

TOWN OF MARCELLUS
TOWN BOARD MEETING MINUTES

March 12, 2012

A regular meeting of the Town Board of the Town of Marcellus, County of Onondaga, State of New York was held on Monday, March 12, 2012 at 7:00 P.M. in the Town Hall, 24 East Main Street, Marcellus, New York. Those present were:

Daniel J. Ross, Supervisor
Thomas C. Lathrop, Councilor
Donald G. Sherman, Councilor
Kevin F. O'Hara, Councilor
Peter Hakes, Councilor

Also present: Karen R. Pollard, Town Clerk; Sandy Taylor, Deputy Town Clerk; Tracie Barnes, Bookkeeper, James Gascon, Counsel; Donald MacLachlan, Highway Superintendent; Philip Coccia, Recreation Leader; Chris Christensen, Member of Planning and Zoning Boards; Kris Russell, Marcellus Observer; Bernie Montgomery, Chuck Paul, Mary Jo Paul, Dawn O'Hara, John Scanlon, Gary Wilcox and Linda Wilcox.

Supervisor Ross opened the meeting at 7 P.M. with the Pledge of Allegiance to the Flag.

Copies of the minutes of the Town Board Meeting held on February 13, 2012 and the Workshop Meetings held on January 26 and February 23, 2012 was given to the Board Members. Councilor Lathrop made a motion seconded by Councilor O'Hara to approve the minutes as presented. All voted aye. Carried.

The Abstract of Audited Vouchers was given to the Board Members as submitted by the Town Clerk, Abstract # 3 as of March 12, 2012, Claims #201101011 – 201101014 (2011 expenses) 20120119 – 20120200 and Highway Claims #20120026 - 20120041.

	<u>Expenses</u>
General Fund	\$20,227.33
General Fund – Part Town	518.10
Highway – Town Wide	8,976.56
Ambulance Fund	825.39
Sewer	48,171.17

Board Members were given copies of the Activity Report as of March 12, 2012.

	<u>Total Revenue</u>	<u>Total Expense</u>
General Fund	\$941,662.17	\$192,350.62
General Fund – Part Town	98,626.00	18,139.25
Highway – Town Wide	374,475.00	104,721.60
Highway – Part Town	330,740.28	5,559.35
Capital Projects	8,557.50	59,627.72
Fire District	571,840.16	330,155.01
Hydrant Fund	1,900.11	825.39
Ambulance Fund	261,532.78	74,836.50
Sewer District	133,417.77	50,665.17

Water District

186,961.17

89,070.44

Councilor Lathrop made a motion seconded by Councilor Sherman to approve and pay the bills, approve the monthly activity report as of March 12, 2012. All voted aye. Carried.

OLD BUSINESS:

Report from Department Liaisons: Councilor Lathrop reported that the Welcome Center project is ahead of schedule. New LED lighting has been installed and the painting needs to be finished. Philip Coccia, Recreation Leader, stated that the target date for completion is April 1, 2012.

NEW BUSINESS:

Recreation Agreement- Marcellus Bluegrass, Thunder Canyon, Birnie Bus Service/Tour (6 trips for Bingo), Zumba, Lake George Trip, Stockbridge Massachusetts Trip, East Aurora Trip, Biltmore Asheville NC, Cooperstown Trip, Summer Swim Lessons:

Councilor Hakes made a motion seconded by Councilor O'Hara to authorize the Supervisor to sign the agreements for the following recreation classes and trips:

Zumba	Thursdays 1/26, 2/1, 2/9, 2/16 3/1 and 3/8	\$35/student
Marcellus Bluegrass Artists	Thursday, June 14	\$400.00
Mere Mortals	Thursday, July 12	\$700.00
Thunder Canyon	Thursday, July 26	\$550.00
Summer Swim Lessons	Session I-Week of 7/2	\$55/student
At the Skaneateles YMCA	Week of 7/9	
	Session II-Week of 7/16	
	Week of 7/23	
Nova Tour: Lake George	Wednesday-May 16	\$55/person
Nova Tour: Stockbridge MA	Wednesday-June 20	\$63/person
Nova Tour: East Aurora	Wednesday-July 11	\$45/person
Nova Tour: The Biltmore Asheville, NC	September 23-28	\$150/Deposit
Nova Tour: Cooperstown	October 3	\$55/person
Bingo (6 trips) to Turning Stone	April 2	\$15/person
	May 7	
	June 4	
	July 9	
	August 6	
	October 1	

All voted aye.

Carried.

Authorize HR Consultants for Salary Update: Supervisor Ross advised the Board that the salary study from HR Consultants would be \$500/job title. There are twelve (12) positions, not including seasonal park laborers and Deputy Codes, which would be done for a total of \$6,000. The last study of this nature was completed at least five or six years ago. Councilor O'Hara questioned if the Association of Towns would be able to provide this information or possibly doing this in house. Councilor O'Hara made a motion seconded by Councilor Hakes to table this item until the April Town Board meeting. All voted aye. Carried.

