

The regular meeting of the Marilla Town Board was held on Thursday, June 10, 2010 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
Warren Handley, Councilman
Elizabeth Ackerman, Councilman
Donald Darrow, Councilman

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

Communications

Communications were received and read from:

- a. Patricia Blarr informed the Town Board of her resignation from the Conservation Advisory Board.

Committee Reports

Highway Superintendent Ronald Unverdorben reported that the Town Park opened on May 29th and there was already lawn damage. He asked residents to call 911 if they see any type of vandalism and the Town Supervisor is sending a letter to the Erie County Sheriff's Department for increased patrols.

Councilman Spanitz reported that the next Planning Board Meeting will be held on June 17th at 7:00 pm.

Councilman Ackerman reminded everyone that the Civil War Encampment will be held on June 26th and 27th, and the Historical Society's next meeting will be held on June 28th.

Councilman Handley thanked everyone for participating in the Memorial Day Ceremony, he said they it was well attended. He stated that Iroquois Select Chorus opened this Summer's Concert Series and next would be the Fife & Drum at the Civil War Encampment at the Town Park on July 26th.

Councilman Darrow reported that the CAB is still working on Farm land protection and the Car Show is going as planned. He wanted to thank Councilman Warren Handley for the endless time and hours he puts into the Town Concerts and Activities.

Supervisor Gertz stated that it has been a quiet month and they are working on getting Water District 5 going and hopefully Marie would have a report on that later in the meeting.

Open Board Presentations From the Public

None

Old Business

Motion: Councilman Spanitz moved, seconded by Councilman Ackerman to approve the minutes of the Regular Board Meeting held on 5/13/2010.
Motion Carried.

New Business

Motion: Councilman Darrow moved, seconded by Councilman Handley to approve the following resolution to prohibit peddling;

WHEREAS, the Town of Marilla has enacted a local law prohibiting peddling and soliciting on public property within the right-of-way of any road, street or highway during prohibited periods, which law was formerly codified as Chapter 149 of the Code of the Town of Marilla

and is now codified as Chapter 346 of the Code of the Town of Marilla;
and

WHEREAS, the Code provides that the Town Board annually establish by resolution specific dates and periods of times during which peddling and soliciting is prohibited for that particular year.

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

Section 1. The Town Board does hereby determine that peddling and soliciting shall be prohibited within the right-of-way or any road, street or highway during the period beginning at 12:01 a.m. on June 17, 2010 and ending at midnight on June 19, 2010 and for the period beginning at 12:01 a.m. on July 23, 2010 and ending on midnight on July 25, 2010.

Section 2. 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 June 10, 2010, the results of which were as follows:

Councilman Spanitz ó Aye	Councilman Handley ó Aye
Councilman Ackerman ó Aye	Councilman Darrow ó Aye
Supervisor Gertz ó Aye	

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Ackerman to approve the following resolution to set public hearing for Special Use Permit:

WHEREAS, the Town Board has received a request from Kimberly Watkins (õApplicantö) for a Special Use Permit to allow the applicant to have 4-6 dogs at her residence at 1498 Four Rod Road; and

WHEREAS, the application has been reviewed by the Planning Board who has recommended approval.

NOW, THEREFORE, BE IT RESOLVED, THAT THE TOWN BOARD DOES HEREBY RESOLVE AS FOLLOWS:

1. That a public hearing be held on the proposed application for a special use permit to allow Kimberly Watkins to have 4-6 dogs at property located at 1498 Four Rod Road.
2. That the Town Clerk is hereby directed to publish notice of public hearing in the Alden Advertiser and the Elma Review and mail copies to owners of property within 500 feet of the property at 1498 Four Rod Road.
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on June 10, 2010, the results of which were as follows:

Councilman Spanitz ó Aye	Councilman Handley ó Aye
Councilman Ackerman ó Aye	Councilman Darrow ó Aye
Supervisor Gertz ó Aye	

Motion Carried.

