

A Public Hearing was held November 9, 2006 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  
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 2007 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 \$232,525.00.
- (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, 2007.
- (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 9, 2006

A Public Hearing was held November 9, 2006 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  
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 2007 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. Hearing no comments from those in attendance, the hearing was closed at 7:35 p.m.

Respectfully Submitted,

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

A Public Hearing was held November 9, 2006 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:

John R. Foss, Supervisor  
Barbara Spanitz, Councilman  
Fred Specht, Councilman  
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 listen to public comment on an application for a flag lot at property located on Clinton Street with the section block and lot number of 129.00-12-1.1, currently owned by Marilla Development LLC. The approximate size of the proposed flag lot is 300' x 300' out of a 78 acre parcel. Supervisor Foss asked if there were any interested persons who desired to be heard.

Resident Charles O'Brian of Two Rod Road asked where is the location of the flag lot on Clinton Street?

Supervisor Foss explained that it is on Clinton Street if you are heading from Two Rod and going west on Clinton Street it would be east of the old Heinrich Place. (11386 Clinton).

Resident Mike Puckett questioned what is intended to be put there?

Supervisor Foss responded that one residential home was going to be built there.

Charles O'Brian asked if a variance is required for this lot.

Supervisor Foss answered no.

Resident Mary Earsing asked how many homes are going on this lot?

Supervisor Foss responded just one.

Mike Puckett asked is this residential, or commercial?

Supervisor Foss answered residential.

Hearing no further comment from those in attendance, the hearing was closed at 7:42 p.m.

Respectfully Submitted,

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

A regular meeting of the Marilla Town Board was held November 9, 2006 at 7:40 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**

None

### **Committee Reports**

Highway Superintendent Dave Pierce reported that the brush from the October snow storm is done being picked up. The State is now finishing up brush pick up on Two Rod Road and Clinton Street.

Councilman Spanitz reported that the next Planning Board Meeting will be held on November 16<sup>th</sup> at 7:00 p.m.. The Marilla Library is in need of more funding, they have been receiving the same amount of funding from the County for the past several years and are asking residents to call our County Legislature, Kathy Konst, to request an increase in funding.

Councilman Gertz reported that he attended the Planning Board Meeting last month, they discussed the flag lot and new forms for rezoning. We will begin the process of adopting the new Code Book this evening. There will be a recap of the changes in the Town Clerk's Office if anyone is interested in viewing it, you can also view it on line under the Code Enforcement Section. He received a request from Townline Road Residents for a speed reduction which has been referred to the County. The Veteran's Day Parade will line up at 12:45 pm at the Fire hall on Sunday, November 12<sup>th</sup> and will then proceed down to the Veteran's Memorial. He then commented that the October surprise snow storm was an interesting evening. We declared a State of Emergency, the Town and the Fire Company handled it very well. He thanked Highway Superintendent Dave Pierce for coming and pulling him out in the ambulance. They are working on getting new radios for the Town so they can communicate a little easier. They were prepared if anyone would have needed shelter they could have handled it, they learned a lot. We didn't have anyone request shelter and we did a lot of welfare checks. We do have some issues that we have to address, which the Board is aware of.

Councilman Handley reported that the annual Tree Lighting Ceremony will be on December 2<sup>nd</sup> from 4 – 8 pm with hayrides and caroling at the Town Hall. There will be events going on at the Community Center with Youth Groups, there will be entertainment with Joe Borzellere, along with refreshments, hayrides and Santa. We will also be having the annual residential lighting contest, it will be the same route as last year. If anyone has any questions please contact him, and there will be flyers at the Town Hall. He also mentioned that the Kiwanis are selling cheese cakes this year.

Councilman Specht reported that the CAB have their letter completed to be stuffed with the December Town Newsletter, they are looking for properties for the PACE program.

