

**SPECIAL TOWN OF MARCELLUS  
TOWN BOARD MEETING MINUTES**

June 19, 2012

A special meeting of the Town Board of the Town of Marcellus, County of Onondaga, State of New York was held on June 19, 2012 at 5:00 P.M. in the Town Hall, 24 East Main Street, Marcellus, New York. Those present were:

Daniel J. Ross, Supervisor  
Thomas C. Lathrop, Councilor  
Kevin F. O'Hara, Councilor

Absent: Donald G. Sherman, Councilor  
Peter Hakes, Councilor

Also present: Karen R. Pollard, Town Clerk and James Gascon, Counsel.

Supervisor Ross opened the meeting at 5 P.M. with the Pledge of Allegiance to the Flag.

**NEW BUSINESS:**

**Change the Time of the Work Session for June 28:** Councilor Lathrop made a motion seconded by Councilor O'Hara to change the time for the June 28<sup>th</sup> Town Board Work Session to 5pm. All voted aye. Carried.

**Revised Service Award Program for the Marcellus Fire Department:**

#012-12

**RESOLUTION OF THE TOWN BOARD OF THE  
TOWN OF MARCELLUS ESTABLISHING  
A SERVICE AWARD PROGRAM FOR  
THE MARCELLUS FIRE DEPARTMENT**

By a motion duly made by Supervisor Ross, and duly seconded by Councilor Lathrop the following Resolution was passed by more than sixty percent (60%) of the entire Town Board of the Town of Marcellus at a special meeting on June 19, 2012:

**WHEREAS**, Article 11-A of the General Municipal Law authorizes towns to provide service awards for volunteer firefighters of incorporated fire companies or departments; and

**WHEREAS**, the Town of Marcellus desires to adopt a service award program to benefit the volunteer firefighters of the Marcellus Fire Department; and

**WHEREAS**, the Town Board of the Town of Marcellus has reviewed a proposal submitted by the Marcellus Fire Department; and

**WHEREAS**, the Town of Marcellus desires to enact a defined contribution plan as such plan is described in General Municipal Law §218; and

**WHEREAS**, the Town Board of the Town of Marcellus is aware that this Resolution is subject to a mandatory referendum of the eligible voters residing within the Marcellus Fire Protection District to determine whether the Town Board shall establish a service award program for the volunteer firefighters serving that fire protection district.

**NOW THEREFORE, BE IT**

**RESOLVED**, that the Town of Marcellus hereby elects to institute and create a defined contribution plan service award program for qualifying members of the Marcellus Fire Department under the terms and conditions set forth in this Resolution; and be it further

**RESOLVED**, that the following terms shall be defined and shall have the meanings as set forth in GML §215, as such Section shall change from time to time: “active volunteer firefighter”, “defined contribution plan”, “entitlement age”, “fiduciary”, “nonforfeitable”, “participant”, “service award”, “service award program”, “program”, “sponsor”, “sponsoring organization”, “year of firefighting service”, “elected or appointed position”, “administrator”, “plan administrator”, “administrative service agency” and “financial organization”; and be it further

**RESOLVED**, that a referendum of the eligible voters residing within the Marcellus Fire Protection District shall be held in accordance with the provisions of GML §216 to determine whether the Town Board of the Town of Marcellus shall establish the service award program for the volunteer firefighters of the Marcellus Fire Department as set forth in this Resolution; and be it further

**RESOLVED**, that the service award program to be provided to active volunteer firefighters under this Resolution shall be governed by the provisions of GML §§ 214, 215, 216, 217, 218 and 219-a; and be it further

**RESOLVED**, that the service award program to be provided to active volunteer firefighters under this Resolution shall be administered by the Town of Marcellus; and be it further

**RESOLVED**, that an active volunteer firefighter shall be eligible to participate in this service award program if the active volunteer firefighter has reached the age of eighteen (18) and has completed at least one (1) year of firefighting service; and be it further