Accept Resignation of Website Manager: The current website manager, William Reagan, has informed the Board that he is resigning that position. Supervisor Ross suggested that Deputy Town Clerk, Sandy Taylor, along with Sandy Elsey, from the Recreation Department assume the duties in keeping the website current. There would be expenses, i.e.: upgrading computers, etc. Councilor Lathrop made a motion seconded by Councilor Hakes to accept with regret the resignation of William Reagan as website manager and appoint Sandy Taylor and Sandy Elsey to take over these duties with Mr. Reagan will turning over all the appropriate passwords and informational materials. This change will be effective April 1, 2012. All voted aye. Carried.

Resolution for Amicus Curiae for Town of Middlefield and Dryden: A letter was received from Roxanne Marino, Town of Ulysses Supervisor, to ask if we would join with the Town of Ulysses in filing an amicus curiae or “friend of the court” brief in two lawsuits dealing with Municipal Home Rule Law rights. Counsel Gascon has reviewed the resolution and he advised the board to support this action. Councilor Hakes made a motion seconded by Councilor O’Hara to join in the amicus curiae. All voted aye. Carried.

#008-12

**RESOLUTION OF THE MARCELLUS BOARD
OF THE TOWN OF MARCELLUS
TO APPROVE BECOMING AN AMICUS CURIAE
IN ACTIONS INVOLVING MUNICIPAL HOME RULE
PENDING BEFORE NEW YORK STATE APPELLATE COURTS
MARCH 12, 2011**

WHEREAS, the Towns of Middlefield and Dryden have recently revised their zoning laws to prohibit heavy industrial uses (including natural gas drilling) in their communities and such laws have been challenged in court by opponents claiming that the Towns do not have the power to regulate natural gas drilling as a land use; and

WHEREAS, the Town of Ulysses has filed an amicus curiae or “friend of the court” brief in both lawsuits in support of its sister Towns in order to reassert the right of municipalities throughout New York State to determine what land uses are appropriate through the municipal home rule powers granted by the New York State Constitution and the New York Municipal Home Rule Law; and

WHEREAS, the Town of Ulysses will file another amicus brief when these lawsuits are appealed to New York appellate courts and has requested that other municipalities in New York State consider joining the Town of Ulysses’ brief as a powerful statement to the appellate courts, the New York State Department of Environmental Conservation, and the New York State Legislature about the importance of protecting municipal home rule in New York State and a municipality’s right to decide, for itself, whether natural gas drilling—or any other land use for that matter—is appropriate for its citizens.

NOW, THEREFORE, BE IT RESOLVED that:

1. The Town Board hereby determines that it is in the public interest of the citizens of the Town to support municipal home rule by joining in the Town of Ulysses’ amicus brief to the appellate courts.
2. The Marcellus Town Board does hereby authorize and direct the Supervisor to complete or cause to be completed any and all such further documents and papers in the name and on behalf of the Town as the Supervisor deems necessary or appropriate to carry into effect

the foregoing resolution.

3. The Town Clerk will send a certified copy of this adopted resolution to the Town of Ulysses, 10 Elm St., Trumansburg, NY 14886.

Authorize the Purchase of Carpet and Furniture for the Upstairs Offices: The Board was provided quotes for the purchase of new carpeting and office furniture for the second floor of the Town Hall. Councilor O'Hara made a motion seconded by Councilor Hakes to proceed with the purchase of the carpeting from Onondaga Carpet and to purchase new office furniture from Syracuse Office Environments. All voted aye. Carried.

Monster Mile Race in Marcellus Park: Philip Coccia received a request to hold the Marcellus Monster Mile race on July 13th in the Marcellus Park at 6:30pm. It is an endurance race being sponsored by Endurance Monster of Skaneateles. The race would one of three races that will include the Endurance Monster Mile to be held in June in Skaneateles and the Downtown Auburn Mile in August. The course would be within the boundaries of the park and would involve about 100 participants. Councilor Hakes made a motion seconded by Councilor Lathrop to authorize the Marcellus Monster Mile race on July 13th in Marcellus Park. All voted aye. Carried.

DOT: Undertaking: Councilor Lathrop made a motion seconded by Councilor O'Hara to take the option of to obtain an Undertaking for a term of twenty (20) years as offered by the State of New York Department of Transportation instead of paying for a Bond and Perm 17. All voted aye. Carried.

