

Public Hearing was held March 12, 2009 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the meeting was to get public opinion on Local Law No. 1 of the year 2009 entitled “ Town of Marilla Converted Condominium Taxation Assessment Exclusion Law”. The purpose of this local law is to exclude converted condominium units from assessment under Real Property Law Section 339-y. 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
Daniel Handy, Councilman

Approximately (24) 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 7:34 pm.

Regular Meeting
March 12, 2009

The regular meeting of the Marilla Town Board was held on Thursday, March 12, 2009 at 7:34 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
Daniel Handy, Councilman

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

Communications

Regina Becker Principal of the Marilla Primary School thanked Warren Handley for his continued relationship with the School. The Children love participating in the Marilla Tree Lighting and she thanked Mr. Handley for helping construct the new playground, and she looks forward to working with him in the future.

Committee Reports

Highway Superintendent Ron Unverdorben reported that the new trucks are in service and they will be starting clean up from the plows soon they are just waiting on the weather. He reported the Town Picked up 4,431,140 pounds of garbage last year and they collected 564,338 pounds of recyclables. He stated if those recyclables had been added to the Town’s garbage it would have increased the tipping fees by \$10,589. He recommended that residents keep recycling.

Councilman Spanitz reported that the Planning Board will be meeting on Thursday, March 19th at 7:00 pm. She reported that the minutes are not posted yet because the Planning Board Clerk’s computer crashed and she has to redo the minutes and have the agenda ready for the Planning Board. She reported that the Planning Board had a brief meeting last month on the same day as the Town Board Meeting and they had only received an application for a flag lot. The flag lot was not accepted because the property was split in 2006. She stated that the Friends of the Marilla Free Library will have their open house on Tuesday April 14th from

6:30 p.m. to 8:00 p.m. There will be a local author Timothy Shannon at the open house to greet anyone who attends, she hopes there is a good turnout.

Councilman Specht reported that the Conservation Advisory Board has an additional parcel they are being asked to consider for the PACE program. Chairman Roger Gustavel talked with Jason Engels and he informed Roger that last year there was 30 million dollars available from the State and this year only 17 million is available for PACE. He stated that the CAB Board will recommend what to do with the 2 parcels under consideration.

Councilman Handley reported that he will be getting the Pavilion Committee together to plan the summer concert series.

Councilman Handy reported that he attended a Northeast Solid Management Board today and he thought once he got out of farming he wouldn't have to worry about solid waste anymore but he guesses he is back in it. He stated that they discussed the hazardous household cleaning pick-up which will be around the second week in June, the exact date is not known yet. They also discussed the New York State Bottle bill, the new bigger and better bottle bill which every bottle will have the 5 cent deposit, the Senate has passed it but the Assembly has not. They asked the Towns to pass a resolution supporting the bottle bill but he just received it today and it will have to be discussed at a work session.

Supervisor Gertz reported that there was an article in the paper that he has received phone call concerning a proposed antenna going up on Eastwood Road by Christian Broadcasting. He stated they haven't made a formal application, its just exploratory right now. If they do make an application it will have to go through the normal procedures and first go to the Planning Board. He did receive a phone call from a gentleman who didn't leave his name or phone number complaining about the Town doing it and about birds dying from the antenna, he also said the Town shouldn't be spending any money in this economy. Supervisor Gertz said this economy is bad because people aren't spending any money, he said if someone wants to complain or comment about something he asked them to leave their name and number so he could talk to them about what their concerns are. This project is just exploratory, they contacted the Town to see if the Town is interested in it. If they decide to apply they will be sent to the Building Inspector and then to the Planning Board and then through the normal procedure.

Open Board Presentations From the Public

None

Old Business

Motion: Councilman Specht moved, seconded by Councilman Handley to approve the minutes of the Regular Board Meeting held on 2/19/2009. Motion Carried.

