

The regular meeting of the Marilla Town Board was held on Thursday, April 10, 2008 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
Fred Specht, Councilman
Warren Handley, Councilman

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

Communications

- a. Joseph Mruzik requested to be removed from Water District 4 and receive reimbursement from 2001 to present.
- b. Gary Newton requested to be removed from Water District 4.

Committee Reports

Deputy Highway Superintendent Ron Unverdorben reported that they have completed a complete inventory of everything valued over \$50. His departments have complied with a required safety meeting held by the Town's Workers Compensation Carrier. He has updated the Highway and Sanitation Employees safety equipment. He also has implemented a new fuel log. He stated the Highway Department has a new # 10 one ton dump truck in service and they are waiting on the new #7 pick-up. The new ID for the trucks has been ordered, and the new radio system is currently being tested and will be installed shortly. He stated the final salt order for the 2008/2009 season is in. He also reported that they have cleaned up areas disrupted by snow plowing and they have begun to sweep the roads. Town wide rubbish pick-up will begin on May 5th.

Councilman Spanitz reported that the Planning Board will be meeting on Thursday, April 17th at 7:00 pm. The Library Board will have an open house on April 15th from 6:30 pm to 8:00 pm and the Director Quinn Carey will be attending.

Councilman Handley reported that the summer schedule for the Concert series is now out. June 5th Iroquois Select Chorus and Orchestra & Jazz ensemble will open our first concert. The Memorial Day Celebration will be held on Monday, May 26th beginning at 11:00 am. He stated the next Pavilion Committee will be held on April 16th at 7pm.

Councilman Specht stated that the CAB is looking for potential land owners. He reported that two years ago he looked into a complaint from residents as to why Marilla's cable comes out of Rochester and not Buffalo. He called Time Warner numerous times and was told they are two separate entities and would not change Marilla's programming, right now Alden is trying to get their programming changed from Rochester to Buffalo.

Supervisor Gertz reported that Elma is hosting at Iroquois School a disaster preparedness program on April 23rd from 7 pm to 9 pm in the High School Cafeteria. He also reported that a lot has been going on in the Highway Department, the crew has really stepped up and the grounds have never looked better. Dave Pierce did plead guilty and the Town is moving ahead. We are now conducting an internal audit, the FBI is done with their investigation. The Town's internal audit will be forwarded to the State Police and from there possibly to the County District Attorney. He has also talked to the Insurance Company about recouping money and will keep the residents posted. He reported that he has reviewed with Ron Unverdorben the budget for this year and uncovered a few unnecessary purchases totaling approximately 60 to 70 thousand dollars that they are not going to do because they don't make any sense. They are not sure if there is anymore money to be found but they are going to move that money to other projects that are really needy. With the savings the Town can put a new roof on the salt shed and do some other things. The Town will be installing a generator in the next few weeks at the Highway Garage.

Open Board Presentations From the Public

Old Business

Motion: Councilman Specht moved, seconded by Councilman Spantiz to approve the minutes of the Public Hearing and Regular Board Meeting held on 3/13/2008. Motion Carried.

New Business

Motion: Councilman Specht moved, seconded by Councilman Handley to approve the following resolution for unserviceable Water District 4 residents;

WHEREAS, the Town Board has been advised that there are two properties located at 1740 Eastwood Road and 1750 Eastwood Road owned by Gary Newton and Joseph Mruzik, that while located in Water District No. 4 do not have water lines in front of their properties so cannot connect to the water lines of such district; and

WHEREAS, the Town Board has been advised that both properties have been classified as being serviced by the water lines of Water District No. 4 and have been assessed as such; and

WHEREAS, the Town Board has determined that both properties should be reclassified as un-serviced properties and assessed at the lower rate for un-serviced properties in Water District No. 4.

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

1. The Town Board determines that the property at 1740 Eastwood Road owned by Gary Newton and the property at 1750 Eastwood Road owned by Joseph Mruzik should be reclassified as un-serviced and in the future assessed as an un-serviced property in Water District No. 4.
2. The Town Assessors are hereby directed to change the assessment to un-serviced effective immediately with the un-serviced assessment to go into effect in the 2009 Town and County Tax Bill.
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 held on April 10, 2008, the results of which were as follows:

Councilman Spanitz – Aye	Councilman Specht – Aye
Councilman Handley – Aye	Supervisor Gertz - Aye

Motion Carried.

