

A Public Hearing was held December 11, 2008 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:

George Gertz, Supervisor  
Barbara Spanitz, Councilman  
Fred Specht, Councilman  
Warren Handley, Councilman

Approximately (39) persons were in attendance. Supervisor Gertz stated that the Public Hearing was called to order. The purpose of the hearing was to consider an increase in the maximum amount to be expended for the establishment of Water District No. 5 and the construction of a water system there in, and to hear all persons interested in the subject.

Supervisor Gertz asked if there were any interested persons who desired to be heard.

*Peter Delacey questioned how long would the process take?*

*Lisa King stated that in the letter she had received it seemed the cost had gone up.*

Supervisor Gertz responded the time frame would depend on approval from Audit and Control, and the cost did not go up, the information that was sent out included the cost of water per year, not just construction cost.

Hearing no further comments from those in attendance, the hearing was closed at 7:36 p.m.

Respectfully Submitted,

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

---

Regular Meeting  
December 11, 2008

A regular meeting of the Marilla Town Board was held December 11, 2008 at 7:38 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**

1. Allied Sportsmen of Western NY renewed their annual shooting range license and requested 2009 extended hours and dates.
2. Thomas Wantuck 's resignation from the Planning Board.

**Committee Reports**

Deputy Highway Superintendent Ronald Unverdorben reported that beginning January 1<sup>st</sup> the Recycling Center will be open from 9:00 am to 12:00 pm every Saturday. He also reported that the County Roads are too damaged to plow off all the snow, and the new plow truck will be done the week of December 12<sup>th</sup> or December 29<sup>th</sup>. He also stated

that he had contacted the State Comptrollers Office to perform an audit on the Highway Department.

Councilman Spanitz reported that the Planning Board will meet on December 18<sup>th</sup> at 7:00 p.m.

Councilman Handley reported that he wanted to thank the participants of the Tree Lighting Ceremony. He said this event is growing every year and creating great memories for young and old, memories that will stay in our hearts for years to come and memories that may build and influence the life of a child. He stated that this event gives us the opportunity to bring a variety of groups together and show the faith we have as a community. It shows the dedication we have in continuing to build our Town of Marilla. It shows a community that continues to work together to build and maintain community spirit in that place we call home. He gave special recognition to the Marilla Primary School, Youth Groups and their Leaders, to the Firemen and Women who gave so much of their time and stayed later to continue the hayrides, to Town Clerk Dawn Pearce and her husband Bud and their family for helping in the kitchen, and to Earl Gingerich Jr. for bringing in 2 hay wagons after a last minute cancellation and for the safety and security issues with those wagons. He continued to recognize Charlie Finch who brought his tractor and pulled one of the hay wagons, Charlie always finds Santa to surprise residents at the Pavilion. He also thanked the Historical Society for the display they had and providing a place for the children to sit and visit with Santa. He thanked the vendors and the Koch family for the Christmas trees and all those he did not mention that worked behind the scenes. The greatest thanks of all should go to the Town Residents for their constant support of this event. He suggested to residents that have not been by the Pavilion there is a musical light show that plays 20 different songs. He invited residents to come and see the action, lights and the sounds of Christmas.

Supervisor Gertz reported that the heating system is up and running at the Community Center, the town had to reconfigure the whole system and we now have a double system and it seems to be working well. He stated that he had received 2 checks from the Federal Courts, one check for \$16,000 for the Ron Wells settlement and the other for \$4,700 for Dave Pierce after his conviction, the case is officially closed. Tomorrow morning at 9:00 am an Auditor from New York State Comptrollers Office is coming to do a risk assessment which is the first step in an audit. He explained because of all the things going on in the investigations with the FBI, the State Police and the District Attorney he delayed an audit. Now all of that is cleared up and over with and the next step is for the Town to take a good look at what happened in past years and see where we go from here.

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

Resident and former Councilman Earl Gingerich Jr. stated that he is confused to why the Town of Wales is going ahead with an outside independent audit. He read the notice from the newspaper "The Town of Wales prepared to go out to bid for proposal to conduct an audit on all Town financial business practices. Such a complete audit has not been undertaken in years, Supervisor Rick Vendetti said this comes as a result of a routine Town Justice Court audit required by Albany, it also comes on the heels of theft and kick-back scandal in neighboring Marilla. Vendetti expects nothing of that nature nor expects to uncover any wrong doing but feels an overall audit by an outside agency is in the Town's best interest and is good financial management." He then stated he is confused because an independent audit has been asked for by a number of residents for the last several months and the Town Board majority along with the former Town Supervisor have been resisting it. He stated that he is aware of the FBI investigation and is quite aware of everything that is going on, he guessed that if there was nothing to hide why didn't they proceed with an outside audit sooner. He also wanted to remark on the State Comptrollers Office doing a risk assessment audit, that is the first step, he went through a State audit in 2002, outside of Dawn he spent more time with the auditor than anyone else. He is very much aware of what takes place and what the first step is and if they do find something they will red flag it and go into a full audit. He stated he wanted to make it clear why the audit is really going on, there have been people outside the Town and a few town officials; Warren Handley and himself contacted the State. Dick Rose went to the County Comptroller who sent a letter to the State to put pressure to have an audit done. He knew about the audit probably before anyone else and he has been in