Motion: Councilman Ackerman moved, seconded by Councilman Darrow to approve the new revised Town Park Rules as follows:

SECTION I: That the following rules and regulations are hereby established with respect to the use of the Town Park and its facilities

located at 2499 Three Rod Road. Attendants will be on duty at varied times. If you have a problem, please contact the attendant. If there is a major problem, please call the following numbers:

- 1) 863-7240 Town Supervisor
- 2) 913-4896 Deputy Supervisor
- 3) 949-5440 Park Superintendent

- (a) **Hours:** No unauthorized person shall for any reason enter the park prior to 8:00 a. m. or to remain within the park after the time posted at entrance. The park shall be open for the public from Memorial Day until October 1st unless otherwise posted. Security deposit will not be refunded if groups are not out of the park at proper time.
- (b) **Firearms:** No person except law enforcement officers shall take or otherwise transport any firearms, air guns, slingshots, or bows and arrows in the park.
- (c) **Preservation of Property:** No person shall injure, deface, disturb or be foul any part of the park, any of the building, signs, equipment or other property found therein, or remove, injure, peel, cut, or destroy any trees, flowers, shrubs, floral, rocks, or other minerals. No person shall staple or tack any items to tables, benches, or posts.
- (d) **Fires:** No person unless authorized by the Town Board, shall light any fire for any purpose in any part of the park except in a stove, oven, nor shall any lighted matches, cigarettes, cigars, or burning tobacco be deposited or left where a likelihood of fire may exist.
- (e) **Garbage and Refuse:** Park grounds and facilities must be maintained in a clean and sanitary condition. Littering of any kind is strictly prohibited. Garbage and refuse must be deposited in receptacles provided. No glass containers of any type are allowed in the park. Security deposit will not be refunded if shelters and grounds are not in a reasonably clean condition. The Town Board may also revoke future reservation privileges.
- (f) **Dogs:** No owner or person harboring any dog shall permit or allow such dog to run at large in the park, unless such dog be effectively restrained by a leash not exceeding six (6) feet in length and accompanied by its owner or a responsible person able to control the animal. Dog owners must clean up after their dogs.
- (g) **Hunting and Trapping:** No person shall hunt or trap within park boundaries.
- (h) **Fishing:** Fishing shall be permitted provided all laws as established by the State of New York are observed. Catch and release only.
- (i) **Bathing and Swimming:** No person shall bathe or swim in any stream, pool, pond or lake in the park.
- (j) **Gambling:** Gambling, as defined by the penal law of the State of New York, is prohibited in the park.
- (k) **Horse and Riders:** Horses and their riders are prohibited from using the park areas. Horse groups must obtain board approval to use park. No rider shall travel at a gait in excess of a trot while in the park. Horse owners are not allowed: in the shelter or play ground areas.
- (l) **No generators without prior approval from the Town Board.**
- (m) **No boats or canoes or floating devices allowed in pond.**
- (n) **Behavior:** No person shall engage in any conduct, which is disorderly, unruly or offensive to such a degree that the same shall constitute an offense under the penal law of the State of New York. The use of loudspeaker systems in the park is prohibited. Improper use of the tennis courts shall be strictly enforced. No person shall consume alcohol on park property in violation of any law of the State of New York.

