

Public Hearing was held September 11, 2008 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing is to listen to public comment on an application for a flag lot at property located at 335 Townline Road with the section block and lot number of 129.00-15-7, currently owned by Jennifer Zimmerman. The approximate size of the proposed flag lot is 300' x 300' out of the 17 acre parcel. The Town Clerk published the notice of the public hearing in the Alden Advertiser, the Elma Review and East Aurora Advertiser as well as posting it on the Official Bulletin Board pursuant to the provisions of the Town Law. Officials present were:

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

Approximately (26) persons were in attendance. Supervisor Gertz asked if there was any interested person who desired to be heard.

Hearing no comment the Public hearing was closed at 7:32 pm.

Public Hearing
September 11, 2008

Public Hearing was held September 11, 2008 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing is to listen to public comment on a Special Use Permit Application for a Bed and Breakfast to be located at 11411 Stolle Road, for property owned by Robert and Patricia Puckett. The meeting room is wheel chair accessible. Those needing special arrangements should call the Town Hall at 652-5350 by September 5th. The Town Clerk published the notice of the public hearing in the Alden Advertiser, the Elma Review and East Aurora Advertiser as well as posting it on the Official Bulletin Board pursuant to the provisions of the Town Law. Officials present were:

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

Approximately (26) persons were in attendance. Supervisor Gertz asked if there was any interested person who desired to be heard.

Resident John McCoy stated that he was opposed to the Bed and Breakfast next door to him, he was concerned of the increase in traffic and safety for his children as well as hurting the value of his property.

Resident Karen McCoy is opposed to the Bed and Breakfast, she has the same concerns as her husband along with worrying about trespassers.

Planning Board Member Debbie Zimmerman stated that the Pucket's had addressed all the safety issues and she felt put a very nice plan together.

Mr. Pucket stated that there should only be 3 to 4 guests at any given time and 3 cars at the most. His house is 6 or 7 hundred feet off the road which he didn't feel should be a problem for the neighbors.

Hearing no further comment the Public hearing was closed at 7:40 pm.

The regular meeting of the Marilla Town Board was held on Thursday, September 11, 2008 at 7:41 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

None

Committee Reports

Deputy Highway Superintendent Ron Unverdorben reported that the new garbage truck will be built on Tuesday and the snow plow was built last Tuesday. He reported big rubbish pick-up will begin on September 29th and tire day will be Saturday, October 4th.

Councilman Spanitz reported that the next Planning Board will be meeting on Thursday, September 18th at 7:00 pm.

Councilman Handley reported that Ag Day would be held this weekend, there will be a tractor and engine show, food, the Marilla Fire Company Band will play at 1:00 pm and then the Craig Wilkens band will play at 2:00pm. There will be pumpkin decorating for the kids and other handouts and displays until 5:00 p.m.

Supervisor Gertz reported that there will be an informational meeting on September 15th at Hamburg Town Hall, two County Legislatures will be proposing a County wide Planning Board. He has attended several meetings in regards to this, he feels it is a little shaky, it doesn't really represent the outlying towns such as Marilla, Elma, Wales, Sardinia, they are just left out of this, and this would give the County control over the whole County. He said Towns are fighting it. The radios have been installed on the Town and Fire Company Trucks and they are all running on 400 mega hertz. The County is working to catch up right now and the Town came in under budget, the Fire Company was right at where they thought it would be. We saved \$15,000 by not having to put a new tower up.

Open Board Presentations From the Public

None

Old Business

Motion: Councilman Specht moved, seconded by Councilman Spantiz to approve the minutes of the Special Meeting held on 8/4/2008 and the Regular Board Meeting held on 8/14/2008. Motion Carried.

New Business

Motion: Councilman Handley, seconded by Councilman Specht to approve the following resolution to set the Public Hearing date for Local Law No. 4, of the Year 2008 entitled "Alarm Device Law of the Town of Marilla" 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 9th day of October, 2008, for the purpose of

hearing all persons interested in the proposed Local Law No. 4 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. 4 of the Year 2008, entitled “Alarm Device Law of the Town of Marilla”, available at her office for inspection and distribution to any interested person during business hours.