contact with them. That is why the audit is starting at this time and we are going to push for a full blown audit of the Town's books and its practices and they will push for the Fire Company's books to be audited too. This is where he gets confused, nobody should object to it if there is nothing wrong or nothing to hide. He said an independent audit would be more appropriate but our only avenue is the State. He said "Wales sees the light, I'm not sure why this Town hasn't". Another comment he wanted to make was that it is sad when a few people, a certain group in Town, what Ron referred to in his letter in the Elma Review, East Aurora Advertiser and the Alden Advertiser, which he hopes everyone reads as "the good old boys club" if you don't go along with them you are excluded from certain events and you take a lot of heat and pressure. That involved a little bit on Saturday, these events are people in this Town and should not be used for political football or to go after someone because they have a different view. He gave three examples that he has undertaken; when he left the Town Board in 2003, he wasn't liked anymore because he didn't cooperate with covering up some things in the 2002 audit. He was excluded from a lot of events and there were threats made to people. In 2004 the Veterans Day Celebration which he emceed for years, he was approached and asked by the Veterans to emcee in 2004. When he did it in 2004 he received a call from the former Town Supervisor, he had to hold the phone away from his ear due to the foul language and screaming and yelling, it was appalling and he had to hang up on him. The next day the former Supervisor went down to see Jeff Lewinski who dedicates a lot to the Veterans, and did the same thing to Jeff but in person. Earl stated the Sunday of the event the former Supervisor came up to him and said he convinced all the Board Members to attend but he told Earl if he is involved in the future the Town Board will not support the Veterans, so from that point on he did not participate in the Veterans Day Celebration, he privately donated. Earl continued that in the 2005 Car Show, and Don Darrow is here to back him up on this one, in 2004 they had a successful car show so in 2005 they said lets do it again. He said nobody wanted to take the bull by the horns to get it started so he stepped in and they went to the Town which told them if Earl was involved the Town would not be. He continued in 2005 on Memorial Day the Veterans had used his car, a convertible, since 1997 to lead the Parade. Joe Pazynski had to be picked up and dropped off because he was not capable of walking that distance, that year Earl picked him up and took him to the Cemetery where Andre, a Veteran from Canada, would drive the car with Joe in it to lead the parade. He then explained that John Foss came up to him and it was appalling the language that he used in front of the Veterans. But they held their ground and used the vehicle which thank god they did because Joe Pastuszynski passed away a couple of months later. From that point on he has not been involved in Memorial Day. He thinks it is sad that these type of things happen and it's not only to him, he sees someone sitting up front right now that is a target of this group and it's a shame.

Resident and former Town Justice Peter Ziccardi quoted Mark Twain as the reports of his demise have been grossly exaggerated. He stated that he had written enough about the subject of an independent audit. He attempted one when he took office as Supervisor but the Board refused and shortly after that he resigned due to illness. This would put to rest all of the doubts that are coming out and all of the questions that have been raised. Even the Town of Wales referred to Marilla as one of the reasons why they are going to conduct an independent financial audit. He thinks it would be wise for this Board to seriously consider what would happen if you didn't conduct an independent audit. He said it makes sense and is a matter of good business principles. He is not going to write anymore about the situation, the Board knows where he stands on it. People in town are entitled to know what is going on, many questionable things occurred during the last administration. Even the Town's own Attorney questioned the legality of some of the actions. He stated he has been away from the Town business that he had worked at for 40 years of his life and he doesn't like to see the division that is occurring in Town because of lack of action on the Board and people are saying why? He said he will end the discussion with that same question, why?

