died in Marilla.

Councilman Spanitz stated that this Town Board has always been careful with taxpayers money and they don't spend it carelessly. They try to do things in a manner that is suitable to for town citizens.

Councilman Specht stated that he wanted to congratulate all of the candidates from this year's election and he is glad it's over, he is tired of the TV ads.

Councilman Handley stated that he just wanted to reassure Mr. Ziccardi and Mr. Dompkowski that the Councilmen have never considered inquiring or asking for any health insurance. It's never been on their mind or brought up at a meeting. The Town Board has researched the health insurance policy that employees are receiving and he thinks we are getting the biggest bang for our buck. We are saving money from the policies that they were getting in past years, it is correct to say they have lost services compared to what they had in past years. He stated that is not something that the Town Board automatically approves every year, they have had several meetings on the health issue and if anyone on the Town Board didn't feel that the people getting it didn't deserve it they would have brought it up and at this time they feel they all do deserve it. They all

feel the employees are working hard for it. It may seem like a high number but they do look at the service they are getting from them and they respect that. The other thing he wanted to bring up was about part-time positions, Mary and Monica, and John had brought it up too. It sounds like they may have part-time positions, it looks like on the calendar that they only show up a few times a month, but in reality he knows from his end and everybody else's end they get involved with the community service end of it, there are countless hours spent. People really don't see them doing painstaking hours, many of them donate things from their homes to give to the community or for the community to use. He said as far as the concert series goes and a lot of the town events he feels a lot of them go above and beyond what they are actually called to do. He knows they are always in question and sometimes what they decide to do may not be agreed upon by everyone. But he feels they do a pretty darn good job and he knows everyone on the Town Board really has a lot of heart and soul into what they do and they try to do what is best for the community and he thinks it really shows

Councilman Spanitz wanted to add one thing, the Town Board has several requests during the year for money from youth groups, they chip in together, they don't take any money out of the Town money. They contribute it out of their own pockets. Those are the kind of things they do in addition to the hours that they do spend. She said it's not just Town Board meetings there are other places that they represent the Town. They also have to study over literature for when they get together and refer to the code book, it is a very time consuming job. She can't say it is always enjoyable but it is always interesting.

Councilman Handley stated on a lighter note, a plug for the Kiwanis. He said Mr. Ziccardi knows what it is to be a kiwanian, he has spent many great hours doing community service with the Kiwanians. Councilman Handley sure a little bit of what he is saying steps into that too, the hard work that Mr. Ziccardi has done there. The Kiwanis is having a cheese cake sale also for the tree lighting. They will be sending out the flyers shortly for people to purchase memory bulbs and the cheese cakes. This year they have changed it, they have a black forest, plain, chocolate swirl, they are \$6.00. He said you can freeze them and they are the greatest thing to have when you have company that you weren't expecting.

Supervisor Foss stated that Councilman Specht congratulated all of the winners and he thought they should name them and congratulate them because they are the ones that are going to have to do the job next year. Not only here locally but also in the area; George Gertz was elected Supervisor, Warren Handley and Barbara Spanitz were re-elected Councilmen, Dave Pierce as Highway Superintendent and Town Clerk Dawn Pearce, Town Assessors; John Prell and Kandy Wittmeyer were elected back and Dave Wyzykowski was re-elected as Town Justice. He also wanted to congratulate Kathy Konst for being re-elected as our County Legislature, she has been very valuable. He also wanted to congratulate Mr. Collins, and we do need a new direction. He said it has been a difficult 8 years with the guy that is there now. We all need to get along and work together and unfortunately in the last 8 years that has not happened between the County and Towns, Villages and Legislature. He said one of these days these people are going to learn that they can get a whole lot more done working together, negotiate a little bit and get a whole lot more done. He is going to take a wait and see attitude and see what happens. For our own good for the Town and the County that is what we need.

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 491-526	\$	26,252.26
Highway Fund Claims, Vouchers 184-199	\$	11,705.85
Special Districts		
Sanitation (SR), Vouchers 112-120	\$	5,868.69
Special Fire, Voucher	\$	.00
Water District #2, Vouchers 24-25	\$	2,514.19
Water District #3, Voucher 12	\$	1,353.40
Water District #4, Voucher 11	\$	817.40
Community Development PACE Vou#19	\$	812.25

Community Develp. HUD Vou #2&3 \$ 1,182.75  
Motion Carried.

Motion: Councilman Spanitz moved, seconded by Supervisor Foss to adjourn the meeting at 8:50 p.m. Motion Carried.

Respectfully Submitted,

\_\_\_\_\_ Town Clerk \_\_\_\_\_ Supervisor  
\_\_\_\_\_ Councilman \_\_\_\_\_ Councilman  
\_\_\_\_\_ Councilman \_\_\_\_\_ Councilman