

**Special Meeting
October 11, 2011**

A Special Meeting of the Marilla Town Board was held Tuesday October 11, 2011 at 7:00 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York 14102. Officials present were:

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

Supervisor Gertz called the meeting to order at 7:25 p.m. the following resolution was discussed;

Motion: Councilman Darrow moved, seconded by Councilwoman Ackerman to approve Rock Construction of WNY bid for masonry work on the Community Center at a cost of \$24,000.00.

Roll Call Vote:

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

Motion: Councilwoman Ackerman moved, seconded by Councilman Handley to close the meeting at 7:30 pm. Motion Carried.

Respectfully Submitted,

_____ Town Clerk

Public Hearing

A Public Hearing was held October 13, 2011 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing was to provide an opportunity for citizens to comment on Local Law 5 for the year 2011 entitled "A Local Law to override the Tax Levy Limit established in General Municipal Law §3-c of the Town of Marilla". The Town Board of the Town of Marilla has determined that it is in the best interests of the residents of the Town of Marilla to have the flexibility to adopt a budget for the upcoming fiscal year which may be in excess of the "tax levy limit" as established by General Municipal Law §3-c, if deemed necessary. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published and posted pursuant to the provisions of the Town Law. Approximately (19) persons were in attendance. Officials present were:

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

Supervisor Gertz stated that the Public Hearing regarding the proposed Local Law No. 5 of the year 2011 was now open. Supervisor Gertz asked for public comment.

Hearing no comment the Public hearing was closed at 7:31 pm.

Respectfully submitted by,

_____ Town Clerk

Public Hearing

A Public Hearing was held October 13, 2011 at 7:32 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing was to provide an opportunity for citizens to express community development and housing needs and to discuss possible projects or programs to meet those needs, particularly projects which would benefit low and moderate income persons in the Town of Marilla. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published and posted pursuant to the provisions of the Town Law. Approximately (19) persons were in attendance. Officials present were:

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

Supervisor Gertz stated that the Public Hearing regarding the use of Federal Community Development funds in the Town of Marilla was now open. Supervisor Gertz asked for public comment.

Resident Sharon Foersch from Greenwood Terrace questioned if the property on Two Rod Road had been purchased by the Town?

Supervisor Gertz responded that the property did not pertain to this public hearing.

Hearing no comment the Public hearing was closed at 7:34 pm.

Respectfully submitted by,

_____ Marilla Town Clerk

Regular Meeting
October 13, 2011

The regular meeting of the Marilla Town Board was held on Thursday, October 13, 2011 at 7:35 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

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

Communications

Communications were received and read from:

1. Willey Enterprises of WNY LTD notified the Town that they renewed their liquor license as required by law.
2. Kodiaks Jacks, Inc. notified the Town they had renewed their liquor License as required by law.
3. Richard Rose requested re-appointment to the Assessment Review Board.
4. Leon Berner requested re-appointment to the Assessment Review Board.
5. S&W Contracting declined the notice to proceed on the masonry work to be done at the Marilla Community Center.
6. The Court Clerk notified the Town Board that Judge Labin will be changing his Court hours to begin at 6:00 pm starting on November 1st, 2011.

Committee Reports

Highway Superintendent Ronald Unverdorben reported that there was 48 tons of glass from recycling. He said that the following roads had been re-surfaced Shannon Drive, St. Charles, and Lyndale Lane. He also reported that the chassis was delivered for the plow truck.

Councilwoman Spanitz reported that the Historical Society is looking for new members their meetings are bi monthly at 6:30 pm.

Councilwoman Ackerman reported that the Planning Board meeting will be Thursday, October 20th at 7:00 pm.