New Business

Motion: Councilman Handley moved, seconded by Councilman Spantiz to adopt the following resolution of determination of non-significance of Local Law No. 1 of 2009:

WHEREAS, the Town Board of the Town of Marilla is considering adoption of a Local Law to exclude converted condominium units from assessment under Real Property Law Section 339-y and has determined that such action is Type II action under SEQRA and therefore no other action is required

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Marilla, after considering the action proposed herein, in reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the proposed regulation with respect to potential environmental concerns, determines that the action will not have a significant effect on the environment and that no further action is required by the Town of Marilla

DULY ADOPTED, this 12th day of March, 2009, by the following vote:

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

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Specht to approve Local Law No. 1 of 2009 entitled “Town of Marilla Converted Condominium Taxation Assessment Exclusion Law:

A Local Law known as Local Law No. 1 of the Year 2009 entitled “Town of Marilla Converted Condominium Taxation Assessment Exclusion Law”

Be it enacted by the Town Board of the Town of Marilla as follows:

SECTION 1. TITLE

This Law shall be known as Local Law No. 1 of the Year 2009 entitled “Town of Marilla Converted Condominium Taxation Assessment Exclusion Law”.

SECTION 2. PURPOSE

The purpose of this local law is to exclude converted condominium units from assessment under Real Property Law Section 339-y.

SECTION 3. STATUTORY AUTHORITY; APPLICABILITY

- (A) This Local Law is subject and subordinate to all the conditions and provisions contained in Article 9-B of the Real Property Law, Section 339-y (1) (f) and Article 5 of the Real Property Tax Law, Section 581 (1) (c), and amendments thereto, and any and all rules and regulations and opinions adopted or to be adopted by the State of New York.
- (B) This Local Law shall apply to Real Property situate within the bounds of the Town of Marilla.
- (C) All resolutions, ordinances or local laws or portions thereof of the Town of Marilla not consistent with this local law in whole or in part are hereby repealed.

SECTION 4. DEFINITIONS

The words and terms used in this Local Law shall have the same meaning as in Article 9-B of the Real Property Law and Article 5 of the Real Property Tax Law.

SECTION 5 SEVERABILITY

If any portion, subsection, sentence, clause, phrase or portion thereof of this local law shall for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portions thereof.

SECTION 6. WHEN EFFECTIVE

This Local Law shall become effective immediately upon its filing in the office of the Secretary of State.

DULY ADOPTED, this 12th day of March, 2009, by the following vote:

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

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Specht to approve the following resolution:

WHEREAS, the Office of the Town Clerk is the center of local government providing indispensable duties including management, storage and organization of all Town records, taking accurate and reliable minutes of the Town Board, collection of licensing fees, issuance of all marriage licenses & birth and death certificates, and in most towns the collection of County/Town taxes and School taxes, and

WHEREAS, the Town Clerk is duly elected by the voters, giving the residents a say in the process and providing the checks and balances with the Clerk being accountable to the electorate, and thereby promoting transparency within government, and

WHEREAS, Part NN, Sections 26 through 28, of S.56/A.156, Public Protection and General Government Article VII of the Governor's Budget Bill will permit a Town Board to convert the office of Town Clerk from an elected to appointed position, subject to a permissive referendum, and

WHEREAS, Municipal Home Rule Law '23(e) already provides that a town may adopt a local law changing the office of Town Clerk from an elected to appointed position, and

WHEREAS, Municipal Home Rule already requires a mandatory referendum to occur before any change in an elected office could occur, and

WHEREAS, a Mandatory Referendum would require the affirmative vote of the electorate at a biennial or special election, and

WHEREAS, a permissive referendum technically can be passed without any public comment thus taking away the voice and the choice of the residents to choose who they want as their representative, and

WHEREAS, Sections 26 through 28 will create no financial savings for the State and, in fact, will cost local governments additional administrative expenses, and

WHEREAS, a permissive referendum is a cumbersome, inefficient and time consuming process, and

WHEREAS, there is no cost efficiency in an appointed position versus an elected position because the duties and overhead are the same;

NOW, THEREFORE, BE IT

RESOLVED, that in the interest of its residents and good, efficient, cost effective government the Town Board of the Town of Marilla is opposed to Part NN, Sections 26 through 28, of S.56/A.156, Public Protection and General Government Article VII of the NYS Governor's Bill, and

BE IT FURTHER

RESOLVED that the Town of Marilla appeals to its State Officials to oppose to Part NN, Sections 26 through 28, of S.56/A.156, Public Protection and General Government Article VII of the NYS Governor's Bill to convert the Office of the Town Clerk from an elected to an appointed position and requests that a copy of this resolution be forwarded to Governor David Paterson, and the Western New York delegation of the New York State Senate & Assembly.

