

The regular meeting of the Marilla Town Board was held on Thursday, September 9, 2010 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

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

Supervisor Gertz called the meeting to order and the Pledge of Allegiance to the Flag was given. He introduced County Legislature Dino Fudoli.

County Legislature Dino Fudoli stated that he was actually here to listen to resident for their concerns. He said hot items that he receives calls on are mostly concerning road issues and the recent proposed 20% cut to the County Libraries. He said County Executive Chris Collins will not make any cuts to road patrols as not to compromise public safety. Legislature Fudoli said that his platform is the smaller the government the better. He believes in leaving power to the Towns who best serve the public. He said that people are not paying attention to what County Government is doing and there is room to downsize. He stated that he had not heard of Marilla's Library being in danger of the County closing it, he thinks it may be some in the city of Buffalo. He has not been given any information of his district being forced to close.

### **Communications**

Communications were received and read from:

1. A donation of \$100 received for the Town Park from the Sleeper Family in memory of David Sleeper.

### **Committee Reports**

Highway Superintendent Ronald Unverdorben reported that he received \$29,000 for the State to purchase fencing and to fix 3 headstones at the Marilla Cemetery.

Councilwoman Spanitz reported that the next Planning Board Meeting will be held on September 16<sup>th</sup> and she will be attending an Affirmative Action Meeting in West Seneca on October 6<sup>th</sup>. She said the Library will be holding their book sale on September 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup>.

Councilman Handley stated Ag Day will be on September 19<sup>th</sup>, they will be having an antique engine and tractor show, the Town will be celebrating 156 years of agriculture in Marilla. The Marilla Fire Company Band will play from 1:30 pm to 2:00 pm and Craig Wilkens Band will play from 2:00 pm to 5 pm. There will be hot dogs, pulled pork, clam chowder, pie, birch beer and much more.

Councilman Darrow thanked Highway Superintendent Ron Unverdorben for the beautiful job Ron and his men did on the fence in back of the Town Hall.

Supervisor Gertz stated that Water District 5 has now gone to bid and the bids are due back September 24<sup>th</sup>, there will be a special meeting awarding the bid on September 28<sup>th</sup>.

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

None

### **Old Business**

Motion: Councilwoman Spanitz moved, seconded by Councilman Handley to approve the minutes of the Public Hearing and Regular Board Meeting held on 8/12/2010. Motion Carried.

### **New Business**

Motion: Councilman Handley moved, seconded by Councilman Darrow to set the public hearing date for possible use of HUD funds for Tuesday, October 14<sup>th</sup> at 7:35 p.m. Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilwoman Spanitz to approve the following resolution to set the public hearing date for Local Law #6 on Outdoor Boilers;

WHEREAS, the Town Board has determined that it is in the public interest of the residents of the Town of Marilla to regulate the operation of outdoor wood boilers within the Town of Marilla to insure that they are not installed in locations or operated in a manner that adversely impacts other properties in the vicinity; and

WHEREAS, the Town Board and the Planning Board have undertaken a review of the issues and proposed legislation that was intended to be adopted by the State of New York and has determined that due to the failure of the State of New York to proceed with the proposed legislation that it is necessary for the Town of Marilla to adopt its own local law to regulate outdoor wood boilers and following extensive review has developed a proposed Outdoor Wood Boiler Law; and

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS;

A hearing before the Town Board of the Town of Marilla, in the County of Erie shall be held at the Town Hall, 1740 Two Rod Road, Marilla, New York at 7:30 p.m. on the 14th day of October, 2010, for the purpose of hearing all persons interested in the proposed Local Law No. 6 of the Year 2010; and

BE, IT FURTHER

ORDERED, that the Town Clerk is directed to (a) publish a notice of public hearing in the Alden Advertiser and the Elma Review, designated by the Town as its official newspapers for this publication, such publication to be not less than ten days before the date of the public hearing; (b) post as required by law one copy of the Notice of Public Hearing no later than the day such Notice is published; and (c) notify by mail all parties of interest pursuant to the General Municipal Law and the Town Law of the Public Hearing, not less than ten days before the date of the Public Hearing and notify County Planning as required under §239-m of the General Municipal Law; and

BE, IT FURTHER

ORDERED, that the Town Clerk is to make copies of the proposed Local Law No. 6 of the Year 2010, entitled "Outdoor Wood Boiler Law of the Town of Marilla", available at her office for inspection and distribution to any interested person during business hours.

The question of the adoption of the foregoing order was duly put to a vote on roll call, which resulted as follows:

The above resolution was duly put to a roll call vote at a special meeting of the Town Board held on September 9, 2010, the results of which were as follows:

Councilman Spanitz ó Aye

Councilman Handley ó Aye

Councilman Darrow ó Aye

Supervisor Gertz ó Aye

Motion Carried.

Motion: Councilwoman Spanitz moved, seconded by Councilman Handley to approve the following resolution for snow plowing contract:

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, 2010 and expiring on

August 31, 2013 with the rates for each period to be as set forth below:

September 1, 2010 through August 31, 2011 \$3,077.67 per lane mile  
September 1, 2011 through August 31, 2012 \$3,231.55 per lane mile  
September 1, 2012 through August 31, 2013 \$3,393.13 per land mile

WHEREAS, the Erie County Legislature has approved the proposed agreement pursuant to resolution adopted on July 22, 2010; 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 September 9, 2010, the results of which were as follows:

Councilmember Spanitz ó Aye      Councilmember Handley ó Aye  
Councilmember Darrow ó Aye      Supervisor Gertz ó Aye  
Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Darrow to set a Special Meeting for September 28<sup>th</sup> at 7:00 pm to award Water District 5 contract. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Darrow to retain Bennett, Difilippo & Kurtzhaltz LLP as Special Council at a rate of \$175 per hour for legal, \$85 per hour for paralegal and \$40 for legal assistant. Motion Carried.

### **Report of Town Officials**

Town Engineer Marie Nowak explained the area included in Water District 5 to County Legislature Dino Fudoli so he would be aware if anyone would contact him with questions or concerns.

Building Inspector Scott Rider submitted a written report with 8 building applications received with fees totaling \$858.00, 8 building permits were issued with a total value of \$210,000, 9 inspections were made for the month of August. There were a total of 164 logged activities.

Town Attorney Nathan Neill reported that Alden approved the joint municipal agreement for Water District 5.

Supervisor Gertz reported that he had received a report from Town Assessor Kandace Wittmeyer.

The CAB minutes were received and posted for their July Meeting August was cancelled.

The Planning Board minutes were received and posted.

**Open Board Presentations**

None

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

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

General Fund Claims, Vouchers 420-458	\$ 44,081.31
Highway Fund Claims, Vouchers 116-125	\$ 8,920.57
Special Districts	
Sanitation (SR), Vouchers 68-72	\$ 11,548.14
Special Fire Vouchers 6-7	\$ 4,165.66
Water District #2, Vouchers 20-21	\$ 2,510.26
Water District #3 Voucher 11	\$ 1,353.40
Water District #4 Voucher 10	\$ 817.40
Water District #5 Vouchers	\$ .00
Community Develp. PACE Vouchers	\$ .00
Community Develp. HUD	\$ .00
Cemetery Vouchers 11-13	\$ 295.00

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilwoman Spanitz to adjourn the meeting at 7:50 p.m. Motion Carried.

Respectfully submitted,

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

\_\_\_\_\_ Councilman \_\_\_\_\_ Councilman

\_\_\_\_\_ Councilman \_\_\_\_\_ Councilman