Resident Don Darrow stated that 5 years ago he started the Marilla Car Show with the Sesqui-centennial and he has been the treasurer for 4 out of the 5 years. He stated that they have always internally audited their books. They have had open books within their organization for people to look at. He stated that this year he was approached by several people that the Town wanted a written audit of the car show. He honestly doesn't know the reason, the only thing he could surmise was he ran for Republican Committee and he is not sure if there is anything going on. He stated before this gets into character

assignment, he approached Kotas & Kotas to audit the books. He stated that he didn't report right to the Town with it because he felt if the Town didn't get audits from the Benevolent, the Fire Company, and the Kiwanis his organization was basically the same. He explained to put everything to rest and because of everything that has gone on in Town he went to Kotas and Kotas and had a complete audit done of the show. He sent George a letter that he is resigning as Treasurer of the Car Show. He turned over the audit report to three other Car Show Committee Members, he turned over \$7688.52 for start up money for the 2009 Car Show. His objective this evening was to make it official; his letter of resignation, and the full audit, he wanted it to be public record for anyone that would care to look at it can see the Town Clerk.

Resident Bob Oberther stated that he ran against Ron Unverdorben for Highway Superintendent this year and he read Ron's letter in the paper today and it upset him that Ron had to try and defend himself to people in this Town. He stated that Everyone that sat on the Town Board for the last term should be ashamed of themselves for what went on. He was a Union President for 17 years and their books were always open, they had none of this back door stuff. This Town Board should be ashamed and put their head down when they walk through this town. He said he went to Ron before the election and he would defend Ron and is glad to have Ron as our Highway Superintendent. He stated that the rest of them should hold their heads down because they had to know what was going on.

Resident Shirley Limpinsel she wanted to congratulate Ron and Dawn for stepping up to the plate. She stated that they worked above and beyond and the people in this Town ought to be thankful for people like them and Earl Gingrich, Pete Ziccardi, Marsha Canetti, Mary Earsing and for those of us who are not afraid to speak up. She said they are not going to put up with it anymore, the Town Board had known what was going on and have been avoiding audits and avoiding talking to residents. She stated that she is on the Republican Committee and for those people that don't know her she is in District 4, and most of the other Republican Committee Members had Democratic Signs on their lawns. She asked what is that all about and Residents need to get involved and find out what is going on in this Town. She stated Residents need to start attending Town Board Meetings and asking questions. These people are working for us and it is up to us to hold them to the fire.

Resident Mary Earsing wanted to comment as a citizen of this Town she would like an independent audit. She feels it's about time people started looking in stuff around this. She stated that as far as anyone catching heat around here for standing up and saying stuff, like what Dawn had to go through the night of election, when the Town Board closed down their meeting and made it some private thing that was against the law. She said back in 2005 there was a bunch of stuff going on, there was a paper that was written it was called the Citizens Action Committee Newsletter and it went throughout this whole town. It was banned in businesses, Jake Argauer went up and threatened Jeff Lewinski at the Marilla Grill over it. Earl Gingerich was blamed for it and all of it for what, she stated that she wrote that paper. An elected official that was in office pointed her in the direction of where to go to look up information. She attended Board Meetings, she looked it up in the Town Minutes, she received it from the Buffalo News, it was the truth and looked over by her attorney before it went to print. When they were out delivering that paper they were run off the road and threatened and this behavior needs to stop.

Resident Joyce Cullen stated that if Mary wrote that paper she used Joyce's name and there was no reason for it because she never supported Skip Gingerich.

Mary Earsing responded she never said she did, she wrote she was a member of the Republican Committee and she has a copy to prove it.

### **Old Business**

Motion: Councilman Specht moved, seconded by Councilman Spanitz to approve Minutes from the Public Hearing and Regular Meeting held on 11/6/08.  
Motion Carried.

**New Business**

Motion: Councilman Handley moved, seconded by Councilman Specht to approve the following resolution on Water District 5;

WHEREAS, the Town Board of the Town of Marilla, in the County of Erie, New York (the "Town Board" and "Town", respectively), has heretofore duly authorized the establishment of Water District No. 5, in the Town (the "District"), and the construction of a water system therein, at an estimated maximum cost not to exceed \$824,000, pursuant to a petition received in 2003 and the resolution duly adopted by the Town Board on February 12, 2004; and

WHEREAS, the Town Board has received a second petition pursuant to Section 191 of the Town Law, for an increase in the maximum amount to be expended for the establishment of the District and construction of a water system therein, which petition was signed by the owners of taxable real property situate in the District, owning in the aggregate at least one-half of the assessed valuation of all the taxable real property of the District, as shown upon the latest completed assessment-roll of said Town, including resident owners, if there be any, owning taxable real property aggregating at least one-half of the assessed valuation of all the taxable real property of the District owned by resident owners, as shown upon the latest completed assessment roll of said Town; and

WHEREAS, said petition described the boundaries of the District in a manner sufficient to identify the lands included therein as in a deed of conveyance and was signed by the petitioners and acknowledged or proved in the same manner as a deed to be recorded; and

