

A Public Hearing was held December 14, 2006 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the meeting was to get public comment on the adoption of proposed "Local Law No. 2 of the Year 2006". The proposed Local Law will provide for the codification of local laws, ordinances and certain resolutions of the Town of Marilla into a Municipal Code to be designated the "Code of the Town of Marilla". The Town Board has worked with Code Publishers over a period of many months to update and reorganize the Code of the Town of Marilla and has come up with revisions which it believes will make the Code of the Town of Marilla easier to follow and eliminate inconsistencies contained in the existing Code of the Town. The Town Clerk published the notice of the public hearing in the Alden Advertiser, the Elma Review and East Aurora Advertiser as well as posting it on the Official Bulletin Board pursuant to the provisions of the Town Law. Officials present were:

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

Approximately (10) persons were in attendance. Supervisor Foss asked if there was any interested person who desired to be heard. Hearing no comment the hearing was closed at 7:32 pm.

Respectfully submitted,

_____, Town Clerk

Public Hearing
December 14, 2006

A Public Hearing was held December 14, 2006 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the meeting was to get public comment on the adoption of proposed "Local Law No. 3 of the Year 2006". The proposed Local Law will provide for administration and Enforcement of the New York State Uniform Fire Prevention and Building Code of the Town of Marilla. The Town Clerk published the notice of the public hearing in the Alden Advertiser, the Elma Review and East Aurora Advertiser as well as posting it on the Official Bulletin Board pursuant to the provisions of the Town Law. Officials present were:

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

Approximately (10) persons were in attendance. Supervisor Foss asked if there was any interested person who desired to be heard. Hearing no comment the hearing was closed at 7:34 pm.

Respectfully submitted,

_____, Town Clerk

A regular meeting of the Marilla Town Board was held December 14, 2006 at 7:35 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York.
Officials present were:

John Foss, Supervisor
Fred Specht, Councilman
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. Notification from Willey Enterprises of WNY, LTD for renewing their liquor license.
2. Allied Sportsmen of WNY renewing their 2007 range license and extended shooting hours.

Committee Reports

Councilman Gertz reported for Highway Superintendent Dave Pierce that the paper work has been filed for FEMA reimbursement from the October storm.

Councilman Spanitz reported that that the next Planning Board Meeting will be next week on December 21st at 7:00 pm. She stated that New York State is now requiring four hours of training per year for Planning Board and Zoning Board members.

Town Attorney Nathan Neill stated that the Town of Newstead would be holding training sessions in their town and that maybe our members could receive their training there.

Councilman Specht reported that the CAB is working on a Master Plan for the Town Park. The CAB is trying to get a speaker at their February meeting from the WNY Land Conservancy. He also reported that they had a car show meeting and the date of the car show will be July 29th, 2007 and their next meeting will be held after the holidays.

Supervisor Foss reported that all accounts are doing as well or better than last year. PACE is coming along, we will now be having Jason Engel doing the work on it.

Open Board Presentations From the Public

Bennington Supervisor Ellen Grant wanted to personally thank the Town Board and Town Engineer, Marie Nowak for their cooperation and advice in assisting Bennington in their Water District.

Old Business

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to approve Minutes from the Public Hearings and Regular Meetings held on 11/9/06.
Motion Carried.

New Business

Motion: Councilman Specht moved, seconded by Councilman Gertz to approve the following resolution for the Negative Declaration for Local Law No. 2 for the year 2006:

WHEREAS, the Town Board of the Town of Marilla is proposing to adopt a local law to provide for the codification of the local laws,

ordinances and certain resolutions of the Town of Marilla into a municipal code to be designated as the “Code of the Town of Marilla”; and

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 9 (State Environmental Quality Review Act-SEQRA) of the Environmental Conservation Law, the Marilla Town Board has caused the Town Engineers to prepare a long form EAF in connection with the adoption of the local law; and

WHEREAS, the Town Board of the Town of Marilla has determined it is duly qualified to act as lead agency with respect to compliance with SEQRA which requires environmental review of certain actions undertaken by local governments; and

WHEREAS, pursuant to Resolution adopted on November 9, 2006, the Town Board determined that the proposed action was a Type I Action under SEQRA and that it was the agency with the broadest governmental powers for investigating the impact of the proposed action and the greatest capacity for providing the most thorough environmental assessment of the proposed action and the most local agent with permitting authority, and pursuant to such resolution the Town of Marilla has undertaken to conduct a coordinated review; and

WHEREAS, all the involved agencies required to be notified under SEQRA have been notified and have received responses from most of agencies notified and no agency has contested the determination of the Town of Marilla to act as lead agency and there were no responses identifying areas of concern that must be addressed by the Town of Marilla; and

WHEREAS, the Town of Marilla has determined that the proposed project will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public, and is consistent with social and economic considerations

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Marilla, after considering the action proposed herein, in reviewing the Environmental Assessment Form, reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the project with respect to potential environmental concerns, determines that the action will not have a significant effect on the environment for the reasons set forth in the attached Negative Declaration.

