

Public Hearing

A Public Hearing was held November 10, 2011 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Proof of publication in the Alden Advertiser, 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:

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

Approximately (31) persons were in attendance. Supervisor Gertz stated that the Public Hearing was called to order. The purpose of the hearing was to consider the new contract for the year 2012 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 \$268,175.00.
- (c) The Marilla Volunteer Fire Company shall maintain and operate its fire station at 1950 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, 2012.
- (f) Such other incidental terms as may be necessary or proper.

Supervisor Gertz abstained and asked Deputy Supervisor Darrow to proceed with the public hearing. Deputy Supervisor Darrow asked if there were any interested persons who desired to be heard.

Resident Jim Thompson said that we should give the Fire Company what it needs, the time and training the members put in is a good deal for the residents.

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

Respectfully Submitted, _____, Town Clerk

Public Hearing

A Public Hearing was held November 10, 2011 at 7:35 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:

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

Approximately (31) persons were in attendance. Supervisor Gertz stated that the Public Hearing was called to order. The purpose of the hearing was to hear public comment of Local Law #6 on extending the Flag Lot Moratorium. Supervisor Gertz asked if there were any interested persons who desired to be heard.

Resident Shirley Limpinsel asked if it was for an additional 6 months?

Supervisor Gertz responded yes it was.

Hearing no comments from those in attendance, the hearing was closed at 7:38 p.m.

Respectfully Submitted,
_____ Town Clerk

Public Hearing

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

Approximately (31) persons were in attendance. Supervisor Gertz stated that the Public Hearing was called to order. The purpose of the hearing was to review the Preliminary Budget for the year 2012 and to give citizens an opportunity to express their views concerning the budget or any part therein. Supervisor Gertz asked if there were any interested persons who desired to be heard.

Resident Gary Foersch questioned the 3% raises being given with the current economic conditions in New York State.

Resident Richard Bender said he feels the guys work hard, and the Town has a good surplus. The Town Employees don't belong to a union and he feels they deserve the raise.

Resident Ron Dompkowski opposes the 3% raises.

Resident Shirley Limpinsel said imagine if they become unionized, we have great employees and the Town has a surplus, she is in favor of giving the 3% raise.

Resident Deb Zimmerman asked how many employees receive health insurance. She feels that should be looked at.

Resident Sharon Foersch of Greenwood Terrace asked if the health insurance is 100% paid for, even with family coverage, she asked what is the qualification to receive this benefit? She felt most residents are not aware of this.

Resident Gene Limpinsel stated that the 9 employees that are receiving this are warranted, the Town can afford it and it should remain the same this year.

Resident Ron Dompkowski asked if they are also receiving retirement.

Resident Sharon Foersch of Greenwood Terrace said that most employees are not getting a 3% raise and full health insurance.

Resident Mary Earsing said that the men do a great job, why make Marilla go downhill like the rest of the Country, let the Country step up to us.

Resident Gary Foersch said that public employees should give back to the community.

Resident Peter Ziccardi quoted Mark Twain "the state of my demise was grossly exaggerated" He said he attended the work session and was surprised the Town Board would be discussing the hospitalization issue this late in the year. He said we have the best Highway workers in the area; they are a tribute to our Town. They should get a raise for their service and merit. He suggested that the Town Board continues with the present health insurance plan and form a committee in January to look into options for next year.

Resident Marcia Cannetti echoed that sentiment and said we have wonderful workers and they deserve what they get, if things go bad for the Town then consider no raise. The Town should consider giving back to the people.

Hearing no comments from those in attendance, the hearing was closed at 7:50 p.m.
Respectfully Submitted,

Town Clerk

A regular meeting of the Marilla Town Board was held November 10, 2011 at 7:51 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

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

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

Communications

- a. The Marilla Country Store notified the Town that they are renewing their liquor license.
- b. Allied Sportsmen of WNY submitted the request for 2012 extended hours and license.

Committee Reports

Highway Superintendent Ronald Unverdorben reported that they would be getting the new plow truck in 2 weeks.

Councilwoman Spanitz reported that the Historical Society would not be having a meeting in December, their next meeting will be January 23rd. The Library Board will be meeting on December 13th.

Councilwoman Ackerman reported that the next Planning Board meeting will be November 17th.

Councilman Handley thanked Jeff Lewinski and the Veteranø Club, the Parade participants, and the Kiwanis Club for serving the hot dogs. He said he was going to step back this year from Christmas in Marilla due to other commitments; the Committee is planning a great event on December 10th.