Motion: Councilman Spantiz moved, seconded by Councilman Specht to appoint Melissa Stark as Planning Board Clerk for 2008 and pay according to the adopted clerk's pay scale. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spantiz to authorize the Town Clerk to send the TE-9a to the County to study a speed reduction on Townline Road. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Specht to approve Blue Cross and Blue Shield as the health carrier representative from 5/1/08-4/30/09 for participating Marilla Town Employees. Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Handley to abolish the Highway Clerk Position. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spanitz to approve the following resolution on the renewals of Special Use Permits;

WHEREAS, a number of special use permits are issued by the Town of Marilla subject to annual review and approval or subject to revocation; and

WHEREAS, the Town Board has previously issued two temporary extensions to the special use permits to allow for a public hearing to be held and to allow time for the Code Enforcement Officer to inspect each property with a special use permit and to make his recommendation; and

WHEREAS, the Town Board has discussed the special use permits with the Code Enforcement Officer and has determined that all the properties are operating substantially in accordance with the requirements of the special use permits and that there have been no complaints as to most of the properties but a complaint has been received with respect to the special use permit for Julie Garvey for the operation of an animal shelter for property located at 12935 Williston Road, East Aurora (Marilla), New York 14052 but the Town Board has determined that such permit should be renewed but with some conditions to mitigate complaints from a property owner located immediately across the street from the permit holder.

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

1. The Town Board does hereby approve the annual extension of the following special use permits:
 1. Mary Albrecht 12863 Williston Rd. East Aurora, NY 14052 kennel
 2. B & C Lewandowski 12997 Bullis Rd. East Aurora, NY 14052 kennel
 3. Judith Quirk 2390 Eldridge Rd. East Aurora, NY 14052 kennel
 4. Thomas Stasierowski 724 Three Rod Rd. Alden, NY 14004 kennel
 5. Gloria Summers 13077 Clinton St. Alden, NY 14004 kennel
 6. Judith Vasilion 3399 Four Rod Rd., East Aurora, NY 14052 kennel
 7. Catherine Wojcik 13025 Bullis Rd. East Aurora, NY 14052 kennel
 8. Julie Garvey 12935 Williston Rd. East Aurora, NY 14052 animal shelter
 9. SBC Tower One SBC Center, 36M-1 St. Louis, MO 63101 cell towers
 10. Crown Castle Court 4017 Washington Rd. McMurry, PA 15317 cell
 11. Leon Berner 257 Townline Road Lancaster, NY 14086 gravel/mining
 12. First Baptist Church 11651 Bullis Rd, Marilla, NY 14102 picnic shelter
 13. Bradley Keem 3976 Two Rod Rd. East Aurora, NY 14052 milk hauling
 14. AT&T, Phillips 3400 HSBC Center Buffalo, NY 14203-2887 cell Lytle
 15. GC Acres 2598 Two Rod Rd. East Aurora, NY 14052 Horse Boarding
 16. William Peter 600 Two Rod Rd., Marilla, NY 14102 Auto Repair Facility
 17. Sandra Rogers 12632 Bullis Rd., East Aurora, NY 14052 kennel
2. The Town Board authorizes the extension of the special use permit for an animal shelter for Julie Garvey for property located at 12935 Williston Road, East Aurora (Marilla), New York 14052 upon the condition that the dumpster be moved to the other side of the residence so as to not be directly opposite the property having made a complaint and that the dumpster be surrounded by a fence of a type designed to conceal what is behind it with gate also of a type to conceal what is behind it to screen the dumpster from public view and that such modifications take place within three months of the date of this resolution unless the time to do so is extended by further resolution of the Town Board.
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 held on April 10, 2008, the results of which were as follows:

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

Motion: Councilman Spanitz moved, seconded by Councilman Specht to approve the following resolution for the anti-drug Program;

WHEREAS, Iroquois Central School District sponsors and anti-drug program for 5th graders at Iroquois Intermediate school for the benefit of the residents of the Town of Marilla; and

WHEREAS, the Town of Marilla has made provision in the 2008 budget in support of such organization.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the Town Board does hereby approve the proposed agreement with Iroquois Central School District with an annual payment of \$500 for the year 2008, a copy of which agreement is annexed hereto.
2. That the Supervisor is hereby authorized to execute such agreement on behalf of the Town of Marilla.
3. This resolution shall take effect immediately.