Councilman Handley thanked all that attended the 6th annual Town of Marilla Ag-Day. They started the event earlier in the day and had a good steady crowd thru out the day. He also thanked all the groups that participated, the Exhibitors that brought informational displays, tractors and engines. He thanked our farmers for taking time out of their day to bring livestock and tractors down. A special thanks to Berner Farm for the bushels of apples donated, Country Cross Roads, Marilla General Store, Marilla Kiwanis and the Pavilion Committee, that all raised money for Mark O'Brien. Mark is constantly striving to get to the next level, hurdling obstacles that able bodies take for granted. Mark's goal is to compete on the Marine Corps Wounded Warrior Team in archery at the Wounded Warrior Games of 2012. The games will take place at the Olympic Training Center in Colorado Springs. As a team they were able to raise one thousand dollars to help him in his goal. He said and last but not least special thanks to the pavilion committee, Earl Gingerich, and Karl and Chad Schlifke who helped coordinate and organize the Ag-Day event. He stated that the Town of Marilla respectfully invites residents to participate in the 2011 Veterans Day Celebration. The Town's Veterans Day Celebration is a time honored tradition and would be very pleased if residents would be an integral participant in the 2011 services. The event will be held on Saturday, November 5th with the parade beginning at 1 pm. He asked to please line up at 12:30 pm at the Marilla Fire Hall. Following the program hot dogs and soft drinks will be provided by the Town of Marilla and served by the Kiwanis Club of Marilla.

Councilman Darrow reported that the CAB met last week and they are in the process of contacting Farmers that are currently in the PACE Program. He said the Car Show had their first meeting and they are beginning to organize the 2 day event for next year and it is going well.

Supervisor Gertz reported that the reports requested by the New York State Department of Labor are done and he is in the middle of working on the Hazmat Mitigation Requirements.

Open Board Presentations From the Public

Resident Sharon Foersch from Greenwood Terrace stated that she is concerned about the Town's intentions for the James Reid Property.

Supervisor Gertz replied that the Town is required in the Grant Application process to move forward to get bids on the asbestos removal and demolition.

Mrs. Foersch asked if James Reid would be required to pay for this and asked if everyone in Town thinks it is a good idea? She feels it will be used as a parking lot for the private business at the Town's expense. She asked if the Town Board voted on it and she thinks the owner should be taking on the expense?

Resident Joanne Zywar said she asked a year ago about the paving stone on the Veteran's Walkway and it still is not resolved.

Supervisor Gertz explained they had trouble getting the bricks and are currently in the process of having them engraved.

Ms. Foersch asked if the bids for the asbestos and demolition come in above the amount of the grant, will the Town proceed? She thought James Reid should have insurance for this.

Councilwoman Ackerman explained that the Town Board still needs to vote on it after all the information comes back. She said all that was voted on was to see what the feasibility is on the project. After that information they will vote.

Resident Shirley Limpinsel stated that she thinks it is wonderful that the Town Board is stepping up to beautify the hamlet and she asked what is wrong with having additional parking?

Old Business

Motion: Councilwoman Ackerman moved, seconded by Councilwoman Spanitz to approve the minutes of the Bid Opening on 9/6/11, the Public Hearing and Regular Board Meeting held on 9/8/2011 and the Special Meeting held on 9/13/2011 and 9/27/11. Motion Carried.

New Business

Motion: Councilwoman Ackerman moved, seconded by Councilwoman Spanitz to approve the following resolution to approve Local Law 5 of the year 2011 entitled "A Local Law to Override the Tax Levy Limit Established in Town of Marilla"

WHEREAS, the Town Board of the Town of Marilla has determined that it is in the best interests of the residents of the Town of Marilla to have the flexibility to adopt a budget for the upcoming fiscal year which may be in excess of the "tax levy limit" as established by General Municipal Law §3-c, if deemed necessary; and

WHEREAS, in order to have such flexibility, the Town Board must adopt a Local Law to allow an override to the "tax levy limit" if necessary; and

WHEREAS, a public hearing before the Town Board of the Town of Marilla was held on the day of October 13, 2011 at 7:00 p.m. for the purpose of hearing all persons interested in the proposed Local Law; and

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Marilla, hereby adopts Local Law No. 5 of the year 2011. This Resolution shall take effect immediately.