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

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

Motion: Councilman Handley moved, seconded by Councilman Handy to approve the following resolution for Water District 5:

WHEREAS, the Town Board of the Town of Marilla has previously approved the increase in estimated maximum cost of Water District No. 5 of the Town by resolution adopted on December 11, 2008, which resolution specifically directed that the certified copies of the resolution, in duplicate, be filed with the office of the State Department of Audit and Control in Albany 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 the water system therein, pursuant to the provision 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; and

WHEREAS, the Town has been advised by the Department of Audit and Control that they require a resolution specifically stating that the Town Board believes that the application to be accurate and that the Town Board has determined that the increase in estimated cost of Water District No. 5, the expenditure for which permission is sought, is in the public interest and will not constitute an undue burden on the property which will bear the cost thereof and that the cost of the improvement will be assessed against a benefited area and that all the property to be so assessed will be benefited and no benefited property has been excluded.

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

1. The Town Board does hereby certify that the application to the Department of Audit and Control previously submitted to the Department of Audit and Control by letter dated December 24, 2008 has been prepared at the direction of the Town Board and believes that the contents of the application are accurate.
2. The Town Board has determined that the increase in estimated maximum cost of Water District No. 5 is in the public interest and will not constitute an undue burden on the property which will bear the cost thereof.
3. That the entire cost of the improvements will be assessed against a benefited area and that all the real property to be so assessed will be benefited by the proposed improvements and no benefited property has been excluded.
4. That this resolution shall be filed in duplicate with the Department of Audit and Control.
5. That this resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on March 12, 2009, the results of which were as follows:
Councilman Spanitz – Aye Councilman Specht – Aye
Councilman Handley – Aye Councilman Handy – Aye
Supervisor Gertz - Aye
Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Handy to approve the following resolution for Water District 5:

WHEREAS, the Town Board of the Town of Marilla has previously approved the increase in estimated maximum cost of Water District No. 5 of the Town by resolution adopted on December 11, 2008, which resolution specifically directed that the certified copies of the resolution, in duplicate, be

filed with the office of the State Department of Audit and Control in Albany 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 the water system therein, pursuant to the provision 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; and

WHEREAS, the Town has been advised by the Department of Audit and Control that they require a resolution specifically stating that the Town Board believes that the application to be accurate and that the Town Board has determined that the increase in estimated cost of Water District No. 5, the expenditure for which permission is sought, is in the public interest and will not constitute an undue burden on the property which will bear the cost thereof and that the cost of the improvement will be assessed against a benefited area and that all the property to be so assessed will be benefited and no benefited property has been excluded.

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

1. The Town Board does hereby certify that the attached application to the Department of Audit and Control has been prepared at the direction of the Town Board and is accurate.
2. The Town Board has determined that the increase in estimated maximum cost of Water District No. 5 is in the public interest and will not constitute an undue burden on the property which will pay the cost thereof.
3. That the cost will be assessed against a benefited area and that all the real property to be so assessed will be benefited by the proposed improvements and no benefited property has been excluded.
4. That this resolution shall be filed in duplicate with the Department of Audit and Control.
5. That this resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on March 12, 2009, the results of which were as follows:

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

Motion Carried.

- Motion: Councilman Specht moved, seconded by Councilman Handy to approve the Insurance Package with Tompkins Insurance for 2009 at a cost of \$59,258.47. Motion Carried.
- Motion: Councilman Handley moved, seconded by Councilman Spanitz to approve the Boys and Girls Club Contract for 2009 at \$5,000.00. Motion Carried.
- Motion: Councilman Handy moved, seconded by Councilman Handley to approve EMW Sports Contract for 2009 at \$3,900. Motion Carried.
- Motion: Councilman Specht moved, seconded by Councilman Spanitz to approve the Fireman's Service Award List for 2008. Motion Carried.
- Motion: Councilman Specht moved, seconded by Councilman Handy to appoint Earl Dabb as Assessor Chairman for 2009. Motion Carried.
- Motion: Councilman Handley moved, seconded by Councilman Spanitz to appoint Vincent Beisiegel as Planning Board Member to fulfill the unexpired term of Tom Wantuck to expire on 12/31/2009.