WHEREAS, a revised map, plan and report has been prepared by Nussbaumer & Clark, Inc., competent engineers duly licensed by the State of New York, for such increase in the maximum amount to be expended for the establishment of Water District No. 5, and the construction of a water system therein; and

WHEREAS, said revised map, plan and report has been filed in the office of the Town Clerk of the Town of Marilla; and

WHEREAS, the maximum amount proposed to be expended for the establishment of the District and construction of a water system therein is now \$1,317,230, which is planned to be financed by the expenditure of approximately \$157,230 expected to be received from other sources to pay a part of said cost, the issuance of \$1,160,000 serial bonds of the Town to finance the balance of said cost, and the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable; and

WHEREAS, the Town Board has given due consideration to the impact that the establishment of the District and the construction of a water system therein, pursuant to the revised map, plan and report, may have on the environment, and on the basis of such consideration the Town Board has found that no substantial adverse environmental impact will be caused thereby; and

WHEREAS, pursuant to an Order duly adopted on November 18, 2008, the Town Board determined to proceed with the establishment of the District and construction of a water system therein and to increase the maximum amount to be expended from \$824,000 to \$1,317,230, and specified December 11, 2008 at 7:30 o'clock P.M. (Prevailing Time) as the time when, and the Town Hall, in the Town, as the place where, the Town Board would meet to consider said increase in cost, and to hear all persons interested in the subject thereof concerning the same, and for such

other action on the part of the Town Board in relation thereto, as may be required by law; and

WHEREAS, certified copies of such Order were duly published and posted pursuant to the provisions of Article 12 of the Town Law; and

WHEREAS, a Public Hearing in the matter was duly held by the Town Board on this 11th day of December, 2008, commencing at 7:30 o'clock P.M. (Prevailing Time), at said Town Hall, at which all interested persons desiring to be heard were heard, including those in favor of, and those opposed to, said increase in the maximum amount to be expended;

Now, therefore, upon the evidence adduced at such Public Hearing, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF MARILLA, IN THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. It is hereby determined that:

- (a) the notice of Public Hearing was published and posted as required by law, and is otherwise sufficient;
- (b) all the property and property owners included within the proposed District hereinabove referred to in the recitals hereof are benefited thereby;
- (c) all the property and property owners benefited are included within the limits of the District; and
- (d) it is in the public interest to establish the District at the increased cost of \$1,317,230.

Section 2. The establishment of the District is hereby approved at the increased cost of \$1,317,230, and the proposed facilities shall be constructed and the District shall be designated and known as Water District No. 5, in the Town of Marilla, situate wholly outside of any incorporated village or city, and shall be bounded and described as follows:

**LEGAL DESCRIPTION OF WATER DISTRICT NO. 5**

ALL THAT TRACT OR PARCEL OF LAND, being part of Township 10, Range 5 of the Buffalo Creek Reservation in the Town of Marilla, County of Erie and State of New York, bounded and described as follows:

BEGINNING at the northeasterly corner of the Town of Marilla;

1. Thence westerly along the northerly bounds of the Town of Marilla to the intersection of the said northerly bounds of the Town of Marilla and the centerline of Cayuga Creek;
2. Thence in a generally southeasterly direction, along said centerline of Cayuga Creek as it meanders to the intersection of said centerline of Cayuga Creek with the easterly bounds of the Town of Marilla;
3. Thence northerly along the easterly bounds of the Town of Marilla to the aforementioned northeasterly corner of the Town of Marilla and the point and place of beginning.

**Section 3.** The maximum amount proposed to be expended for the establishment of the District and construction of a water system thereon is \$1,317,230, which is planned to be financed by the expenditure of approximately \$157,230 expected to be received from other sources to pay a part of said cost, the issuance of \$1,160,000 in serial bonds to finance the balance of said cost, and the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town

Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable.

**Section 4.** The permission of the State Comptroller is required with respect to the establishment of Water District No. 5 and the construction of a water system therein because the estimated cost thereof to the Typical Property (as defined in the Town Law) is above the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts or extensions, as computed by the State Comptroller.

**Section 5.** The Town Clerk of the Town is hereby authorized and directed within ten (10) days after the adoption of this resolution, to file certified copies hereof, in duplicate, in the office of the State Department of Audit and Control at Albany, New York, together with an application by said Town Board, in duplicate, for permission to increase the maximum amount to be expended for the establishment of Water District No. 5 and the construction of a water system therein, pursuant to the provisions of said Town Law, and such application shall be executed and verified by and on behalf of said Town Board by the Supervisor of the Town.

**Section 6.** This resolution shall be effective immediately.

DULY ADOPTED, this 11th day of December, 2008, by the following Roll Call Vote:

Councilman Spanitz – Aye  
Councilman Handley – Aye  
Motion Carried.