UNDERTAKING

The New York State Department of Transportation

WHEREAS, the undersigned Town of Marcellus from time to time receives permits from the New York State Department of Transportation (herein referred to as the "NYSDOT") and otherwise conducts activities and operations upon highways and/or within right-of-way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities; and

WHEREAS, Permittee's access and operation upon state right-of-way is conditioned upon compliance with Highway Law Section 52, 103,203 and/or 234, including the conditions that Permittee assume all responsibility for (a) the temporary control of all modes of traffic (including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses,

NOW, THEREFORE, in relation to all operations and/or actions undertaken within state right-of-way, Permittee hereby agrees to the following terms and conditions:

1. **Permit Applications.** Excepting only activities undertaken to protect safety because of emergency conditions or incidents, Permittee shall provide timely written notice to NYDOT of operations or activities affecting state right-of-way. Under normal circumstances, a minimum of five business days notice shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Permittee shall apply for project-specific permits for activities not allowed under any existing annual permit. Such application shall

identify proposed project locations, desired dates/hours, proposed work/activities, traffic control, and site restoration.

2. **Applicable Rules, Regulations & Conditions.** Permittee shall comply with all of the laws, rules and regulations applicable to construction, maintenance and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connection with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.
3. **Site Restoration.** Permittee shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damaged by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Permittee fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Permittee, may restore the property to substantially the same or equivalent condition as existed before the Permittee's work/activities, in which case, Permittee agrees to reimburse the reasonable expenses in connection therewith.
4. **Payment & Release of Liens.** Permittee shall be responsible for the payment of all costs and materials relating to its work in the public right-of-way, and agrees to defend and save harmless NYSDOT against any and all lien claims made by persons supplying services or materials to Permittee in connection with Permittee's work.
5. **Indemnity.** In addition to the protection afforded to NYSDOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the Permittee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Permittee's activities or operations, whether undertaken by Permittee's own forces or by contractors or other agents working on Permittee's behalf. To the fullest extent permitted by law, the Permittee agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated with the Permittee's, activities or operations under any and all permits issued using this Undertaking.

FURTHERMORE, Permittee hereby warrants that the obligations of this Undertaking are backed by the full faith and credit of Permittee. Permittee may insure or bond any of the obligations set forth herein, or may rely upon self-insurance, budgeted funds, or funds for general operations.

This Undertaking shall be applicable to all permitted activities and operations undertaken after the date of execution and work initiated while this Undertaking is in effect. This Undertaking may be revoked by the Permittee or rejected by NYSDOT upon thirty days written notice but will continue to apply to all permitted activities/operations that were permitted by virtue of this Undertaking. Unless terminated for the purpose of future activities /operations, this Undertaking shall have a term of twenty (20) years and shall be kept on file to facilitate this issuance of future permits to which it will apply.

IN WITNESS WHEREOF, the Town of Marcellus agrees to the terms of this Undertaking, and has caused its execution by the authorized officer or employee (attach Resolution of Approval).

Authorize Change of FCC License from Town of Marcellus to Marcellus Central Schools:

Donald MacLachlan, Highway Superintendent, advised the Board that the Marcellus Central Schools is requesting to purchase the radio repeater and renew the radio license in their name.

At the present time the schools' bus garage is the only entity using the radio system. Since the system has to change from broad band to narrow band by 2013, the timing is right for this transaction. Councilor Lathrop made a motion seconded by Councilor Sherman to allow the sale of the radio repeater to the Marcellus Central Schools. All voted aye. Carried.

Appoint Consulting Engineer: Councilor Lathrop made a motion seconded by Councilor O'Hara to appoint TDK Engineering as consulting engineers for the Town of Marcellus effective April 1, 2012. All voted aye. Carried.

Limeledge Water District Bills (additional item): Councilor Lathrop made a motion seconded by Councilor Sherman to authorize the payment of Limeledge Water District Abstract No. 2 - 2012. All voted aye. Carried.

Discussion Agenda

Items from the Board

Items from the Floor

Karen Pollard, Town Clerk, informed the Board of the updated Zoning Law and Subdivision Regulation books are now ready for the public to purchase. The cost of printing has gone up therefore the Town Clerk suggested the purchase price be \$6.00 for the Zoning Law and \$4.00 for the Subdivision Regulations. It was the consensus of the Board to charge the aforementioned prices for the updated Zoning Law and Subdivision Regulation books.

Donald MacLachlan informed the Board that the bids were opened on March 12, 2012 for the purchase of a 2012 (or newer) Landscape Dump Truck. The bid was received from Stadium International Trucks in the amount of \$49,900.00 for a 2012 International Terrastar #16000GVWR Dump Truck. This purchase would replace truck #2. Councilor Lathrop made a motion seconded by Councilor Sherman to accept the bid price of \$49,900.00 for a 2012 International Terrastar #16000GVWR Dump Truck with the funds be expensed from the Equipment line. All voted aye. Carried.

Tracie Barnes, Bookkeeper, informed the Board that she was just notified from her accounting software company that they are no longer going to provide support for the payroll portion of the program.

Councilor Hakes made a motion seconded by Councilor O'Hara to adjourn the Marcellus Town Board meeting at 8:03 P.M. All voted aye. Carried.

Respectfully submitted,

Karen R. Pollard, Town Clerk