Supervisor Foss reported that the Kiwanis will be serving free hot dogs after the Veteran's Day Parade. The Town is receiving PACE Grant funds for the (Mark, Keith, Mike) Foss Farm on Three Rod Road, which is approximately 85 acres. Hopefully it will close within the next year. He also attended a conference today in which he was one of the presenters, there was a lot of interest in this area and he will be attending the next CAB meeting and passing out some of the things that he received today. The October snow storm made us all aware that when the electricity goes out we are totally shut down. He had a meeting with some state officials, George, and Dave, and we have been promised some support. We got a call today and, hopefully, we are going to get generators for the Town Hall, Community Center, the hook up costs and also to replace the two generators that were stolen from the Fire Company that were working the two signal lights in town. In the future when we are out of electricity we will be hooked up to generators within an hour. We did get hooked up to a generator on October 16<sup>th</sup>, the last day to pay taxes and the tax office was quite busy. He commented on how people have commented on how well our roads were cleared for the storm, we were one of the only towns plowed out

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

Resident Shirley Limpinsel from Coleman Road stated that during the storm she had a call from a senior citizen asking if there was someplace in town to go to get warm and eat?

Supervisor Foss responded that there was a place to go for warmth, but not food or overnight shelter. We are working on purchasing some canned soups and cots to have a place for residents to go in a future emergency, George is planning to overcome that problem.

Councilman Gertz stated that the Fire Company only had one or two calls, and in the future we are planning to address this with the Community Center. We contacted Helen Bourgeois to get a Senior Citizen list and the Fire Company did welfare checks on these residents. As a Community we came together real well, but we didn't have anywhere the disaster proportion that other communities like Cheektowaga, Lancaster, and Amherst had. One third of this town was in trouble the rest just didn't have power. By the next day the roads were perfectly clear.

Supervisor Foss stated that people have to be aware that this type of thing doesn't happen very often, and as a Town Board we have to be fiscally responsible. We were looking at putting in natural gas generators that would kick on automatically, the cost of it was totally ridiculous for as often as it happens. We are going to a level that we can afford. We don't need to spend \$100,000 for something that happens every 20 to 30 years, we have to be practical. We had an emergency meeting at the time, with Leon Berner and David Manko for operating a FEMA Site on Clinton Street, that we gave formal approval to. This is good for local businesses as well as giving our neighboring towns a place to bring the brush to. He feels this is good of the Town and Leon Berner to provide this service to the surrounding communities.

### **Old Business**

Motion: Councilman Handley moved, seconded by Councilman Specht to approve Minutes from the Public Hearing held on 10/12/06 and the Regular Meeting held on 10/12/06 and the Special Meeting held on 10/24/06. Motion Carried.

### **New Business**

Motion: Councilman Spanitz moved, seconded by Councilman Handley to authorize the Supervisor to sign the Firemen's Contract for the Year 2007 in the amount of \$232,525.00. Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Handley to adopt the preliminary budget as the final budget for 2007. Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gertz to approve the flag lot application for property located on Clinton Street with the SBL #129.00-12-1.1 owned by Marilla Development, LLC.

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Specht – Aye

Councilman Gertz – Aye

Councilman Handley – Aye

Supervisor Foss - Aye

Motion Carried.

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

WHEREAS, the Town Board of the Town of Marilla is considering the adoption of a local law to provide for the codification of the local laws, ordinance 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, the Town Board has caused the Town Engineers to prepare a long form EAF statement in connection with the proposed adoption of the local law; and

WHEREAS, the Town Board has determined that the proposed action is a Type I Action under SEQRA and therefore a coordinated review should be conducted.

WHEREAS, the Town of Board of the Town of Marilla believes that the Town of Marilla is the agency primarily responsible for undertaking decisions as to the creation of the proposed district, is the agency with the broadest governmental powers for investigating the impact of the proposed action and has the greatest capacity for providing the most thorough environmental assessment of the proposed action the most local agent with permitting authority.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

The Town Board has determined that the proposed adoption of a local law 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 is a Type I Action under SEQRA.