BE IT FURTHER RESOLVED, that the Town Supervisor is hereby authorized and directed to complete and execute the Part III of the said Environmental Assessment Form and to check the box thereon indicating that the proposed action will not result in any significant adverse impacts; and be it further

RESOLVED, that the annexed Negative Declaration is hereby approved and the Town Clerk is hereby authorized and directed to make the appropriate filings in accordance with the provisions of the General Regulations of the Department of Environmental Conservation.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on December 14, 2006, the results of which were as follows:

Councilman Spantiz – Aye
Councilman Gertz – Aye
Supervisor Foss – Aye
Motion Carried.

Councilman Specht – Aye
Councilman Handley – Aye

Motion: Councilman Gertz moved, seconded by Councilman Handley to approve the following resolution for Local Law No. 2 of the year 2006:

WHEREAS, The Town of Marilla has determined that it is in the best interest of the Town of Marilla to update and reorganize the Code of the Town of Marilla; and

WHEREAS, the Town Board has worked with Code Publishers over a period of many months to update and reorganize the Code of the Town of Marilla and has come up with revisions which it believes will make the Code of the Town of Marilla easier to follow and eliminate inconsistencies contained in the existing Code of the Town of Marilla; and

WHEREAS, Councilman Gertz introduced the following proposed "Local Law No. 2 of the Year 2006", entitled "A Local Law to Provide for the Codification of the Local Laws, Ordinances and Certain Resolutions of the Town of Marilla in a Municipal Code to be designated as the Code of the Town of Marilla" and presented a copy to each member of the Board.

Roll Call Vote:

Councilman Spantiz – Aye

Councilman Specht – Aye

Councilman Gertz – Aye

Councilman Handley – Aye

Supervisor Foss – Aye

Motion Carried.

(Full text of Local Law found in attachment book marked 2006-b)

Motion: Councilman Gertz moved, second by Councilman Spanitz to approve the following resolution for the Negative Declaration for Local Law No. 3 for the year 2006:

WHEREAS, the Town Board of the Town of Marilla is considering adoption of a Local Law to comply with New York State requirements for the enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Code; and

WHEREAS, the Town Board of the Town of Marilla is duly qualified to act as lead agency with respect to compliance with SEQRA which requires environmental review of certain actions undertaken by local governments; and

WHEREAS, Erie County Department of Environment and Planning has been notified as required under the General Municipal Law with no recommendation received; and.

WHEREAS, the proposed action appears to be an Unlisted Action pursuant to the Rules and Regulations of the State Environmental Quality Review Act

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Marilla, after considering the action proposed herein, in reviewing the Environmental Assessment Form, reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the project with respect to potential environmental concerns, determines that the action will not have a significant effect on the environment; and be it further

RESOLVED, that the Town Board of the Town of Marilla hereby finds that the proposed responses inserted in Part II of the said Environmental Assessment Form are satisfactory and approved; and be it further

RESOLVED, that the Town Supervisor is hereby authorized and directed to complete and execute the Part III of the said Environmental Assessment Form and to check the box thereon indicating that the proposed action will not result in any significant adverse impacts; and be it further

RESOLVED, that the annexed Negative Declaration is hereby approved and the Town Clerk is hereby authorized and directed to file the same in accordance with the provisions of the General Regulations of the Department of Environmental Conservation.

Roll Call Vote:

Councilman Spantiz – Aye

Councilman Specht – Aye

Councilman Gertz – Aye

Councilman Handley – Aye

Supervisor Foss – Aye

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gertz to approve the following resolution for Local Law No. 3 for the year 2006:

WHEREAS, the State of New York has adopted building code regulations regarding minimum standards for administration and enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Code which will go into effect on January 1, 2007 and which all the municipalities in the State of New York must be in compliance with; and

WHEREAS, the Town Board of the Town of Marilla is considering the adoption of a local law to comply with the requirements of the State of New York; and

WHEREAS, the Town of Marilla has determined that the proposed action is an Unlisted Action but that a coordinated review is not required; and

WHEREAS, Councilman Specht introduced the following proposed “Local Law No. 3 of the Year 2006, known as “Local Law Providing for Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code of the Town of Marilla” and presented a copy to each member of the Town Board.

Roll Call Vote:

Councilman Spantiz – Aye

Councilman Specht – Aye

Councilman Gertz – Aye

Councilman Handley – Aye

Supervisor Foss – Aye

Motion Carried.

(Full text of Local Law found in attachment book marked 2006-c)

Motion: Councilman Gertz moved, seconded by Councilman Handley to authorize the Supervisor to sign a contract with Jason Engles to be project manager for the PACE Grant at a fee not to exceed \$6,500, contingent upon final agreement with Town Attorney Nathan Neill. Motion Carried.