Councilman Specht – Aye  
Supervisor Gertz – Aye

Motion: Councilman Spantiz moved, seconded by Councilman Handley to approve the following resolution for the Marilla Library;

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 2009; 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 2009; 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 2009 is \$18,000, which amount has been provided for in the adopted budget of the Town of Marilla for the year 2009.

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 2009 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 regular meeting of the Town Board of the Town of Marilla on December 11, 2008, the results of which were as follows:

Councilman Spantiz – Aye	Councilman Specht – Aye
Councilman Handley – Aye	Supervisor Gertz – Aye
Motion Carried.	

Supervisor Gertz scheduled the year end settlement meeting for December 30<sup>th</sup> at 9:00 am and the 2009 Organizational Meeting will be January 8<sup>th</sup> at 7:30 pm.

Motion: Councilman Handley, seconded by Councilman Specht to authorize the Town Clerk to put out to bid for an emergency electrical panel for the Community Center. Motion Carried.

Supervisor Gertz reported that the Town Hall would be closed December 26<sup>th</sup> and January 2<sup>nd</sup> for the Holiday Season.

Motion: Councilman Spanitz moved, seconded by Councilman Specht to authorize the Town Clerk to advertise the proposed extended shooting hours for Allied Sportsmen of WNY, located on Clinton St. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spantiz to authorize the Supervisor to prepay Tru Green lawn service at a cost of \$744 for services at the Soccer Fields on Eastwood Road and at the Town Hall for the 2009 season. Motion Carried.

### **Report of Town Officials**

Building Inspector John Fronczek submitted a written report with 3 building permits issued and fees totaling \$791.00. 17 inspections were made, 1 subdivision application and, 1 appearance ticket was issued. A total of 113 acts of official business were made for the month of November.

Town Earl Dabb wanted to remind residents that all exemptions are due by March 1<sup>st</sup> of 2009 and all renewal forms had been mailed out.

The Planning Board minutes have been received and posted, the next meeting will be held on December 18<sup>th</sup> at 7:00 pm.

Conservation Advisory Board minutes have been received and posted and the next meeting will be held on January 6<sup>th</sup> at 6:45 pm.

Supervisor Gertz reported for the Marilla Fire Company that winter is here and take it easy, and to remember to shovel out your hydrants because if they have to shovel out the hydrants they can't be fighting the fires.

Town Historian Hubert Kutter wanted to thank the Highway Department for moving an item to the annex. It was a piece of farming equipment that Dottie Reichert had donated to the Historical Society, and he wanted to thank Ron Unverdorben. He stated that since this is the last Board Meeting of the year he wanted to thank the Town Board for the cooperation they have given him at the Historian for the Town and for the cooperation and support that they have provided to the Historical Society.

### **Open Board Presentations**

Resident Shirley Limpinsel asked if at next weeks Planning Board Meeting they would be discussing the subdivision on Bullis Road?

Supervisor Gertz responded as far as he knew no it would not be. There is no public Hearing next week. That is still in process, there are 2 things that the Town has not received from them. The Rohl property and the subdivision are still in process.

Shirley Limpinsel stated that the proposed subdivision is above a protected trout stream, if the Town Board approves that subdivision there will be Greenwood Terrace and that subdivision and the Town will not be able to stop the one on Bullis and Townline. She stated once the Town says yes to this, when people come into rural Marilla you will be welcomed by 3 subdivisions.

Supervisor Gertz stated he couldn't agree with Mrs. Limpinsel more, that is still in process. The Planning Board will have a public hearing and the Town Board will have a public hearing. The Public will have a chance to express their opinion.