**RESOLVED**, that a participant shall have a one-hundred percent (100%) nonforfeitable right to his service award after said firefighter accumulates five (5) years of firefighting service meeting the minimum requirements of participation established herein, provided, however, notwithstanding the preceding statement, a participant shall have a one-hundred percent (100%) nonforfeitable right to his service award upon his attainment of the entitlement age under this program; and be it further

**RESOLVED**, that any amounts attributable to forfeiture of a participant's service award shall be used to reduce contributions for other service award program participants and shall not in any case be used to increase benefits for other participants; and be it further

**RESOLVED**, that a year of firefighting service shall be credited under this service award program for each year, commencing on January 1, 2013, in which an active volunteer firefighter accumulates at least fifty (50) points. Points shall be granted in accordance with the following system:

- (i) Training courses - twenty-five (25) points maximum:

- (A) Courses under twenty (20) hours duration - one (1) point per hour, with a maximum of five (5) points;
  - (B) Courses of twenty (20) to forty-five (45) hours duration - one (1) point per hour for each hour over initial twenty (20) hours, with a maximum of ten (10) points;
  - (C) Courses over forty-five (45) hours to one hundred (100) hours duration - fifteen (15) points per course;
  - (D) Courses over one hundred (100) hours duration - twenty-five (25) points per course;
- (ii) Drills - twenty (20) points maximum. One (1) point per drill (minimum two (2) hour drill);
  - (iii) Sleep-in or stand-by - twenty (20) points maximum:
    - (A) Sleep-in - one (1) point each full night;
    - (B) Stand-by - one (1) point each. A stand-by is defined as line of duty activity of the Marcellus Fire Department, lasting for four (4) hours, not falling under one of the other categories;
  - (iv) Elected or appointed position - twenty-five (25) points maximum:
    - (A) Completion of one (1) year term in an elected or appointed position;
    - (B) An active volunteer firefighter elected to serve as a delegate to a firefighters' convention shall also be eligible to receive one (1) point per meeting;
  - (v) Attendance at meetings - twenty (20) points maximum. Attendance at any official meetings of the Marcellus Fire Department - one (1) point per meeting;
  - (vi) Participation in the Marcellus Fire Department responses - twenty-five (25) points maximum per category. Must respond to a minimum of ten percent (10%) of the total calls that the Marcellus Fire Department responds to annually other than Emergency Rescue and First Aid Squad calls, and/or must respond to a minimum of ten

percent (10%) of the total number of calls the Emergency Rescue and First Aid Squad responds to. Failure to respond to the aforementioned minimum number of calls will result in no points awarded under this provision;

- (vii) Miscellaneous activities - maximum fifteen (15) points. Participation in inspections and other activities covered by the volunteer firefighters' benefit law and not otherwise listed - one (1) point per activity;
- (viii) In the event that any active volunteer firefighter is either totally and temporarily disabled, or partially and permanently disabled, as certified by the workers' compensation board or other competent authority approved by the sponsor of the service award program, and the disability occurs during the course of service as a volunteer, while actively engaged in providing line of duty services, as defined in subdivision one of Section Five of the Volunteer Firefighters' Benefit Law, the firefighter shall receive five (5) points for each full month of such disability;
- (ix) Teaching fire prevention classes - five (5) points maximum. An active volunteer firefighter who at the direction of his company, district or department, and for no remuneration, presents a public education class on fire prevention to a school, not-for-profit corporation, or civic organization organized and existing under the laws of this state or authorized to conduct activities in this state - one (1) point per class; and be it further

**RESOLVED**, that points shall be calculated on a yearly basis commencing on January 1, 2013; and be it further

**RESOLVED**, that in accordance with GML §217(d), an active volunteer firefighter may be credited for periods of prior firefighting service, to a maximum of five

(5) years and that credit for such periods shall be accorded pursuant to GML §§ 217(e) and 217(c) and that such credit as so computed shall be paid out or amortized over a period of five (5) years commencing with the first year of this award program; and be it further

**RESOLVED**, that in computing credit for those active volunteer firefighters who also serve as paid employees with a political subdivision of the State of New York, credit shall not be given for activities performed during the individual's regularly assigned work periods; and be it further