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

WHEREAS, the voters of the Town of Marilla approved a referendum to establish a service award program for the Town of Marilla Fire Protection District effective January 1, 1990 which service award program was amended pursuant to resolution approved by the voters of the Town of Marilla by referendum which amendment was effective January 1, 2000 and further amended on September 3, 2003 to raise the entitlement age to 65; and

WHEREAS, persons who continued to serve as active volunteer

firefighter members with the Town of Marilla Fire Protection District currently administered by Standard Security Life Insurance Company of New York, after having attained the Entitlement Age and having begun to be paid Service Award program payments have not been given the opportunity to continue to earn Service Award Program credit for active volunteer firefighter service rendered after the attainment of the Entitlement Age; and

WHEREAS, such denial of the opportunity for senior active volunteer firefighters to earn Service Award Program credit may constitute age discrimination which has been prohibited under ADEA, the Federal Aged Discrimination in Employment Act since before January 1, 1992 and such a determination was rendered in the case of Romeo C. DiPirro, Edward Heim and William H. Smith vs. Clarence First District No. 1 decided on June 16, 2005 in Erie County Supreme Court; and

WHEREAS, the New York State Volunteer Firefighter Service Award Programs are governed by Article 11-A of the General Municipal Law; and

WHEREAS, Article 11-A as originally enacted did not prohibit active volunteer firefighters, regardless of age or payment status from earning Service Award Program credit up to the maximum credit allowed under a program; and

WHEREAS, Article 11-A was amended by Chapter 647 of the Laws of 2003 to explicitly state that a Service Award Program may allow post Entitlement Age volunteers to continue to earn credit.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS

1. That notwithstanding active volunteer firefighters reaching the Entitlement Age, the Administrator of the Town of Marilla Fire Protection District Service Award Program, currently administered by Standard Security Life Insurance Company, is hereby directed to administer said program effective as of January 1, 2006 to allow post Entitlement Age active volunteers to earn Service Award Program service credit under the Service Award Program.
2. Post Entitlement Age active volunteers who, but for their reaching the Entitlement Age, would have been eligible for Service Award Program service credit for years prior to January 1, 2006 shall be entitled to receive as a lump sum payment the principal amounts that they would have been entitled to receive for each of the applicable years without any additional interest.
3. Except as expressly modified by this resolution, the resolution establishing the Service Award Program adopted September 7, 1989 and effective as of January 1, 1990 as amended by the resolution adopted June 10, 1999 and effective as of January 1, 2000, as further amended by resolution adopted on September 3, 2003, which resolution is hereby specifically ratified and confirmed, shall remain in full force and effect.
4. 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 December 14, 2006, the results of which were as follows:

Councilman Spanitz – Aye
Councilman Gertz – Aye
Supervisor Foss – Aye
Motion Carried.

Councilman Specht – Aye
Councilman Handley – Aye

Motion: Councilman Handley moved, seconded by Councilman Gertz to authorize the Town Clerk to publish extended shooting hours for the year 2007 for Allied Sportsmen of WNY. Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Specht to appoint Kim Parker as Bookkeeper to the Supervisor and pay according to the adopted clerk's pay scale.

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

WHEREAS, the Town of Marilla has requested that the Marilla Free Library remain open and continue to provide cultural and recreational programs for the Town of Marilla for the year 2007; and

WHEREAS, the Marilla Free Library has agreed to remain open and to continue to provide such cultural and recreational programs for the Town of Marilla for the year 2007; and

WHEREAS, the parties have negotiated and agreed that the amount required to allow the Marilla Free Library to remain open and provide such services for the year 2007 is \$18,000, which amount has been provided for in the adopted budget of the Town of Marilla for the year 2007.

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

1. That the Town Board does agree to provide the Marilla Free Library with funding in the amount of \$18,000 for the year 2007 in return for the Marilla Free Library remaining open and providing cultural and recreational services to the Town of Marilla, including, but not limited to providing free library services, conducting reading workshops for youth, facilitating cultural development, promoting literary arts and providing public meeting rooms for other cultural and educational organizations.
2. That the Supervisor is hereby authorized to execute a Contract between the Town of Marilla and the Marilla Free Library, in form as presented at this meeting.
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 of the Town of Marilla on December 14, 2006, the results of which were as follows:

Roll Call Vote:

Councilman Spantiz – Aye

Councilman Specht – Aye

Councilman Gertz – Aye

Councilman Handley – Aye

Supervisor Foss – Aye

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Specht to authorize the Supervisor to prepay Lush Lawn to receive an 8% discount. The total cost for the soccer fields on Eastwood Road is \$522.26 and the cost for the Town Hall area is \$1,131.56. Motion Carried.

