

The regular meeting of the Marilla Town Board was held on Thursday, May 8, 2008 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

George Gertz, Supervisor
Barbara Spanitz, Councilman
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) A request from the East Aurora Women's Softball League to use the Marilla Town Park's Baseball / Softball diamond from May 21st to August 24th.

Committee Reports

Deputy Highway Superintendent Ron Unverdorben reported that they have completed the spring rubbish pick-up this afternoon. The new radio system has been installed and works excellent. He also stated that the new identification was on all Town Trucks and he drove the new dump truck over to the Town Hall tonight for everyone to see. He reported that the new Town Pick-up truck will be built on 5/12/2008 and should be completed in 7 to 10 days. The new Plow Truck is ordered and should be built on 9/1/2008. The Town Park will open on May 24th.

Councilman Spanitz reported that the next Planning Board will be meeting on Thursday, June 19th 7:00 pm.

Councilman Handley reported that the Memorial Day Parade is in place, it will take place on Monday the 26th at 11:00 am. He also reported that the Pavilion Concert Series will begin on June 5th at 5:30 pm the Iroquois School 7th & 8th Grade Select Chorus & Orchestra will perform.

Councilman Specht reported that the Car Show should be super this year and Mercy Flight should do very well. The Firemen's Service Award bill is \$15,532.14 this year. It was originally with Jardine and Councilman Ferber pulled it out of there and went with Paine Weber. He stated that when he started monitoring it 11 years ago it had \$20,000 and today it has \$147,000. He also reported that he attended Houghton College on Wednesday and went to a class on water sheds, this dealt with water problems and flooding in Municipalities.

Supervisor Gertz reported that he had a call from a resident in the proposed Water District 5 area that asked about the status of receiving water. The area is located in the northeast corner of Town including Clinton Street, Cayuga Creek and Exchange. The Town has had a problem getting funding and without the funding the cost per household is over \$1000, which would not get approved.

Town Engineer Marie Nowak stated that they are opening up funding again from May 15th to June 30th. The Town's application is in place and will be in on the 15th.

Supervisor Gertz stated that they meet once a month, the Engineers, Attorney, Town of Alden and himself concerning this Water District. He said he sympathizes with the residents but there is nothing the Town can do for them until the Town gets the proper funding. He also reported that he attended two meetings this week, one was with other Town Supervisors in Elma to discuss the resolution the County had sent out to Towns in regards to the Assessors. Erie County currently has money to do a study to consolidate assessors and asked the Towns to pass the resolution. The consensus of the approximately 20 Supervisors that attended was not to pass the resolution. The second meeting he attended was at Houghton College in the Southern Tier, he attended two seminars; the Commission on Local Government Efficiency and Comprehensiveness. He stated something that the State is doing to reduce government and make it more efficient but if you read between the lines, between what the County and State are trying to do, they are trying to make State and County Government bigger and reduce or eliminate Town Government. They want control of

everything and if they get it the Town Hall will be closed and there will be nothing. He stated that as a group the Town Supervisors are fighting this. They don't want to give a dysfunctional government like Erie County that is failing at everything they do and has a Control Board running them any more power then they currently have. He stated he was talking to the Town Clerk and she stated after the County took over the Election process from the Town she does more work now then she did before. He wanted residents to know we are fighting this, the County has come out with figures that they will save money, they won't save any money they are just making more jobs downtown.

Open Board Presentations From the Public

Resident Shirley Limpinsel asked if residents should make phone calls to County and State Officials?

Supervisor Gertz stated it wouldn't hurt.

Planning Board Member Dan Handy questioned why the rezones on the agenda didn't go before the Planning Board? He stated in his 12 years on the Planning Board every zoning that there ever was came before them for review and recommendation. He realizes it's optional but it's been this way for 12 years.

Supervisor Gertz responded that these are two unique properties; one was rezoned illegally on Coleman Road, it was never advertised properly and should not have been rezoned from agricultural to residential, we are just correcting a mistake. The other one is also a mistake, the Blacksmith shop was always commercial it should not have been changed. We are not rezoning it we are putting it back right. The Town Board is not slighting the Planning Board we are correcting some wrongs.

Old Business

Motion: Councilman Specht moved, seconded by Councilman Spantiz to approve the minutes of the Public Hearing and Regular Board Meeting held on 4/10/2008. Motion Carried.

New Business

Motion: Councilman Handley moved, seconded by Councilman Specht to send the application for rezoning property on Bullis Road east of Greenwood Terrace from Agriculture to Residential to the Planning Board for review. Motion Carried.

Motion: Councilman Spantiz moved, seconded by Councilman Specht to approve the site plan for Country Crossroads Florist and Gift Shop on Two Rod Road. Motion Carried.