Resident Earl Gingerich Jr. stated there has been a series of articles the Elma Review/ East Aurora Advertiser and on the October 29<sup>th</sup> issue he read a quote " never once did any individual come before me with allegations that there was any impropriety going on" Foss told the newspapers from his home Tuesday morning. Mr. Gingerich continued from the article " As to Unverdorben's alleged confirmation of Pierce's thievery to Foss in February 2006, Foss was emphatic " Never once did Ron Unverdorben come up to me with information regarding Dave Pierce, its my word against theirs. But I stand by my word, I suppose I could put them under oath to testify". Mr. Gingerich states now in December 3<sup>rd</sup> issue of the East Aurora Advertiser he quotes "Foss acknowledged that Town Clerk Dawn Pearce and others came to him with accusations against Dave Pierce" Mr. Gingerich said you can read the articles yourself. He felt it was very interesting how Mr. Foss can't admit to it to begin with and now he admits to a part of it, there is a lot more to the story. He states it's a shame that the same people that support Mr. Foss went around and accused certain individuals that were named here tonight and himself for not reporting the pond incident. He was accused of that because his family works the land around the pond, he said it would have been foolish to report it when he knew an investigation was going on and he was ordered not to say a word. It would also have been foolish to report because when he had done so in the past he later had his property vandalized. That is why he can't have heifers anymore on Three Rod and Liberia because they are so skittish from people terrorizing them. He stated and of course you get a character assassination that poor Dawn is going through now, he used to be the prime target but now Dawn, Warren and Ron are joined in with him. He stated that he is also accused of the former Highway Superintendent taking his own life because some of us helped and sent in letters to the US Attorney on victim impact statements. Unfortunately the names were released to the same group and they are a target now. Threats were made to him for bodily harm and he even had a death threat from family members. He stated his opinion is it is his own doing, not anybody else's. If they want to put the blame some where what about his family and his friends, they should have and could have prevented this tragedy. He stated Dave Pierce's Uncle Paul Offhaus was running the bulldozer, Earl witnessed it all the time because he worked the land around it. Dave's Uncle was there when all the Town Highway men were doing the work on the pond. He stated what about Dave's sister, which was the Highway Clerk you can't tell him she didn't know what was going on. The stuff he is finding out if course she knew, he said he won't get into it that will come out later, she did nothing and she benefited too. What about Dave's daughter, the Highway Department was doing work over there and she is married into a family that comes from law enforcement. He said she did nothing and by the way one of those family members threatened him too (who is a cop). He then stated what about you George Gertz? You were supposedly one of his best friends, He witnessed on Friday September 14<sup>th</sup> 2007 at approximately 11:00 am he had the Marilla Fire Pumping Truck at Dave's house bringing water there, right across from where the pond was being built. When he came out driving the tractor, George ran and hid behind the house. Earl said his father came out a half an hour later and said the same thing and at the same time Dave was down with the Town tractor working on the pond. He said what about you Barb he heard several reports that a certain Highway Employee came to her and she did nothing.

Councilman Spanitz emphatically stated that is not true. No Highway Employee ever came to her, that is not true. She is denying it right now because that is a lie.

Earl Gingerich asked what about the other Board Members seeing various vouchers and reports that came through. He is only going to give a few; why is the Town purchasing car parts when it doesn't own a car? Why was the Town purchasing chlorine when we don't have a pool? Why was the Town purchasing a sprayer for a 4 wheeler when we don't own a 4 wheeler and nobody can find the sprayer, and there are a lot of other items. He asked what about a purchase in 2005 and 2007 a total of 1125 yards of topsoil. He asked when did the Town come into the topsoil business? He said where did the topsoil come from? Two ponds on that property, he witnessed all of this and he checked with Ron and other as to where is this topsoil now, it is stored at the Highway Department. He stated a little bit of it has been used, an interesting part was someone had it screened to take it back to that very same property after the Town purchased it. He asked what about the excessive amount of parts, and batteries that won't even fit on the Town's lawnmowers? He told the Town Board to wake up, he stated the Town Board Members outside of Warren claimed they didn't know anything, how could they not. They should hold their heads down, he quoted a saying "When one person doesn't tell the truth it's a lie, when three or more people don't it's a conspiracy".

Town Assessor Kandace Wittmeyer stated that she had contacted the Supervisor today concerning Cuomo's new policy, he is instituting a law to abolish towns and special districts. She said if you read it clearly Cuomo doesn't like any special districts; water districts, fire districts, lighting districts or any district. She said we wouldn't have a fire company and for those of you sitting here that can't get along, we won't have a town. She stated we should have a little pride and get yourselves together, and stand together to stick up for our town.

Supervisor Gertz introduced Jane Corwin to the residents, she is newly elected to our State Senate.

State Assemblyman Jane Corwin wanted to thank everyone for their support in the campaign. She stated that starting on January 7<sup>th</sup> she will be inaugurated at the State Capital. She is very excited about the opportunity to represent us all. She said as Kandy had mentioned that is just one issue of many that will be coming up this year in special sessions in Albany. Local Governments is a huge issue all the way around and is a very controversial issue depending on where you live and what community you come from. She stated obviously we have significant budget concerns and there are a lot of things we are facing at the State level. What she wants to say is that she is here to represent all of the residents and she wants to hear from all of them as to how they feel about local government issues and about spending and taxes. She said that she is in Albany to work on residents behalf and she is planning on organizing a town hall type meeting in February or March and will be sure to get notification out to everyone. She said she is always looking for residents input and effective January 1<sup>st</sup> she will be in the District Office on Seneca Street in Elma, the phone number and address stayed the same as when it was Mike Cole.