Supervisor Foss also stated that the January Organizational Meeting will be held on January 11th at 7:30 p.m.

The Holiday Schedule for the Town Hall will be as follows; Closed – Monday, December 25th and Monday, January 1st and close at noon on Friday December 22nd and Friday December 29th. On Tuesday, December 19, 2006 the Town Hall hours will be 9:00 am to 6:30 pm., the Town Hall will close at 6:30 pm for an employee's Christmas Party.

The Settlement Meeting will be held on Thursday December 28th, 2006 at 11:00 am in the Marilla Town Hall.

Motion: Councilman Specht moved, seconded by Councilman Spanitz to remove from consideration the Kolbe property located on Two Rod Road for the PACE 2000 Grant contract #C8-800550.

Roll Call Vote:

Councilman Spantiz – Aye

Councilman Specht – Aye

Councilman Gertz – Aye

Councilman Handley – Nay

Supervisor Foss – Aye

Motion Carried.

Report of Town Officials

Town Engineer Marie Nowak reported that she is currently looking at the problem with water pressure on Three Rod.

Building Inspector John Fronczek submitted a written report with 7 building applications received totaling fees of \$ 786.00, building permits issued with a value of \$223,900.00, 7 inspections were made, and 3 complaints were acted on. A total of 102 acts of official business were made for the month of November. One building permit was doubled in fee.

The Planning Board minutes have been received and posted, they will be meeting next Thursday at 7:00 pm.

Conservation Advisory Board minutes have been received and posted.

Marilla Fire Company representative George Gertz stated that the Fire Company had filed all the required paper work for FEMA reimbursement from the October storm. The Fire Company will be bringing Santa to local children on December 23rd from 1-4 pm.

Hubert Kutter reported that recently he received a request from an inmate from Greenhaven Correctional facility asking for information on ancestors to prove his identity. He stated that the Historical Society had a good time and there was a lot of activity in the museum for the Tree Lighting Ceremony. He thanked Councilman Handley for all of his efforts and hard work for the Tree Lighting Ceremony as well as everyone that helped.

Open Board Presentations

Councilman Handley thanked Mr. Kutter for his kind words and stated that this was his seventh year doing the Tree Lighting Ceremony. He stated that he owes a lot of credit to Supervisor Foss and the Kiwanians that were doing it before him. When he first got involved with the Kiwanis, the custom for the tree lighting ceremony was to sing out around the tree and then come in for a Town Board Meeting. With the help of Debbie Specht, they began to build from that. They found that working with the youth groups was a great way to promote the event, and a lot of its success is owed to the youth groups and residents. This was the first year a lot of people complimented the Town for having such a community spirited event. The look on the children's faces especially when Santa Claus arrives is priceless. We communicate with Santa on walkie talkies over the PA system, and this year seconds after Santa said he was just flying over New York City a low flying jet flew overhead and seconds later Santa came whipping around the corner with two elves. To see the look on the kids and parents faces makes it all worthwhile. Councilman Handley wanted to thank the youth groups but it's the Firemen as well that are making this a big success. Every year they dedicate their time volunteering to control

traffic for the hayrides, which last for quite a long time. It was also nice to see so many people going into the Museum, and seeing so many kids going to sit on Santa's lap made it all worthwhile. He wanted to thank everyone for all their help and any contributions that were made. This year the vendors really kicked up a lot of money also.

Councilman Gertz wanted to thank the members of the committee that worked on the revised town code book; Warren Handley, Nate Neill, and Bob Miller. We worked many hours trying to get this done. The code is now on line for anyone to access it. The Town bought a lap top computer for the Planning Board and he has loaded the Code Book on it for them to work from.

Councilman Spanitz thanked the Kiwanis and stated how great the spirit of the Community is and wished everyone a safe and Merry Christmas and she looks forward to working for the residents in the new year.

Supervisor Foss stated that one of the most important things as Supervisor is to get everyone to work together, and he is just finishing his 21st year as Supervisor and he has never seen things better. We may not always agree, but we do it in a courteous way.

All claims have been previously reviewed by Councilman Specht and Councilman Handley.

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

General Fund Claims, Vouchers 512-579	\$	40,039.71
Highway Fund Claims, Vouchers 222-244	\$	11,969.88
Special Districts		
Sanitation (SR), Vouchers 124-140	\$	12,219.75
Special Fire, Voucher	\$.00
Water District #2, Vouchers 26-28	\$	7,380.44
Water District #3, Vouchers 13-14	\$	2,706.80
Water District #4, Voucher 12-13	\$	1,634.80
Community Development PACE Vchr 8	\$	469.55
Community Develp. HUD	\$.00

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to adjourn the meeting at 8:15 p.m. Motion Carried.

Respectfully Submitted,

_____ Town Clerk _____ Supervisor

_____ Councilman _____ Councilman

_____ Councilman _____ Councilman