Roll Call Vote:

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

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spanitz to appoint David Muench as Planning Board Member to fulfill the unexpired term of Dan Handy to expire on 12/31/10.

Roll Call Vote:

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

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Handy to appoint James Heinrich, Patricia Blarr, and Debbie Beats to the Conservation Advisory Board for a 2 year term to expire on 12/31/10.

Roll Call Vote:

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

Motion Carried.

Motion: Supervisor Gertz moved, seconded by Councilman Handley to appoint Scott Rider as Building Inspector for 2009.

Roll Call Vote:

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

Motion Carried.

Report of Town Officials

Building Inspector John Fronczek submitted a written report with 1 building application received (1 residential and 2 manufactured homes) with fees totaling \$0, 1 building permit issued with a total value of \$0, 4 inspections were made and no complaints were received for the month of February 2009. Two appearance tickets were issued. There were a total of 131 calls logged of official business.

Town Assessor Earl Dabb reported that they have been very busy for the last two months and he has had a lot of cooperation. He thanked the Town Board for his appointment.

Planning Board minutes are delayed. Member Rick Janiga said he welcomed the new members and is glad to have a full board again.

The Conservation Advisory minutes have been received and posted.

Town Historian Hubert Kutter thanked the Town Board for his appointment. He said the Historical Society will be having a program on March 24th at 7:00 p.m. on the Iroquois Confederacy. If anyone is interested in Native American History this would be the program to attend. He also stated that they have a beautiful display of Abraham Lincoln in the Museum, people can view it at their open house or on Tuesday evenings.

Open Board Presentations

Resident Charles O'Brian asked the Supervisor to explain in layman's term what they passed this evening?

Supervisor Gertz explained that Local Law No. 1 was to prevent developers from converting the development to condominium status in order to pay reduced taxes. The two resolutions for Water District 5 were for the Audit and Control Application.

Resident David Arber asked what was going on with the Town's website it seems useless, he said some areas are months behind and he wondered if someone new is handling it?

Supervisor Gertz responded that Dawn had just come to him with a proposal of taking it over from scratch ourselves. Currently we have to submit changes to the County and months ago the County informed the Town that they would no longer host the website, we have had someone trying to integrate it to a new website but they have not been able to work through it with the County. The Town will create a whole new website and administrate it ourselves.

Ladies Auxiliary Member Joyce Cullen announced they will be hosting a meat raffle on April 4th at the Fireman’s Rec Hall and she asked Residents to support the fund raiser.

Councilman Spanitz stated about the appointments they made, it is not an easy job. They had excellent candidates. For those that weren’t appointed this time don’t give up they were all excellent applicants.

Councilman Handy reported that the Kiwanis Pancake Breakfast will be March 22nd from 8:00 am to 1:00 p.m., he also stated that the Kiwanis will move their Tree Lighting Ceremony to December 12th with the Town’s because the Community Center was booked on the 5th. He apologized that he will have to miss the April Board Meeting due to a prior commitment that he made before he was elected and said this would not happen again. He stated he thinks the Town should have a job performance review committee. The Committee could meet with all the appointed officials on at least a year basis to discuss their job performance and pin point areas that need to be improved. This could be beneficial to both parties, it would give employees a chance to voice their opinions and views and ideas. He realizes that the appointments are at the discretion of the Town Board and can be legally changed at anytime but he believes if they can all get on the same page things could improve.

Councilman Handley stated that he welcomed the Kiwanis to participate in the tree lighting and he looks for ward to that day.

Supervisor Gertz he has nothing going on right now, the Tax Collector has been very busy, the Town Hall has been very busy. We are moving ahead making some improvements in the Town Hall, We are working on the downstairs and some things at the Community Center. He congratulated the Highway department on the excellent job they did this winter keeping the roads plowed and the maintenance that Ron and his crew are doing.

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

General Fund Claims, Vouchers 78-104	\$ 71,054.17
Highway Fund Claims, Vouchers 37-49	\$ 25,757.78
Special Districts	
Sanitation (SR), Vouchers 27-32	\$ 3,708.12
Special Fire Vouchers 3-4	\$ 246,603.91
Water District #2, Voucher 6	\$ 2,492.40
Water District #3 Voucher 3	\$ 1,353.40
Water District #4 Voucher 3	\$ 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 8:02 p.m. Motion Carried.

Respectfully submitted,

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