1. The Town Board has determined that it should be the lead agency for all environmental review of the proposed local law.
2. The Town Board directs that the Town Clerk of the Town of Marilla with the assistance of the Town Engineers and Town Attorney send the required notice with all required attachments to all other interested agencies about the proposed action and the determination by the Town of Marilla of its desire to act as lead agency under SEQRA.
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting held on November 9, 2006, the results of which were as follows:

Councilman Spanitz – Aye	Councilman Specht – Aye
Councilman Gertz – Aye	Councilman Handley – Aye
Supervisor Foss - Aye	
Motion Carried	

Motion: Councilman Gertz moved, seconded by Councilman Handley to approve the following resolution pertaining to Local Law No. 2 for 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 which reads as follows:

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 the “Code of the Town of Marilla”

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 December, 2006, for the purpose of hearing all persons interested in the proposed Local Law No. 2 of the Year 2006; 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. 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”, 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:

Councilman Spanitz – Aye	Councilman Specht – Aye
Councilman Gertz – Aye	Councilman Handley – Aye
Supervisor Foss - Aye	
Motion Carried	

Morion: Councilman Handley moved, seconded by Councilman Specht to approve the following resolution pertaining to Local Law No. 3 of 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 Gertz 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, which Local Law reads as follows:

A Local Law known as Local Law No. 3 of the Year 2006, entitled "Local Law Providing for Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code of the Town of Marilla".

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 December, 2006, for the purpose of hearing all persons interested in the proposed Local Law No. 3 of the Year 2006; 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; and 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

BE, IT FURTHER

ORDERED, that the Town Clerk is to make copies of the proposed "Local Law No. 3 of the Year 2006, entitled "Local Law Providing for Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code 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:

Councilman Spanitz – Aye	Councilman Specht – Aye
Councilman Gertz – Aye	Councilman Handley – Aye
Supervisor Foss - Aye	
Motion Carried	

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to authorize naming the Meeting Room the "James Handy Meeting Room" in memory of past Supervisor James Handy, the Town Hall was built during his term in office. Motion Carried.

### **Report of Town Officials**

Building Inspector John Fronczek submitted a written report with 2 building applications received totaling fees of \$50.00 building permits issued with a value of \$4,700.00, 9 inspections were made, and 3 complaints were acted on.. A total of 145 acts of official business were made for the month of October.

The Planning Board minutes have been received and posted, the next meeting will be held on November 16<sup>th</sup> at 7:00 pm.

Conservation Advisory Board minutes have been received and posted.

Marilla Fire Company member Greg Jankowiak reported that the Marilla Fire Company worked 24 hours a day for three straight days during the October storm. Due to the weather and snow the Marilla Highway Department assisted the Fire Company, two

generators were stolen from their street signal locations, as well as signs and cones. Fire Company crews helped residents remove trees and brush. He had the opportunity to view the entire area during and after the storm and Marilla was one of the best cleaned areas.

Hubert Kutter reported that the Museum will have a presentation on Plimouth Plantation on Novmeber 28, for all ages. He thanked Dave Pierce and his men for picking up and delivering shelving to the annex from the Donovan Building, which is scheduled for demolition downtown.

**Open Board Presentations**

Councilman Specht commented that he had received calls from the fire alarm station because of the power being out at the town hall.

Councilman Handley thanked the Fire Company and the Highway Department for a hats off job well done. He stated that we are fortunate for having such good employees and dedicated men.

Councilman Gertz commented that we have now sold between five and six hundred Sesquicentennial Books, we were worried at the beginning when we had 150 printed that we wouldn't sell them all.

Councilman Spanitz commended everyone for all that they did. She also thanked everyone for all their support during the difficult time of the loss of her mother.

Supervisor Foss commented on the recent articles in the Buffalo News concerning regionalism, and how inefficient Town governments are. He sent in a response to the newspaper which they made him keep to 200 words. In his response he took the City of Buffalo's general fund total budget and divided by its population which totaled \$1,472 per resident, the Town of Marilla's total is \$402 per resident. This shows we do things a lot more economical, when they can show that they can do things as efficient as we do and not raise taxes, then he will listen. He is not criticizing the City of Buffalo they are just different.

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 462-511	\$	23,861.35
Highway Fund Claims, Vouchers 197-221	\$	35,774.50
Special Districts		
Sanitation (SR), Vouchers 105-123	\$	14,858.52
Special Fire, Voucher 7	\$	742.00
Water District #2, Vouchers 24-25	\$	2,513.88
Water District #3, Voucher 12	\$	1,353.40
Water District #4, Voucher 11	\$	817.40
Community Development PACE	\$	.00
Community Develop. HUD	\$	.00

Motion Carried.

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

Respectfully Submitted,

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