Town Assessor Kandace Wittmeyer stated that she wanted to elaborate on the Cuomo issue, she worked for a whole year on a consolidation program it was a work study for county wide assessment. She said they analyzed all the costs and she had taken Fred and Warren to some of the meetings, they analyzed the cost of doing in town versus county wide assessment and county wide tripled in cost. She said if you add that to all the other services she is sure you will find the same results. It is not going away, when she went to her conference this year in the Catskills the Commission looking into consolidation was asked why they are not looking at eliminating the County Government for cost savings and they said it was never asked, it was asked to target municipalities. She said you have to be vigilant, they worked all year to fight it off before and it will keep coming up, we have to get together and fight as one and not have all of these factions or there won't be a Marilla and her son Peter is a 4<sup>th</sup> generation resident and she is interested in keeping it.

Councilman Elect Dan Handy stated that he guessed he is stepping into quite a fire place here next month and he wanted to thank the residents that voted him in as Councilman and he will try to do his best.

Resident Peter Wittmeyer stated that Kandy is his Mom and he had one more thing to add about the County wide issue, he has done this on his own and if you total the cost for assessment for our Town it came out to be \$16 or \$17 a parcel for everything you spend

on assessments. He stated in Nassau County where it is county wide its above \$50 a parcel. That's a lot of difference in money to go from local to countywide.

Councilman Specht stated he just had one thing he wants people to know he supported George in delaying the audit. He said like George tried to explain to everyone earlier there was a lot going on this Town. When the Town Board realize they had to do an audit this cheap skate told George to let the State do it. He said if you want to blame someone for the State doing the audit in lieu of an independent audit, blame him. He thinks he convinced the Board, why did he want the State to do it? He stated seven to ten thousand dollars less his answer to the residents. He said the State will do as good an audit than an independent audit and he will stand by that right now.

Councilman Handley stated that he was dumb founded at Fred's statement, he asked the Board three times for an audit and each time they kicked him down. He said the Town Board wanted it to just go away, it was just too expensive and they didn't want to do it. He said Ronny was there as a witness and he heard it asked the first time. He respects the fact that they are doing it now, he will say that at no cost. The other thing that he wanted to get out too, he wants to bury this because everyone thinks that we are heartless to the Pierce Family. That is not the case, we feel for the Pierce Family, what happened was totally tragic and if we had any idea it was going in that direction we would have stepped up to the plate and tried to find him help, but we weren't aware of the illness that he had. He stated it has gotten to the point that people were criticized for writing impact statements, it is everybody's opportunity in this Town if they feel strongly about something to comment on it. He said there were people who filled out these impact statements, and family members, its not even the direct family, its cousins and other relatives that are causing the problem and keep this thing going on. He said because these people filled out these statements they as Earl mentioned are on a so called hit list. There were threats made, Earl has been threatened, Dawn is being harassed and other people are being harassed, why? Because they voiced their opinion, we are all entitled to voice our opinion, it had gotten to the point that he had to call down to the Department of Justice and ask them what can we do to tell the people in this Town that the impact statements aren't what convicted Dave. He said because that is the rumor that is going around with a certain group, because people filled these statements out they are the people that crucified Dave. He stated it's not the case, the sentence Dave received was 7 months, Dave could have gotten 10 years, \$250,000 fine or both and he got 7 months in a country club prison. He said for people to accuse us of making his sentence, its totally false. He stated this letter he received from the U.S. Department of Justice and he continued by reading it;

“ Per your conversation with our victim witness coordinator Sharon Knope I would like to formally address your concern. The pre-sentence report is prepared by the U.S. Probation Officer for the Court prior to sentencing. The pre-sentence report is comprised of among other things the defendants criminal history, the details of the crime, the defendants plea of guilty, background and character information on the defendant and the impact of the crime on the victims including victim impact statements. The pre-sentence report helps the Judge to determine the proper sentence to impose, any impact statements received in the case are only part of the items the Judge considers in deciding a proper sentence. One of which in this case was to send a deterrent message to similar situated government officials. While any Judge would reference impact statements during the sentencing proceeding there are various other factors as stated above that influence any Judge's ultimate sentencing decision. It's gotten to the point where this was the advice from this office and I am going to give it to anybody else who feels they are being threatened or harassed. If any of the Town Residents are feeling threatened or harassed by Mr. Pierce's family or associates they should report the activity to their local Police Department . Should you have any other questions or concerns please call me. Sincerely Terrance Flynn, United States Attorney.”

Councilman Handley said and now he will put this to rest.