- (o) **Speed Limit and Parking:** No person shall drive or cause to be driven along or over any road within the park any motor vehicle, snowmobile or other apparatus at a speed in excess of fifteen (15) miles per hour or in a manner, which endangers the life or limb of any person. No person shall park any vehicle in any place where a sign prohibiting parking has been erected or in any area other than that designated and posted as a parking area. Unlicensed motorcycles and motor bicycles are strictly prohibited within the park boundaries. No ATV, motor scooters, or snowmobiles are allowed in the Town Park.
- (p) **Commercial enterprise.** No person, firm or corporation shall sell, solicit or offer for sale any item, property or privilege within the park, unless authorized by the Town Board.
- (q) **SECTION II:** Shelters may be reserved on a first-come basis by Marilla residents with a request made to the Town Clerk who shall keep a log of all persons requesting the same, upon payment of the prescribed fee (revised 6/3/91) The non-refundable fee for a small shelter shall be Twenty Dollars (\$20.00) and the non-refundable fee for large shelters will be Forty Dollars (\$40.00) with a retainer security deposit of Twenty-five Dollars (\$25.00) refundable on the 7th day following the event (revised 2/4/91). Although the shelters are reserved on a first-come basis, it is Town policy to allow the shelters to be available to be used by all the residents of the Town of Marilla. The Town will therefore limit any individual or group to reserving only two shelters at the same time and reserves the right to limit any individual or group from reserving shelters a disproportionate number of times in order to keep the shelters available to the other residents of the Town of Marilla. Any retainer security deposit refund check that has not been cashed by December 1 in the year in which the reservation was made will automatically revert to the Town Park Account (revised 1/11/93). Community organizations recognized by the Town including churches and fire companies located in the Town of Marilla shall be exempted from the fee for the use of park shelters but shall be required to pay the retainer security deposit of Twenty-five Dollars (\$25.00) (revised 4/1/91). Groups in excess of twenty-five people must notify the Town Clerk of their activity prior to such event.

Gazebo: Marilla residents who would like to exchange their marriage vows or use the Gazebo at the Town Park for wedding pictures may reserve the Gazebo with a security deposit of Twenty-five Dollars (\$25.00). Twenty-five Dollars (\$25.00) refundable on the 7th day following the event. No decorations are allowed to be taped, tacked or nailed at any time, but placed or tied on decorations will be permitted. A reservation is only required if you wish the date and time of your ceremony (adopted 6/6/96).

SECTION III: A violation of any subdivision of Section 1 of this law shall constitute an offense punishable by a fine of not less than one Hundred Dollars (100.00) nor more than Two Hundred Fifty Dollars (250.00) for a first conviction thereof. Any person convicted of a second violation of any subdivision of Section I of this law within a period of five years shall be punished by a fine of not less than Two Hundred Dollars (200.00) or more than Two Hundred Fifty Dollars (250.00).

SECTION IV: In addition to any penalty authorized by Section III of this law, the court shall consider restitution as part of the sentence imposed upon a person convicted of any violation of this law where such offense resulted in the damage, destruction, defacement or injury to any part of the park, or any of the buildings, signs, equipment, trees, flora, rocks, ground covering or other property found therein. The court shall provide the town official having governance over the town park with an opportunity to be heard in accordance with the provisions of this section and may require the defendant to make restitution of the fruits of this offense or reparation for the loss or damage caused thereby. The town official having governance over the town park, shall upon notification of the conviction of person for violation of provision of this law where the

sanction of restitution or reparation is available, advise the court at time of sentencing whether the town seeks restitution, the extent of injury or economic loss or damage sustained, and the amount of restitution or reparation sought by the town. The court shall hear and consider the information presented by the official in this regard, and pursuant to the provisions of the criminal procedure law of the State of New York, make a finding as to the fruits of the offense or loss or damage caused by the offense and the court may require restitution or reparation to be made.

SECTION V: The Town Board of the Town of Marilla shall be empowered to modify, alter or establish such additional rules and regulations with respect to the town park as shall from time to time be necessary by the formal resolution of the Town Board adopted by a majority of such board.

Local Law # 2 for 1989
Adopted June 29, 1989
Revised February 4, 1991
Revised April 1, 1991
Revised June 3, 1991
Revised January 11, 1993
Adopted June 6, 1996
Revised March 14, 2002
Revised June 8, 2010
Adopted June 10, 2010

Roll Call Vote:

Councilman Spanitz ó Aye Councilman Handley ó Aye
Councilman Ackerman ó Aye Councilman Darrow ó Aye
Supervisor Gertz ó Aye
Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Darrow to appoint Shirley Limpinsel to the CAB as a member to fulfill the unexpired term of Patricia Blarr to expire on 12/31/2010 and authorize the Town Clerk to advertise for an Alternate on the CAB. Motion Carried.

Report of Town Officials

Town Engineer Marie Nowak reported that they getting closer to going to bid on Water District 5, they have received conditional approval from Rural Development, they are just waiting for approval from the State DEC and The local DOT.