Councilman Darrow reported that the next CAB meeting will be the first Thursday in December. He said their November meeting was in East Aurora and he was not able to attend due to a dinner the Kiwanis hosted for Marilla Veterans with the guest speaker Mark OøBrien.

Supervisor Gertz thanked Councilman Handley for all he has done with the Townø Christmas program. He said there are 16 people on the Committee and it looks like it will be a huge event. The Firemen are participating; there will be reindeer at the Highway Garage, Debbie Beats is running a chili cook off. He reported that there are openings on all the Boards; Planning Board, Conservation Advisory Board, Zoning Board of Appeals. He stated there is a conflict with the date of the December Board Meeting it is being changed to December 15th at 7:30 pm. The work sessions will be December 6th and 13th. The Town Hall will be closed for the holidays November 25th and 26th.

Open Board Presentations From the Public

Resident Jim Thompson commented on the demolition of 1717 Two Rod Road, he feels it should be torn down, there are wild animals living in it.

Resident Stephanie Biacco stated that it is an eye sore, and animals are living in it. She has had to look at it for the last year and a half, and for 15 years the landlord did nothing to improve the building or the sidewalk. The Town has wonderful events and it is a shame to have such an eyesore. She thinks the building being left empty is a lawsuit waiting to happen. She thinks since the Town was able to get the grant she is all for the purchase and demolition of it.

Resident Ron Dompkowski asked why the Town is allowing the owner to leave the building in disarray?

Supervisor Gertz responded that the Town approached Jim Reid to buy the building and then we applied for the grant, Mr. Reid has not touched the building because he was waiting for the sale.

Resident Karen Thompson agrees it should be torn down; she said anyone could go into the building and start a fire to keep warm. She said cats are going in and out of it. She said sometimes the Town needs to do things that cost money.

Resident Mary Earsing said it could be used for additional parking for Town events.

Supervisor Gertz responded that according to the conditions of the grant it must remain vacant and green space for 5 years.

Resident Gary Foersch said the Town would be better off forcing Jim Reid to sell it or fix it up.

Resident Shirley Limpinsel said we are not Buffalo, she has lived here since 1978 and loves this Town. She is happy with the improvements made in the Town this past year; the Community Center bathroom floors and the exterior of the Community Center look beautiful.

Resident Sharon Foersch of Greenwood Terrace said she felt it was never made clear that the Town offered to purchase the building in November of 2010. If it was such a safety threat why would the Town put the public at risk for a year? Why did the Town not make the owner responsible, it does not make sense to her.

Supervisor Gertz responded that 2 months after the fire the Town Board approached Mr. Reid to purchase the building, and it is a secure building.

Resident Karen Thompson stated that it has been in the newspaper for quite a few months, information about the \$30,000 grant.

Resident Gary Foersch agrees the Town needs to be beautified but grant money is still taxpayers money.

Supervisor Gertz replied if Marilla doesn't take the grant money then someone else would.

Resident Deb Zimmerman asked about the cost?

Supervisor Gertz replied the Building is \$38,000 to purchase and the demolition will cost about \$30,000.

Resident Sharon Foersch of Greenwood Terrace asked if her house burns down would the Town purchase it as well?

Supervisor Gertz stated that the Town has purchased over 800 acres in the PACE program to preserve green space.

Resident Gary Foersch stated that there are other properties in Town in disrepair.

Supervisor Gertz replied it takes time.

Resident Stephanie Biacco stated if the Town did not buy this building someone else like a slum lord could and there could be drugs and other problems, instead it can be green grass.

Resident Karen Thompson said because of the leech field it should have been condemned a long time ago.

Old Business

Motion: Councilwoman Ackerman moved, seconded by Councilwoman Spanitz to approve Minutes from the Special Meeting held on 10/11/11, Public Hearings and Regular Meeting held on 10/13/11. Motion Carried.

New Business

Motion: Councilman Handley moved, seconded by Councilman Darrow to approve local law No. 6 of the year 2011 to extend the flag lot moratorium.

A LOCAL LAW TO EXTEND A MORATORIUM IN REGARD TO THE ISSUANCE OF FLAG LOT PERMITS IN THE TOWN OF MARILLA PREVIOUSLY ENACTED BY LOCAL LAW NO. 2-2011.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF MARILLA AS FOLLOWS:

SECTION 1. PURPOSE AND INTENT

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

The Town Board of the Town of Marilla also found it prudent and necessary to enact a moratorium applicable to flag lots. That moratorium was intended to ensure that no approvals for such land use application be granted until this Board can complete its planning studies and has had an opportunity to consider and/or enact appropriate amendments to the Zoning Code. Although diligently pursuing its planning studies, the Board finds that additional time is needed to complete such studies to consider and/or enact appropriate amendments to the Zoning Code.