Supervisor Gertz said he just had a few comments, he's not going to get into an argument or into a he said she said. He said there was a lot of accusations made here tonight, he was just going it hit some high points. He said Don Darrow made a point that now this year all of a sudden we are asking for audits from the Car Show and we are not asking it from anybody else, he said that's not true. He stated this is a new regime, we are doing things differently, the Benevolent has been put on notice that they have to turn in an audit

and other people that get tax payer money are going to provide audits to the Town. The Fire Company has done an audit, its been done by a CPA, its been forwarded to the Fire Company and it will be forwarded to the Town and it will be for public view. He said it has been done, we did it for 2007 and it will be done in 2008 at quite an expense but that's what the State wants and we did do it and will be coming to the Town shortly. The audit from the State is being done because he asked for it, the State didn't come to him and say they are doing an audit. They are doing it because he requested them, he called them 2 weeks ago, he had several conversations with them, he has contacts downtown, he got to the right people and explained the situation and they agreed to come out. He said yes he did delay an audit to the Town and he did it to answer Pete's question he did delay it, Warren did ask for it and Fred did say he didn't want to do it. He said he personally did not want to do it at the time because he had to many other things going between the State Police Investigation, the internal audit we were doing, and the Federal Investigation. He talked to the FBI and he had to wait until they were done because that's what they requested. He never said he wasn't going to do an audit, he never said he was against an audit, he said when the time is right. Now the dust has settled, everybody has gone away, he is going to ask the Town Board to do an audit, an independent audit like the residents are requesting. He is not saying he doesn't want to do it, he said when the time was right, 2007 is not going to go away, 2006 is not going to go away, all of that information is not going to change between now and next week or the following week and we will get an audit done if he can get it through the Town Board and he thinks they are going to go along with it. He said the first step is the State, he talked to the State at length about this, two or three different people, he started and the top because he knew the person at the top and he got them to come out, they didn't want to come out because they said they are busy doing School audits. After he explained the situation and told them what he had to do and what he wanted to do they agreed to come out and they will be here for three or four days starting tomorrow, if anyone has any questions they can come in and ask her, she will be here tomorrow morning at 9:00 a.m. His Clerk and everybody else has been working very hard to get this done. He then stated as for Earl's comment he takes it to heart, he has been in the Fire Company for twenty some years and yes he did go up to Dave's house and he has been to many more houses throughout the Town of Marilla helping other people out. He did help Dave out, he was a personal friend of his and he misses him. He said Dave did something wrong and he paid the consequence, he did help him and he helped a lot of people in this Town and he helps a lot of people in this Town and he was not the only one. If Earl saw the pumper he said he wasn't hiding he was probably going to turn the water on or off, probably because what he was doing was full or done or whatever. He never hides, if he was hiding he wouldn't have a pumper truck parked in the middle of Four Rod Road. He said he has nothing to be ashamed of, he has done his job and he is doing a good job he thinks, if some people don't like what he is doing oh well you can't please everybody. He is here to serve all the residents that is what his job is and that is what he is going to continue to do, if they don't like him they can get rid of him next year. He will continue to do the job he is doing, he is proud of what he is doing, he has the support of this Board. There is some dissention but they are going to get through it. He said he would like to thank Warren and the Highway Department for the great job they did over at the Pavilion, the Town had the Banner donated this year that hangs across the road and it looks really good, the Highway Department put it up and did a great job and he thinks it makes the Town look very attractive when coming in to Town. He has gotten a lot of comments from people in Town and from out of Town saying that the Town of Marilla is really dressed up. He said this is what we should be proud of, he hopes after tonight we don't have to go through anymore of these displays, name calling, people making accusations, let it be gone. He said it's over with, let's start a new year, what happened, happened, we can't change history. He said a lot of accusations, people saying things that they knew or didn't know, or what people did or they didn't do, you have to prove some of that, and it's going to be hard to prove some of it can be proved. He would like to let it go at this meeting, he doesn't want to hear it anymore, he can't stop you from talking, he told Earl he didn't stop him from talking at all, he let him talk the entire time, and he will do that, he will not stop people from talking if you have something to say. He would like it to be civil, he would like to bury what was done and move on.

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 542-602	\$	69,110.55
Highway Fund Claims, Vouchers 157-174	\$	8,6723.43
Special Districts		
Sanitation (SR), Vouchers 116-130	\$	19,302.28
Special Fire, Voucher	\$	.00
Water District #2, Vouchers 25-29	\$	8,755.26
Water District #3, Vouchers 13-14	\$	2,706.80
Water District #4, Vouchers 11-13	\$	2,884.80
Community Development PACE	\$	.00
Community Develop. HUD	\$	.00

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Handley to adjourn the meeting at 8:35 p.m. Motion Carried.

Respectfully Submitted,

_____	Town Clerk	_____	Supervisor
_____	Councilman	_____	Councilman
_____	Councilman	_____	Councilman