Motion: Councilman Handley 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 rezone an approximately 1 acre of land from R-R to B Business; and

WHEREAS, the Town Board has caused the Town Engineers to prepare a short 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 an Unlisted Action under SEQRA and 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 proposed rezoning, 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 rezoning of a parcel of land on Two Rod Road is an Unlisted 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 May 8, 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:

WHEREAS, The Town of Marilla has previously adopted its Zoning Law as Local No. 1 of 1999 which Zoning Law has been codified as part of the Code of the Town of Marilla; and

WHEREAS, the when the Zoning Law was adopted a parcel of land located in the hamlet of Marilla which was historically a blacksmith shop and had been so for over a hundred years was zoned R-R when it should properly have been zoned B Business; and

WHEREAS, the Town Board has received a request from Ron and David Unverdorben, the owners of the property that it be rezoned from R-R to B to conform with its historic use;

WHEREAS, the following proposed “Local Law No. 1 of the Year 2008”, entitled “Rezoning of Real Property on Two Rod Road and Zoning Map Amendment” and a copy was presented to each member of the Board which reads as follows:

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 12th day of June, 2008, for the purpose of hearing all persons interested in the proposed Local Law No. 1 of the Year 2008; 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. 1 of the Year 2008, entitled “Rezoning of Real Property on Two Rod Road and Zoning Map Amendment”, 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 Handley – Aye Supervisor Gertz - Aye
Motion Carried.

Motion: Councilman Handley 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 rezone an approximately 21.90 acres of land from R-R to A Agricultural; and

WHEREAS, the Town Board has caused the Town Engineers to prepare a short 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 an Unlisted Action under SEQRA and but that 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 proposed rezoning, 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:

1. The Town Board has determined that the proposed adoption of a local law for the rezoning of a parcel of land on Coleman Road is an Unlisted Action under SEQRA.
2. The Town Board has determined that it should be the lead agency for all environmental review of the proposed local law.
3. 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.
4. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting held on May 8, 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 Handley to approve the following resolution;

WHEREAS, The Town of Marilla has previously adopted its Zoning Law as Local No. 1 of 1999 which Zoning Law has been codified as part of the Code of the Town of Marilla; and

WHEREAS, the when the Zoning Law was adopted a parcel of land was rezoned R-R without proper notification to the prior owners Mary R. Kotas and Edward Kotas who wanted the zoning to continue to be zoned A-Agricultural; and

WHEREAS, the Town Board has received a request from Andrew J. Youngers and Marlene A. Youngers, the current owners of the property that it be rezoned from R-R to A to conform with its historic use;

WHEREAS, the following proposed "Local Law No. 2 of the Year 2008", entitled "Rezoning of Real Property on Coleman Road and Zoning Map Amendment" a copy was presented to each member of the Board which reads as follows:

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 12th day of June, 2008, for the purpose of hearing all persons interested in the proposed Local Law No. 2 of the Year 2008; 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 2008, entitled "Rezoning of Real Property on Coleman Road and Zoning Map Amendment", 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 Handley – Aye	Supervisor Gertz - Aye

Motion Carried.

Motion: Councilman Handley 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 rezone an approximately 16.5 acres of land from A Agricultural to B Business; 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 proposed rezoning, 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:

1. The Town Board has determined that the proposed adoption of a local law for the rezoning of a parcel of land at the intersection of Two Rod Road and Clinton Street is a Type I Action under SEQRA.
2. The Town Board has determined that it should be the lead agency for all environmental review of the proposed local law.
3. 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.
4. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting held on May 8, 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:

WHEREAS, The Town of Marilla has previously adopted its Zoning Law as Local No. 1 of 1999 which Zoning Law has been codified as part of the Code of the Town of Marilla; and

WHEREAS, the Town Board has received a request from Leon Berner that a portion of property owned by Marilla Development, LLC and located at the intersection of Two Rod Road and Clinton Street adjacent to a parcel currently zoned B, be rezoned from A to B; and

WHEREAS, the Town Board has reviewed the proposal and has determined that that the 100 foot portion of the property located at the corner of Two Rod Road and Clinton Street owned by M & J Limited Partnership not already zoned B should also be rezoned from A to B so as not to leave a gap in the B zoning;

WHEREAS, the following proposed “Local Law No. 3 of the Year 2008”, entitled “Rezoning of Real Property on Clinton Street and Zoning Map Amendment” a copy was presented to each member of the Board which reads as follows:

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 12th day of June, 2008, for the purpose of

hearing all persons interested in the proposed Local Law No. 3 of the Year 2008; 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. 3 of the Year 2008, entitled “Rezoning of Real Property on Clinton Street and Zoning Map Amendment”, 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 Handley – Aye	Supervisor Gertz - Aye
Motion Carried	

Report of Town Officials

Building Inspector John Fronczek submitted a written report with 7 building applications received (2 additions, 1 agricultural, 4 misc.) with fees totaling \$1,280, 7 building permits issued with a total value of \$622,000, 8 inspections were made and one complaint was received for the month of April 2008. A total of 151 official acts of business were conducted.