SECTION 2. AUTHORITY

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

SECTION 3. APPLICATION

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

SECTION 4. DURATION

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

SECTION 5. SCOPE OF CONTROL

During the effective period of this local law, no board or agency of the Town shall accept, process, review, recommend or grant approval for a flag lot permit which has not been filed at the time of the adoption of Local Law 2-2011.

SECTION 6. VARIANCES

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

decision on the application for a permit during the period of the moratorium imposed by this local law.

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

SECTION 7. EXISTING ACTIVITIES

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

SECTION 8. SEVERABILITY

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

SECTION 9. EFFECTIVE DATE

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

Roll Call Vote:

Councilwoman Spanitz ó Aye

Councilman Handley ó Aye

Councilwoman Ackerman ó Aye

Councilman Darrow ó Aye

Supervisor Gertz ó Aye

Motion Carried

Motion: Councilman Darrow moved, seconded by Councilwoman Spanitz to approve the Justice Court audit

WHEREAS, Section 2019-a of the Uniform Justice Court Act requires that town and village justices annually provide their court records to their respective town and village auditing boards and that such records be examined or audited and that fact be entered into the minutes of the board's proceedings; and

WHEREAS, the Town Board has requested Councilman Darrow and Supervisor Gertz to audit the court records of the Town of Marilla Justice Court; and

WHEREAS, Councilman Darrow and Supervisor Gertz have completed their audit and submitted a written report to the Town Board indicating that the financial records were in good order.

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

1. The Town Board does hereby acknowledge that the required examination of the Town of Marilla Justice Court Records has been completed and that the financial records are in good order.

2. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on November 10, 2011, the results of which were as follows:

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

Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilwoman Ackerman to authorize the Deputy Supervisor to sign the 2012 Marilla Fire Company's Contract.

Councilman Handley agrees it is a privilege to have the Fire Company.

Supervisor Gertz commented that because the Fire Company has received over a half a million dollars in grant money for; new radios, a plow truck, an air trailer and other various items the tax rate to homeowners is kept low and the Fire Company is debt free.

Roll Call Vote

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

Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilman Handley to approve the 2012 preliminary budget.

Councilwoman Ackerman stated that this is her 2nd year on the Town Board and it has been a learning experience. She has done a lot of thinking and number crunching. Taxes are the same and very low, we never spend above the budget. Employees do pay into their health insurance because each year they go with less coverage and she commends them for that. Their original plan was more and they went with a lower one. She said they will have more discussions earlier in the year for next year's negotiations.

Councilwoman Spanitz agrees with what Councilwoman Ackerman said.

Councilman Handley said the Town Board discussed the 3% raise and 15% contribution towards health insurance. He said he feels this came to a good scenario in the agreement, next year they will take another step and he thanked the guys.

Councilman Darrow felt Councilwoman Ackerman did a good job explaining it.

Supervisor Gertz said that they had to look at the whole picture, originally they had the traditional plan. Each year the employees contribute, they take less and less coverage. He said eventually it will come to an end. The cost is the same as last year, the coverage is less. He said they give the 3% because every year there is a surplus, he said every year we ask more of the employees and they don't ask for more. He said everyone helps out, above and beyond. We use the money to beautify the Town and keep taxes low, if the surplus goes away then we stop the raises. The Board came together.

Roll Call Vote

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

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilwoman Spanitz to authorize the Town Clerk to advertise the proposed extended shooting hours for Allied Sportsmen of WNY located on Clinton Street for the 2012 season. Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilwoman Spanitz to approve the purchase of 1717 Two Rod Rd.

Councilwoman Ackerman stated that she is concerned that after the 5 year condition with the County grant it would be made a parking lot and she felt it would be more beneficial as a park with gardens. She is not in favor of this.

Councilwoman Spanitz stated that the Town already has \$10,000 invested in this project and we will be receiving \$56,000 in County grant money. She felt it should be taken down and made green space.

Councilman Handley stated that he has questions, he would like it to be made green space as well. He stated that he has concerns over the septic system, if made a parking lot he is concerned over the liability. He said there are pros and cons and asked if it could be added to the motion that it must remain green space.

Councilman Darrow stated that he has talked with people about doing things with this property; like a farmers market. He said seeing everyone at the meeting is great, it would be nice to have a group from the community offering ideas.

Supervisor Gertz stated that he appreciated the Board's input. He commended the Fire Company for the building not burning to the ground. He said this project has been discussed during closed sessions, he made many calls downtown to get the grant which has taken a year. He would also like to see it as green space, with an arch similar to the one at the Town Park and possibly a Town Clock to give our Town an identity.