The above resolution was put to a roll call vote at a regular meeting of the Town Board held on April 10, 2008, the results of which were as follows:

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

Motion: Councilman Specht moved, seconded by Councilman Spanitz to approve a resolution recognizing the week of April 27th through May 3rd as Municipal Clerks Week. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spanitz to to authorize Town Officials to attend Southern Tier Conference on May 7th at a cost of \$35 per person. Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Specht to approve the following resolution for Aurora Day Services;

WHEREAS, Aurora Adult Day Services furnishes adult day care services for the benefit of the residents of the Town of Marilla allowing residents to drop off elderly relatives in need of supervision at Aurora Adult Day Services where they are properly supervised providing a respite for the residents of the Town of Marilla from constant supervision; and

WHEREAS, the Town of Marilla has made provision in the 2008 budget in support of such organization.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the Town Board does hereby approve the proposed agreement with Aurora Adult Day Services with an annual payment of \$1,000 for the year 2008, a copy of which agreement is annexed hereto.
2. That the Supervisor is hereby authorized to execute such agreement on behalf of the Town of Marilla.
3. This resolution shall take effect immediately.

The above resolution was put to a roll call vote at a regular meeting of the Town Board held on April 10, 2008, the results of which were as follows:

Councilman Spanitz – Aye Councilman Specht – Aye

Councilman Handley – Aye Supervisor Gertz - Aye
Motion Carried

Motion: Councilman Specht moved, seconded by Councilman Handley to approve the following resolution for Time Warner;

WHEREAS, Time Warner Cable Television has for many years had the franchise to provide cable services to the residents of the Towns of Marilla, Newstead and Alden and the Villages of Alden and Akron, all in Erie County, New York; and

WHEREAS, for many years a substantial portion of the rest of Erie County received cable service through Adelphia Communications and as a result cable service to the Towns of Marilla, Newstead and Alden and the Villages of Alden and Akron were provided from Time Warner Cable in Rochester, New York; and

WHEREAS, Time Warner Cable Television has acquired Adelphia Communications and is now providing cable services to most of Erie County through Time Warner Cable in Buffalo but the Towns of Marilla, Newstead and Alden and the Villages of Alden and Akron are still being serviced from Time Warner Cable in Rochester; and

WHEREAS, the Town Board has received copies of letters addressed to Time Warner Cable, Inc. from representatives of the Town of Alden and the Village of Alden expressing their concern to Time Warner Cable, Inc. that continuing to receive cable service through Time Warner Cable, Inc, Rochester Division is no longer in the best interest of the residents of the Town and Village of Alden because the programming is oriented to a different market and deprives the residents of the Town and Village of Alden of programs that are oriented to Erie County; and

WHEREAS, the Town Board has reviewed the letters submitted by the Town of Alden and Village of Alden and agrees fully with the views expressed therein and that it would be in the best interest of the residents of the Town of Marilla to have cable services provided by Time Warner Cable, Inc., Buffalo Division instead of Time Warner Cable, Inc., Rochester Division.

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

1. The Town Board of the Town of Marilla supports the request from the Village of Alden and the Town of Alden that cable services to them as residents of Erie County be provided to them through Time Warner Cable, Inc., Buffalo Division.
2. That the Town Board requests the Time Warner Cable, Inc. seriously consider the request to switch to cable services provided through the Buffalo Division.
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 held on April 10, 2008, the results of which were as follows:
Councilman Spanitz – Aye Councilman Specht – Aye
Councilman Handley – Aye Supervisor Gertz - Aye
Motion Carried

Motion: Councilman Spanitz moved, seconded by Councilman Specht to approve the following resolution for Alden State Bank Funds Transfer Agent;

WHEREAS, the Town of Marilla has been advised by the Alden State

Bank that it needs to have an authorization on file as to what representatives of the Town of Marilla are authorized act on behalf of the Town of Marilla to send and/or receive wire transfers; and

WHEREAS, the Town of Marilla is required to send and receive wire transfers from time to time and the Town Board has determined that the Town Supervisor and the Deputy Town Supervisor should be authorized to do so on behalf of the Town of Marilla.