(TEXT OF THE LOCAL LAW)

A LOCAL LAW ENTITLED "A LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW §3-c OF THE TOWN OF MARILLA."

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

SECTION 1. LEGISLATIVE INTENT

It is the intent of this local law to allow the Town of Marilla to adopt a budget for the fiscal year commencing January 1, 2012 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law §3-c.

SECTION 2. AUTHORITY

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government's governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

SECTION 3. TAX LEVY LIMIT OVERRIDE

The Town Board of the Town of Marilla, County of Erie, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2012 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

SECTION 4. SEVERABILITY

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's

order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5. EFFECTIVE DATE

This local law shall take effect immediately upon filing with the 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 Handley moved, seconded by Councilwoman Ackerman to approve the following resolution:

At a meeting of the Marilla Town Board held on October 13, 2011 the Board authorized George Gertz, Supervisor to sign, submit and execute a contract with Erie County Community Development Block Grant (ECCDBG) program for the following projects upon approval of ECCDBG.

1. Rural Transit Service.
2. Handicap picnic tables for Town Park and Gazebo area.

Roll Call Vote:

Councilwoman Spanitz ó Aye

Councilman Handley ó Aye

Councilman Darrow ó Aye

Councilwoman Ackerman ó Aye

Supervisor Gertz ó Aye

Motion: Councilman Darrow moved, seconded by Councilwoman Ackerman to set a public hearing date for Local Law 6 to extend the flag lot moratorium for November 10, 2011 at 7:30 pm. Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilwoman Spanitz to authorize the Town Clerk to advertise for bids on the demolition and asbestos removal for 1717 Two Rod Road. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilwoman Ackerman to authorize the Town Clerk to advertise the Garbage Disposal Contract. Motion Carried.

Motion: Councilwoman Ackerman moved, seconded by Councilwoman Spanitz to pass the following resolution to apply for a grant for justice court furniture:

WHEREAS, the Town of Marilla has recently engaged in a capital improvement project to enhance the facilities used by the Town Court of the Town of Marilla; and

WHEREAS, the Town Court has become aware of a Justice Court Assistance Program to provide needed assistance for further improvements and upgrades and has requested Town Board approval for submission of a grant application; and

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board as follows:

1. The Marilla Town Court is hereby authorized to submit a grant application to the Justice Court Assistance Program seeking a grant from such program for the purposes it deems necessary and appropriate.

2. This resolution shall take effect immediately.

DULY ADOPTED, this 13 day of October, 2011, by the following vote:
Councilwoman Spantiz ó Aye Councilman Handley ó Aye
Councilwoman Ackerman ó Aye Councilman Darrow ó Aye
Supervisor Gertz ó Aye
Motion Carried.

Supervisor Gertz stated that there is an opening on the Assessment Review Board and 1 letter had been received for the position.

Supervisor Gertz stated that the public hearing for the 2012 Town Budget and the 2012 Firemen's Budget will be held on November 3, 2011 at 7:35.

This date was later corrected to November 10th, 2011 at 7:35; according to Town Law Article 8 section §108.

Report of Town Officials

Town Engineer Marie Nowak submitted her report that the second round of testing for 2011 was completed at the Marilla Landfill on October 5, 2011 by Microbac Laboratory.

Building Inspector Scott Rider submitted a written report with 9 building applications received with fees totaling \$1,141.00, 9 building permits were issued with a total value of \$250,600.00, 16 inspections were made for the month of September. There were a total of 215 logged activities.

Town Assessor Kandace Wittmeyer submitted her monthly report, she attended schooling and earned an additional 12 credit hours. She stated it is not cost effective for her office to electronically store records so they will remain storing paper records. She reported that the State has cut 30% of their work force. This will affect a lot of things including the STAR Exemption. She urged residents to contact their Elected Representatives to reinstate workers.