Building Inspector Scott Rider submitted a written report with 11 building applications received with fees totaling \$1250.00, 11 building permits were issued with a total value of \$334,955, 15 inspections were made for the month of May. There were a total of 204 logged activities. He stated that Joe Nuttle the Assistant Building Inspector has completed his certification.

Town Attorney Nathan Neill reported that he is waiting for comments on the contract sent to Alden and Bennington to increase the water line size in Water District 5 for their future expansion.

Town Assessor Kandace Wittmeyer thanked the Town Board for her new desk, and commented on how professional and well trained the Town's Assessment Review Board Members were during the Assessment Grievance Day. She also submitted a report for her May monthly activity.

Supervisor Gertz said that the Planning Board minutes had been received and posted.

Members Debbie Beats and Shirley Limpinsel on the Conservation Advisory Board stated their next meeting would be held on possibly June 24th.

Supervisor Gertz stated that he had received a call over the weekend concerning residents burning garbage, he stated that in the future residents should call 911 if it is a holiday or weekend. He also reminded residents to wear reflective clothing when walking.

Open Board Presentations

Earl Gingerich Jr. commended Ron Unverdorben, Jim Beats and Warren Handley for all of their time and effort for the Memorial Day Celebration. He also wanted to warn residents that the pea harvesting machines are here and will begin either Friday or Saturday. There are 4 of them and they are huge and loud and if any residents call with complaints the Town is welcome to give out his number to talk to them. He explained that the machines cost \$560,000 each and the plants run all night around the clock it is very expensive and there is a small window of opportunity for harvesting.

Resident Shirley Limpinsel said that in the past she heard the pea harvester machines and it sounded like an army. She also wanted to comment on the WWII Veteran's picture that she had taken at the Memorial Day Ceremony. The Veteran was in a wheel chair and she approached him and asked to take his picture and thanked him for his service to our Country. She said his response was very heartwarming; that he was amazed to be recognized before he died.

Resident Lorraine Martzolf worked at serving the chicken dinners at the Memorial Day Ceremony and said the same man came to her and said how wonderful it was being honored.

Councilman Spanitz stated that a past Town Supervisor David Offhaus had died.

Councilman Handley stated that he had worked with the Veteran's Committee and they all pulled it together for Memorial Day. He commented on how good the grounds looked for the event. He also stated that he had been invited to present flags to 16 Veterans at the Aurora Park Health Care Facility in East Aurora, his daughter went with him and they were both very touched by the service. He thanked the Town Clerk's office for putting out the Summer Events News letter, and hoped residents would attend the events and be a part of the festivities.

Supervisor Gertz stated that he used to help coordinate the Memorial Day Ceremony but since Councilman Handley took it over it is at a whole new level, it was a fantastic sight to see. He said the Town is moving onward and upward, we will be hanging flower baskets made by Miller farms from the poles in front of the Town Hall and Community Center.

The Vouchers have been audited by all of the Town Board Members.

Motion: Councilman Ackerman moved, seconded by Councilman Spanitz to approve the claims as follows:

General Fund Claims, Vouchers 242-286	\$ 21,949.39
Highway Fund Claims, Vouchers 82-91	\$ 5,494.21
Special Districts	
Sanitation (SR), Vouchers 45-51	\$ 9,406.91
Special Fire Voucher	\$.00
Water District #2, Vouchers 13-14	\$ 2,493.76
Water District #3 Voucher 8	\$ 1,353.40
Water District #4 Voucher 6	\$ 817.40
Water District #5 Vouchers 6-7	\$ 1,543.00
Community Develop. PACE Vouchers	\$.00
Community Develop. HUD	\$.00
Cemetery Vouchers 8-9	\$ 523.79

Motion Carried.

Motion: Councilman Darrow moved, seconded by Councilman Handley to adjourn the meeting at 7:55 p.m. Motion Carried.

Respectfully submitted,

_____ Town Clerk _____ Supervisor

_____ Councilman _____ Councilman

_____ Councilman _____ Councilman