**RESOLVED**, that an active volunteer firefighter whose name does not appear on the approved certified list shall have the appeal rights set forth in GML §217(g); and be it further

**RESOLVED**, that the Marcellus Fire Department shall maintain sufficient records covering the above point structure and issue an annual report certified under oath to the Town Board of the Town of Marcellus listing all volunteer members, shall specify the number of points each member has received for services rendered in the previous year and shall identify those volunteer members who have qualified for credit under the award program for the previous year, such report to be submitted to the Town Board prior to November 30<sup>th</sup> following the year in which the points were earned, and the records shall be made available for audit by the Town Board of the Town of Marcellus or its duly appointed agent; and be it further

**RESOLVED**, that the entitlement age for each participating firefighter shall be sixty-five (65) years of age; provided, however, if any active volunteer firefighter becomes disabled as described in GML §218(d), the firefighter shall be entitled to receive his or her service award benefits regardless of age or length of service and such benefits shall begin as provided in GML §218(d); and be it further

**RESOLVED**, that an active volunteer firefighter's service award program may designate that benefits thereunder may be paid in the form of a lump sum, or its actuarially determined equivalent to be determined by the firefighter with any unpaid amounts to be paid to the estate of that firefighter; and be it further

**RESOLVED**, that a participant whose volunteer fire service is interrupted by full-time extended obligatory military service or by a single voluntary enlistment not to exceed four (4) years in the armed forces of the United States shall be considered on military leave and during such period of military leave, the participant shall receive active volunteer service credit of fifty (50) points for each full year, prorated for service of less than a year; and be it further

**RESOLVED**, that all the program assets shall be held in trust pursuant to the provisions of GML §217(j); and be it further

**RESOLVED**, that every fiduciary of the service award program will be required to act in accordance with the provisions of GML §217(k); and be it further

**RESOLVED**, that no service award provided under this program may be assigned or alienated except to provide for the legally obligated support of minor children or spouse; and be it further

**RESOLVED**, that the contribution for each participating active volunteer firefighter shall be Seven Hundred and No/100 Dollars (\$700.00) for each year of firefighting service rendered on and after January 1, 2013; and be it further

**RESOLVED**, that the maximum number of years for which a participating active volunteer firefighter may receive a contribution shall be forty (40) years; and be it further

**RESOLVED**, that the benefit payable to a participating active volunteer firefighter entitled to a benefit under this defined contribution plan shall be the resulting amount from the annual contributions made by the Town of Marcellus and shall include

interest and/or other earnings resulting from investment on the annual contributions; and be it further

**RESOLVED**, the Town of Marcellus will pay an additional administrative and fund management cost of \$2,000.00 per year in addition to the minimum payment of \$700.00 per qualified firefighter; and be it further

**RESOLVED**, that benefits shall be available and commence when the participating volunteer firefighter reaches the entitlement age, or at the time permanent disability is established in accordance with the provisions of GML §218 or as otherwise permitted in Article 11-A of the General Municipal Law; and be it further

**RESOLVED**, that in the event of the death of an active volunteer firefighter who has a right to a nonforfeitable percentage of retirement income pursuant to GML §217(b), the designated beneficiaries of such active volunteer firefighter (or his or her estate if no beneficiary is designated), shall be entitled to receive death benefits under the service award plan and such benefits shall be equal to the amount of benefits earned by the volunteer firefighter under the plan at the date of death; and be it further

**RESOLVED**, that it shall be the responsibility of the Marcellus Fire Department to maintain all required records on written forms acceptable to the Town Board of the Town of Marcellus and such forms shall be kept for a minimum period of six (6) years; and be it further

**RESOLVED**, that notwithstanding anything provided elsewhere herein, a volunteer firefighter may request that his or her name be deleted from any certified list as a “participant” in this defined contribution plan, and such request for deletion shall be in writing and shall remain effective until withdrawn in the same manner; and be it further

**RESOLVED**, that the Town Board of the Town of Marcellus shall review the certified list submitted by the Marcellus Fire Department, shall establish and approve



the final annual certification, and the approved list of certified members shall then be returned to the Marcellus Fire Department and posted by the Marcellus Fire Department for at least thirty (30) days for review by its members; and be it further