Town Assessor Earl Dabb reported that the new computer is working well, they have been very busy the last few weeks but things are going smoothly.

Planning Board minutes have been received and posted.

The Conservation Advisory minutes have been received and posted.

Fireman Bill Blarr reported that the Fire Company is moving ahead with the new radio system.

Town Historian Hubert Kutter reported that he received several requests for genealogy information. He received a request from a descendent of Niles Carpenter, he was the Town’s 3rd Supervisor. He held the first Town Board Meeting in his home on 3/17/1854. Mr. Kutter would like a picture of him. He has also received requests from 4th graders doing the History contest at Iroquois. He reported that the Historical Society has been doing a lot of planning for the Civil War Reenactment which will be held on July 12th and 13th. The Historical Society will hold an open house on May 18th in the Museum; they will have refreshments and some new displays from 2 pm to 4 pm.

Open Board Presentations

Town Resident Warren Cullen stated that the Marilla Kiwanis are handing out yellow ribbons in honor of our Military. Ribbons are available at the Town Clerk’s Office, Marilla Country Store, and Country Crossroads Florist.

Resident Jake Argauer asked if the new radio system needed a new tower?

Supervisor Gertz responded that they are working well with the current 60’ tower. He stated the Town budgeted \$40,000 for this project and we are currently under budget.

Planning Board Member Dan Handy asked that in the future could the Town Board keep the Planning Board informed of rezones, even if they are a no-brainer, this would avoid confusion. He doesn't want to start a bad precedence that the Town had gotten away from years ago.

Supervisor Gertz responded that this wasn't intentional and he will do that in the future. He has also talked to Nate about communications and it's improved tremendously. When the Planning Board passes a resolution, he is getting an email immediately. He needs something in writing to conduct business at his end. He realizes Councilman Spanitz is at the meeting and he gets a verbal notification but it should be done in writing so there is no misunderstanding. He commented that the new secretary is doing well and is very conscientious.

Councilman Specht reminded Town Attorney Nathan Neill that a resolution prohibiting peddling is needed for the Car Show. He stated that the State is planning on paving Two Rod Road on July 27th and asked if Supervisor Gertz stopped that yet?

Supervisor Gertz responded that he is waiting for The Town Attorney to finish the paper work to submit for permission to close the road. He has talked to the State and they have agreed to cooperate we just have to fill out the paperwork.

Councilman Handley reported that he had communicated with Peter Wilson of Tri-town Soccer and he was very appreciative of the work that Deputy Highway Superintendent Ron Unverdorben and his crew had done. Mr. Wilson questioned when the fields would be ready and Ron had them ready the next day. He said it seems every time we have a question for Ron from the Soccer people he has an answer and the problems are taken care of, hats off to Ron from the Tri-Town Soccer Club. He reported that the Town Board will be talking to people concerning the Veteran's Walkway, there is a settling problem with the bricks and we will be having some work done there soon.

Supervisor Gertz stated that the Kiwanis Club of Marilla is bringing back the practice of displaying a yellow ribbon on trees in honor of our Military. Free ribbons are available to residents at the Town Clerk's Office, Marilla Country Store and Country Crossroads Florist. The Marilla Veteran's Club is assisting the Kiwanians with placing ribbons along the Memorial Day Parade Route. If possible, the club would like the ribbons on the trees before Memorial Day.

Supervisor Gertz reported that there will be a job fair at Buffalo State College on May 15th from 1-4 pm. He also reported a Household Hazardous Waste drop-off day on Saturday, May 10th from 9:00 am to 2:00 pm at Erie Community College North Campus. He wanted to thank Ron and his crew for cleaning up the Town. Ron has been assisting him and helping a lot. He stated they received a \$15,000 grant last year, the Town purchased a trailer which will hold emergency supplies to be set up at the Community Center in case of an emergency.

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

General Fund Claims, Vouchers 164-206	\$ 26,541.29
Highway Fund Claims, Vouchers 63-73	\$ 8,368.86
Special Districts	
Sanitation (SR), Vouchers 46-53	\$ 8,121.94
Special Fire Vouchers 11	\$ 15,532.16
Water District #2, Vouchers 9-10	\$ 2,854.05
Water District #3 Vouchers 5-6	\$ 6,765.50
Water District #4 Voucher 5	\$ 817.40
Community Develop. PACE Vouchers	\$.00
Community Develop. HUD	\$.00

Motion Carried.

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

Respectfully submitted,

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