The question of the adoption of the foregoing order was duly put to a vote on roll call, which resulted as follows:

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

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spanitz to approve the following resolution to set the Public Hearing date for Local Law No. 5 entitled “ Amendment to the Zoning Lawn of the Town of Marilla” 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 9th day of October, 2008, for the purpose of hearing all persons interested in the proposed Local Law No. 5 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. 5 of the Year 2008, entitled “Amendment to the Zoning Law of the Town of Marilla”, available at her office for inspection and distribution to any interested person during business hours.

The question of the adoption of the foregoing order was duly put to a vote on roll call, which resulted as follows:

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

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Handley to approve the following resolution to set the Public Hearing date for Local Law No. 6 entitled "Amendment to Chapter 704 of the Code of the Town of Marilla" 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 9th day of October, 2008, for the purpose of hearing all persons interested in the proposed Local Law No. 6 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. 6 of the Year 2008, entitled "Amendment to Chapter 704 of the Code of the Town of Marilla", available at her office for inspection and distribution to any interested person during business hours.

The question of the adoption of the foregoing order was duly put to a vote on roll call, which resulted as follows:

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

Motion: Councilman Handley moved, seconded by Councilman Spanitz to approve the following resolution to set a Public Hearing for the acquisition of a garbage packer truck as follows:

WHEREAS, following the preparation of plans and an estimate of the cost thereof, the Town Board of the Town of Marilla (herein called the "Town Board" and the "Town", respectively), in the County of Erie, New York, on behalf of the Refuse and Garbage District, in the Town (herein called the "District"), has determined that it is in the best interests of the Town and the District to consider the increase and improvement of facilities of the District, consisting of the acquisition of a garbage packer truck at the estimated maximum cost of \$215,000, pursuant to Section 202-b of the Town Law;

Now, therefore, be it

ORDERED, that a meeting of the Town Board of the Town be held at the Town Hall, 1740 Two Rod Road, Marilla, New York, on the 9th day of October, 2008 at 7:30 o'clock P.M. (Prevailing Time) to consider said increase and improvement of facilities of the District 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 with relation thereto as may be required by law; and be it,

FURTHER ORDERED, that the Town Clerk publish at least once in the "ALDEN ADVERTISER" and the "ELMA REVIEW," hereby designated as

the official newspapers of the Town for such publications, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a Notice of such public hearing in substantially the form appearing in Exhibit A, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing.

Roll call Vote:

Councilman Spanitz – Aye

Councilman Specht – Aye

Councilman Handley - Aye

Supervisor Gertz – Aye

Motion Carried

Motion: Councilman Specht moved, seconded by Councilman Spanitz to set the date for a public hearing as to the possible use of HUD funds for 2009, within the restrictions of low income or handicapped requirements for October 9th, 2008 at 7:30 pm. Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Specht to approve the following resolution on Serial Bonds for the acquisition of a snow plow truck as follows:

THE TOWN BOARD OF THE TOWN OF MARILLA, IN THE COUNTY OF ERIE, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said Town Board) AS FOLLOWS:

Section 1. The Town of Marilla, in the County of Erie, New York (herein called the "Town"), is hereby authorized to acquire a snow plow. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$165,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$165,000 serial bonds of the Town to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Serial bonds of the Town in the principal amount of \$165,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said appropriation.

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness applicable to the object or purpose for which said serial bonds are authorized to be issued, within the limitations of Section 11.00 a. 28 of the Law, is fifteen (15) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized, or for such expenditures made on or before such effective date if the Town Board has made a prior declaration of intent to issue indebtedness therefor. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 4. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town without limitation of rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the Town by appropriation for (a) the

amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This bond resolution is subject to a permissive referendum and the Town Clerk is hereby authorized and directed, within ten (10) days after the adoption of this resolution, to cause to be published, in full, in "THE ALDEN ADVERTISER," and in the "ELMA REVIEW," two newspapers each having a general circulation in the Town, and hereby designated the official newspapers for such publication and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form.