Motion: Councilman Handley moved, seconded by Councilwoman Spanitz to amend the motion to purchase the property located at 1717 Two Rod Road and the property must remain green space.

Roll Call Vote:

Councilwoman Spanitz ó Aye Councilman Handley ó Aye

Councilwoman Ackerman ó Aye Councilman Darrow ó Aye

Supervisor Gertz - Aye

Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilwoman Ackerman to approve the low bidder Apollo Dismantling Services, LLC located at 4511 Hyde Park Blvd., Niagara Falls, NY at a cost of \$ 42,219.00 for asbestos removal and demolition of the property located at 1717 Two Rod Rd., Marilla, NY.

Roll Call Vote:

Councilwoman Spanitz ó Aye Councilman Handley ó Aye

Councilwoman Ackerman ó Aye Councilman Darrow ó Aye

Supervisor Gertz - Aye

Motion Carried

Report of Town Officials

Supervisor Gertz reported for Town Engineer Marie Nowak that Water District 5 is winding down.

Building Inspector Scott Rider submitted a written report with 11 building applications received totaling fees of \$838.00 and the building permits issued valued at \$168,700 and 13 inspections were made. A total of 128 acts of official business were made for the month of October.

Town Assessor Kandace Wittmeyer submitted a written report, she said her office processed 11 sales, sale prices ranged from \$146,000 to \$290,000. There is an updated newsletter on the Town website. Real Property Services closed their website and moved their information to New York State Taxation and Finance site.

The Planning Board minutes have been received and posted, the next meeting will be held on November 17th at 7:00 pm.

Conservation Advisory Board minutes have been received and posted, the next meeting will be held on December 1st at 7:00 pm..

Fire Company Representative Bill Blarr thanked the community for support.

Supervisor Gertz reported it is leaf season and the DEC does not allow leaf burning, it is illegal to burn leaves. The DEC permits 4ø x 4ø fires of brush but not leaves.

Open Board Presentations

Resident Marcia Cannetti reported that there is a sign down on Clinton Street.

Highway Superintendent Ron Unverdorben said that he was aware and had contacted the DOT twice.

Resident Jim Thompson said that he had fixed one in front of the Library.

Resident Gary Foersch stated that the stop sign on East Avenue view is obstructed.

Highway Superintendent Ron Unverdorben said he had already reported that as well.

Resident Richard Rose said that the sign entering the Town on Clinton and Townline Road is gone.

Resident Shirley Limpinsel commented on how terrific it was to see a full house.

Resident Debbie Beats reported that there will be a chili cook off at Christmas in Marilla on Saturday, December 10th at the Firemenø Rec Hall beginning at 3:30 pm, Judging at 4:30 pm. There will be a 1st, 2nd, and 3rd prize with a Celebrity Judge.

Councilwoman Spanitz said that the Town Board evaluates and appreciates all comments and it was nice to see everyone there.

Councilman Handley encouraged everyone to follow the website and comments are always welcome and he thanked everyone for being there.

Councilman Darrow thanked everyone and was glad the election is over. He thanked all the people that make it happen and glad everyone was here tonight.

Supervisor Gertz thanked the Town Board, there was a lot of discussion tonight, he hoped they all walk out as friends even though they may disagree. He appreciates the candor of the other officials; they need to have discussions to make good decisions. It was Councilman Darrowø idea for the improvements next door at the Community Center and it looks wonderful. He urged residents to stay informed and involved and appreciated the full house.

All claims have been previously reviewed by all Council Members.

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

General Fund Claims, Vouchers 538-594	\$	73,868.40
Highway Fund Claims, Vouchers 145-157	\$	55,774.86
Special Districts		
Sanitation (SR), Vouchers 95-107	\$	16,837.35
Special Fire, Voucher	\$.00
Water District #2, Vouchers 24-25	\$	2,498.32
Water District #3, Vouchers 14-15	\$	1,359.32
Water District #4, Vouchers 13-14	\$	823.32
Water District #5 Voucher 29-31	\$	1,092.25
Community Development PACE	\$.00
Community Develp. HUD	\$.00
Cemetery Vouchers 6-8	\$	1,322.98

Motion Carried.

Motion: Councilwoman Ackerman moved, seconded by Councilman Darrow to adjourn the meeting at 9:05 p.m. Motion Carried.

Respectfully Submitted,

_____ Town Clerk _____ Supervisor

_____ Councilman _____ Councilman

_____ Councilman _____ Councilman