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

1. The Town Supervisor is hereby authorized and directed to execute and deliver to Alden State Bank in the name and on behalf of the Town of Marilla a Funds Transfer Agreement governing the sending and receiving by the Town of Marilla of wire transfers, such writing to be in the form and substances as he may approve, such approval to be conclusively evidenced by his execution and delivery thereof.
2. That George Gertz and Warren Handley are hereby authorized, directed and empowered to act in the name and on behalf of the Town of Marilla with respect to the sending and receiving of wire transfers and to provide the Alden State Bank a specimen signature and any requested identification in connection with such authorization.
3. That in connection with the foregoing, George Gertz and Warren Handley are authorized, directed and empowered, acting alone, in the name and on behalf of the Town of Marilla, to execute and deliver to the Alden State Bank all writings, including but not limited to note, agreements, instruments, financing statements and certificates, and to take all such actions, as may be necessary or appropriate in his or her judgment in connection with such transaction.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on April 10, 2008, the results of which were as follows:

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

Motion: Councilman Specht moved, seconded by Councilman Handley to amend the agenda to add setting a public hearing date. Motion Carried.

Motion: Councilman Spantiz moved, seconded by Councilman Handley to set the date for a public hearing on May 8th 7:30 pm to rezone the following properties;

1. A parcel on Clinton Street owned by Leon Berner from Agricultural to Business.
2. A parcel on Coleman Road owned by Andrew and Marlene Youngers from RR to Agricultural.
3. A parcel at 1843 Two Rod Road owned by Ronald and David Unverdorben from RR to Business.

Report of Town Officials

Building Inspector John Fronczek submitted a written report with 2 building applications received (2 residential) with fees totaling \$1,170, 2 building permits issued with a total value of \$545,000, 15 inspections were made and no complaints were received for the month of March 2008. A total of 155 official acts of business were conducted. Dog kennels and pet shelters were inspected and a report was given to the Town Board.

Town Assessor Kandace Wittmeyer reported that exemptions are due by May 1st and Earl Dabb is doing well after his back surgery. She thanked the Town Board for the Assessor's Office new computer.

Planning Board minutes have been received and posted.

The Conservation Advisory minutes have been received and posted.

Fireman David Unverdorben wanted to remind residents to be careful when burning brush or leaves at home, they must next exceed a size of 3 feet and it must be attended and have a hose handy.

Supervisor Gertz stated that the Fire Company was called to a home on Williston Road for a woman in labor, the baby was delivered while on the driveway.

Town Historian Hubert Kutter reported that he received a request from a woman from California about an ancestor named Kenyon.

Open Board Presentations

Town Resident Dan Handy asked if the line in the State Budget to remove local Assessors and Tax Collectors was removed?

Councilman Specht responded that it was but they are still receiving funding to study its feasibility.

Resident Shirley Limpinsel asked for residents to contact Mike Cole's Office to let him know of their disapproval. He has been inundated with calls.

Councilman Specht wanted to recognize Press Reporters Pat McDonnell and Nancy Gish for letting him exercise his anger by printing it.

Councilman Handley wanted to welcome Deputy Highway Superintendent Ron Unverdorben and stated he is doing a good job, he saved the Town 80-90 thousand dollars this month he can't wait to see what he can save next month.

Supervisor Gertz stated that things have calmed down in his office, he was putting in a 40 hour week. Ron and his crew are doing a great job and things are shaping up with no problems. He still talks to Ron 3-4 times a day and stops at the Highway Garage at least once a day. The radios will be installed in the Town this week or next week and in the Fire Company in the next month or two. We are going to buy a generator for the Community Center and looking at some other things for disaster preparedness. We are looking at all spending and how we can improve our spending and do a better job with the taxpayers money. The money we are saving in certain areas will help the Town's budget a lot and we won't have any tax increase at all next year. All the departments are keeping their spending under control and conserving costs.

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

General Fund Claims, Vouchers 116-163	\$ 29,501.68
Highway Fund Claims, Vouchers 49-62	\$ 19,071.06
Special Districts	
Sanitation (SR), Vouchers 34-45	\$ 9,048.01
Special Fire Vouchers 9-10	\$ 263,635.55
Water District #2, Vouchers 7-8	\$ 2,701.29
Water District #3 Voucher 4	\$ 1,353.40
Water District #4 Voucher 4	\$ 817.40
Community Develop. PACE Vouchers	\$.00
Community Develop. HUD	\$ 250.00

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Specht to adjourn the meeting at 8:17 p.m. Motion Carried.

Respectfully submitted,

_____ Town Clerk _____ Supervisor

_____ Councilman _____ Councilman

_____ Councilman _____ Councilman