The CAB minutes were received and posted for their September Meeting.

The Planning Board minutes were received and posted and Planning Board Members are finishing up the required training. They will be discussing New York States new proposed laws for permits.

Bill Blarr reported that the Marilla Fire Company would like to invite residents to their open house on October 29th from 12 pm to 4 pm.

Open Board Presentations

Resident Joanne Zywar stated that a year ago last June she contacted the Town concerning the Veteran Bricks and being unable to read some of them. She said currently they are still blank.

Supervisor Gertz said they were sent out 2 months ago to be engraved. He explained they had trouble finding replacement stones. He hired a contractor that found 24 bricks and they are currently engraving them.

She asked what the time frame would be?

Supervisor Gertz responded as soon as they get back they will be installed.

Councilwoman Spanitz thanked the Firemen for the tour the Town Board Members were given, she said it was very enlightening. She urged Residents to go to the Fire Company's Open House on the 29th and thanked Bill Blarr and the others.

Councilwoman Ackerman said she agreed with Councilwoman Spanitz and thanked Ron Bourgeois, Brad Wurthner, and George, she had no idea how involved it was and she said hats off to them. She reported that the training session in September on Buffalo River Keeper was very well received. She would like to hold more of them and invite

residents to attend. There is great insight and knowledge from these forums, 100% of the water goes into Buffalo River Water Shed and understanding how it all fits into farmland protection is really interesting. In the future we can advertise it better.

Councilman Handley commented on how informative Town Assessor Kandace Wittmeyer's monthly reports are. He said Residents should take a look at the STAR credit on their tax bill, due to lack of staffing and funding this could be in jeopardy. If any residents have questions concerning this issue they can contact Kandy or the Town Board for websites people can go to for information about this. He felt maybe the Town Board could pass a resolution before things get taken away.

Councilman Darrow commented on the Fire Company tour and was very impressed with all of the checks and balance they have. The Fire Company pays cash for everything there is no borrowing and they are never in the hole.

Councilwoman Ackerman also wanted to thank Dave Unverdorben.

Councilman Handley said he was unable to attend the tour due to illness.

Supervisor Gertz said that Dave Unverdorben is the treasurer and watches the money spent in the Fire Hall. He said most things are purchased through grants such as; coats, scott air packs, \$2000 to dress firemen, new radios. This saves taxpayers. He reported there will be a household hazardous drop off day on 10/22/11 from 9am to 2 pm.. He is working on the Hazmat Mitigation to identify possible hazards in the Community such as winter storms, ice, flooding, draught, explosions, accidents.

Resident Kathy Toy asked if radon gas was considered a hazard in our area?

Supervisor Gertz responded no it is a natural occurrence to individual residence opposed to town wide.

The Vouchers have been audited by all of the Town Board Members.

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

General Fund Claims, Vouchers 469-537	\$ 48,339.79
Highway Fund Claims, Vouchers 133-144	\$ 24,027.73
Special Districts	
Sanitation (SR), Vouchers 88-94	\$ 13,891.58
Special Fire Voucher 7	\$ 4,539.89
Water District #2, Vouchers 20-23	\$ 4,092.92
Water District #3 Vouchers 12-13	\$ 1,436.06
Water District #4 Voucher 10-12	\$ 2,400.08
Water District #5 Voucher 27-28	\$ 2,241.86
Community Develop. PACE Vouchers	\$.00
Community Develop. HUD	\$.00
Cemetery Vouchers	\$.00

Motion Carried.

Motion: Councilwoman Spanitz moved, seconded by Councilwoman Ackerman to adjourn the meeting at 8:25 p.m. Motion Carried.

Respectfully submitted,

_____ Town Clerk _____ Supervisor

_____ Councilman _____ Councilman

_____ Councilman _____ Councilman