The above resolution was duly put to a roll call vote 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 authorize the Supervisor to advertise notification for residents living in the proposed Water District 5 for an informational meeting to be held on September 30th, 2008 at 7:30 p.m. at the Marilla Community Center located at 1810 Two Rod Road, Marilla, New York, 14102. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Specht to approve low bidder for the heating and cooling system to be replaced at the Marilla Community Center as follows:

MJ Mechanical Services 2040 Military Rd. Tonawanda, NY 14150	Bid amount: \$36,550.00 (Awarded)
Parise Mechanical Inc. 1106 Sheridan Dr. Tonawanda, NY 14150	Bid amount: \$49,200.00
O'Connor Mechanical Corp. 107 Dorothy St. Buffalo, NY 14206	Bid amount \$46,900.00

Argy & Sons
Heating & Sheet metal Inc. Bid amount \$49,514.00
574 56th St.
Niagara Falls, NY 14304

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Handley to approve bid for new phone system for the Town Hall to Buffalo Telecom, located at 1759 Kenmore Ave., Kenmore, NY 14217 at a cost of \$5,332.00. Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Spanitz to authorize the Supervisor to sign a Contract with Amherst Alarm located at 435 Lawrence Bell Dr., Williamsville, NY 14221 at a cost of \$223 per year. Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Spanitz to approve an application for a flag lot at property located at 335 Townline Road with the section block and lot number of 129.00-15-7, currently owned by Jennifer Zimmerman. The approximate size of the proposed flag lot is 300' x 300' out of the 17 acre parcel.

Roll Call Vote:

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 Special Use Permit for the Bed and Breakfast to be located at 11411 Stolle Road, for property owned by Robert and Patricia Puckett.

Roll Call Vote:

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

Motion Carried.

Supervisor Gertz set October 14th, 2008 at 7:30 p.m. for the Preliminary Budget Meeting.

Report of Town Officials

Building Inspector John Fronczek submitted a written report with 14 building applications received (1 Residential, 1 Ag, 5 Accessory Bldg., 5 Misc., 2 additions) with fees totaling \$1,823, 14 building permits issued with a total value of \$273,400, 17 inspections were made and 2 complaints. A total of 211 official acts of business were conducted for the month of August 2008.

The Planning Board minutes have been received and posted and the next meeting will be held on September 18th at 7:00 p.m.. Planning Board Member Dan Handy asked if the Town could notify residents within 500 ft of a public hearing date for the Planning Board.

The Conservation Advisory minutes have been received and posted.

Town Historian Hubert Kutter reported that he received several donations from the Gowanlock's on Two Rod Road, through Lucy Janiga for an exhibit for Ag Day. He received a small advertising card with the Town of Marilla's first Supervisor, Jessie Bartoo's name on it. It is the only artifact in the Museums collection that goes back to the first Town Supervisor. He stated that there will be an exhibit in the Community Center put together by Lucy Janiga on Agriculture and Farming in Marilla.

Open Board Presentations

Planning Board Member Debbie Zimmerman wanted to thank the Planning Board and Town Board for approving her flag lot

Zoning Board Member Jake Argauer thanked Erie County Highway and George Gertz for cleaning up the brush on Three Rod Road.

Councilman Specht stated that the Car Show Committee will have a meeting at Kodiak Jacks on Sunday at 2 p.m. and he will have the final numbers for Mercy Flight.

Councilman Spanitz commented that the Town Board spends a lot of time on the new business items prior to the meetings. She wanted the McCoy's to know that children's safety is very important to them but she feels the Bed and Breakfast is important to the Town and should not affect the safety of the community.

Supervisor Gertz stated that last month that approved new windows and they are already all done. They are energy efficient and he feels it is important to keep things updated. He commented on Erie County and their plan for regionalism. The County had sent a letter that they would no longer host Marilla's website and recently they reversed that decision but we are still moving ahead to host it ourselves. Every meeting he attends the County is constantly trying to eliminate local Government. Regionalism is good if it works, but local Government is closest to the residents and it will be hard on them if they have to start going downtown to see the Assessors and pay their taxes.

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

General Fund Claims, Vouchers 387-445	\$ 17,084.30
Highway Fund Claims, Vouchers 129-142	\$ 7,421.65
Special Districts	
Sanitation (SR), Vouchers 91-98	\$ 10,017.44
Special Fire Vouchers	\$.00
Water District #2, Vouchers	\$.00
Water District #3 Voucher	\$.00
Water District #4 Voucher	\$.00
Community Develop. PACE Vouchers	\$.00
Community Develop. HUD	\$.00

Motion Carried.

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

Respectfully submitted,

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