**RESOLVED**, that the defined contribution plan established by this Resolution shall not be effective until approved by a majority of the eligible voters residing within the Marcellus Fire Protection District pursuant to a mandatory referendum. Upon approval by a majority of the eligible voters residing within the Marcellus Fire Protection District, the defined contribution plan authorized herein shall be deemed to be effective; and be it further

**RESOLVED**, that the proposition to be voted upon at said election shall read as follows:

“Shall the Town of Marcellus establish the Service Award Program for the Volunteer Firemen of the Marcellus Fire Department who furnish fire protection to the Marcellus Fire Protection District, to be administered by the Town of Marcellus, which program shall provide for the following matters, along with other matters, authorized by Article 11-A of the General Municipal Law of the State of New York: A defined contribution plan as authorized under Section 218 of the General Municipal Law and as approved by the Resolution of the Town Board of the Town of Marcellus on June 19, 2012, which program will have an initial estimated annual total cost of \$25,000.00, including the estimated annual administration fee of \$2,000.00. Said costs and expenses of administering the proposed program will be paid out of the assets of the program, these fees being the fees for the first year of operation. Thereafter, fees and charges may increase. Other fees, if any, including trustee fees, counsel fees, accountant fees and commissions with respect to the program and its assets will also be paid from the assets of the program. The projected monthly award to be paid to eligible firefighters will vary depending upon the number of years of qualified service, the interest on the investment and the period of time over which the benefits are to be paid. The estimated annual cost for each covered participant is \$700.00. The plan also provides for a credit for prior years of service up to five years at an estimated additional cost of \$55,300.00.”; and be it further

**RESOLVED**, that no later than ten days before said election, this proposition shall be published once in the Marcellus Observer and that a copy thereof shall be posted

on the official sign-board of the Town of Marcellus maintained in accordance with New York Town Law §30(6); and be it further

**RESOLVED**, that the aforementioned referendum shall be presented to eligible voters within the Town of Marcellus between the hours of 12:00 p.m. and 9:00 p.m. on August 21, 2012 and the location of such vote shall be the Marcellus Fire Department located at 4242 Slate Hill Road, Marcellus, New York; and be it further

**RESOLVED**, that upon such approval at referendum, the Supervisor of the Town of Marcellus shall be and is hereby authorized to execute necessary documents, including documents adopting the program and its related Trust and make such permitted changes in the Program not inconsistent with the terms of Article 11-A of the General Municipal Law and thus enabling referendum as he determines to be appropriate; and be it further

**RESOLVED**, that notwithstanding anything provided to the contrary, this Resolution shall not be effective unless and until the Town Board receives a certified copy of a Resolution of the Marcellus Fire Department in which the Marcellus Fire Department agrees to perform any and all obligations placed upon it under the terms of this Resolution and/or the General Municipal Law.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

<b>Daniel J. Ross</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Thomas C. Lathrop</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Kevin O’Hara</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

The foregoing resolution was thereupon declared duly adopted.

**DATED: June 19, 2012**

Councilor Hakes entered the meeting at 5:22pm. After a discussion on the Resolution establishing a service award program for the Marcellus Firemen Councilor Hakes voted aye. Therefore Resolution #012-12, Town of Marcellus establishing a service aware program for the Marcellus Fire Department, is approved by a vote of four (4) ayes, zero (0) nays.

**Items from the Board**

There was discussion on the I&I Study the Board authorized TDK to perform on the sewer system in the town. A clarification is necessary on who is to perform this study, the Town or Village. On Counsel Gascon's recommendation, Mr. Gascon will contact the Village attorney on this issue.

Councilor Hakes advised the Board that he has worked on the web site and things are progressing.

Councilor Hakes made a motion seconded by Councilor Lathrop to adjourn the Marcellus Town Board meeting at 5:27 P.M. All voted aye. Carried.

Respectfully submitted,  
Karen R. Pollard, Town Clerk