

**TOWN OF MARCELLUS  
SPECIAL MEETING MINUTES**

July 25, 2013

A Special Meeting of the Town Board of the Town of Marcellus, County of Onondaga, State of New York was held on Thursday, July 25, 2013, 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  
John Scanlon, Councilor – in at 5:10  
Kevin O’Hara – in at 5:05

Absent – Peter Hakes, Councilor

Also present: Sandy Taylor, Town Clerk; Jim Gascon, Town Attorney; Garth Snyder, Park Director; John Houser, Codes Officer; Phil Coccia, Recreation Director; Risa Schumann, Mary Jo Paul, Mary Reagan Daily and a couple other Town Residents.

Supervisor Ross opened the meeting at 5:05 P.M. with the Pledge of Allegiance to the Flag.

**Vote on resolution of Condemnation:** Supervisor Ross asked John Houser, Codes Officer to discuss the house at 2940 Scotch Hill Road that was severely damaged by fire, smoke and water on May 5, 2012. Mr. Houser stated that he recently spoke with Ms. Okhuie Lowery, one of the owners of the house, and explained the process to her about what needs to be done with the house because the structure is unsafe and unfit for human occupancy. A motion was made by Councilor Lathrop and seconded by Councilor O’Hara to accept the following resolution:

**TOWN OF MARCELLUS  
TOWN BOARD RESOLUTION**

**July 25, 2013**

Upon motion of Councilor Lathrop, seconded by Councilor O’Hara, the following motion was made:

**WHEREAS**, the structure (the “Structure”) located on the premises at 2490 Scotch Hill Road, Marcellus, New York 13108 (the “Property”) was severely damaged by fire, smoke and water on May 5, 2012; and

**WHEREAS**, the Property is owned by James Lowery and Okhuie K. Lowery (collectively referred to as the “Owners”); and

**WHEREAS**, by letter dated August 31, 2012, the Town of Marcellus Code Enforcement Officer (“CEO”) informed James Lowery the Structure was unsafe in its current state, requiring either reconstruction or demolition; and

**WHEREAS**, the Owners took no action to remediate the Structure in response to the August 31, 2012 letter; and

**WHEREAS**, on November 9, 2012 the CEO sent James Lowery a “Notice of Violation” (the “Notice”) regarding the Property, informing him that the Structure located thereon was unsafe and unfit for human occupancy; and

**WHEREAS**, the Notice specifically advised James Lowery the Structure was in violation of 19 N.Y.C.R.R. Part 1226; Ref. Property Maintenance Code of New York State, Section 107, “Unsafe Structures and Equipment”; and

**WHEREAS**, the Notice further advised James Lowery that he must eliminate the violations by November 30, 2012 or submit a plan for bringing the property into compliance in a reasonable time frame; and

**WHEREAS**, the Notice advised James Lowery that failure to respond or take remedial action with respect to the Property and Structure located thereon, would result in the initiation of a condemnation process as provided in Town of Marcellus Local Law #3 of 2007 (“Local Law #3”); and

**WHEREAS**, the Owners did not respond or take remedial action in accordance with the time frames provided for in the Notice; and

**WHEREAS**, pursuant to the Notice and Local Law #3 of 2007, the CEO initiated the Town of Marcellus condemnation process with respect to the Property and Structure located thereon; and

**WHEREAS**, in accordance with Local Law #3, on February 27, 2013, the CEO caused to be made a formal inspection of the property by the Town’s engineers, TDK Engineering Associates, P.C. (“TDK”);

**WHEREAS**, following the inspection, TDK prepared a Building Damage Assessment dated March 15, 2013 wherein TDK concluded the Structure was unsafe due to the amount of fire and water damage it sustained; and

**WHEREAS**, based on its findings as set forth in the Assessment, TDK recommended that the Structure be demolished; and

**WHEREAS**, despite all of the foregoing, the Owners have taken no action to repair the Property or the Structure located thereon, or demolish the same, since the date of the fire on May 5, 2012; and

**WHEREAS**, the Property and Structure located thereon represent a danger to the public health, safety and general welfare of the community; and

**WHEREAS**, Local Law #3, authorizes the Town Board to appoint a hearing officer to review the determination of the CEO that the Structure be condemned and demolished as an “unsafe or dangerous structure,” as that term is defined in Local Law #3; and

**WHEREAS**, it is in the best interest of the Town and its residents that the Structure located on the Property be condemned and demolished pursuant to Local Law #3; and

**NOW, THEREFORE**, it is

**RESOLVED AND DETERMINED**, the Town Board hereby declares the Property and Structure located thereon to be a public nuisance which poses a danger to the health, safety and general welfare of the community; and it is further

**RESOLVED AND DETERMINED**, the Town Board hereby adopts the CEO’s conclusion that the Structure is an “unsafe or dangerous structure” as that term is defined by Local Law #3; and it is further

**RESOLVED AND DETERMINED**, the Town Board hereby adopts the recommendation of TDK that the Structure be demolished; and it is further

**RESOLVED AND DETERMINED**, that a hearing shall be held at the Marcellus Town Hall located at 24 East Main Street, Marcellus, New York 13108 before Hearing Officer, Gerard E. Wickett, on Wednesday, August 28, 2013 at 7:00 p.m. to review the determination of the CEO that the Structure is an “unsafe or dangerous structure” as that term is defined in Local Law #3 and the demolition thereof; and it is further

**RESOLVED AND DETERMINED**, the Town Board authorizes and directs the Town Attorney to prepare and serve a condemnation notice on the record owners of the Property and Structure as well as all parties with an interest in said Property and Structure in accordance with Local Law #3.

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>Aye</b>
<b>John Scanlon</b>	<b>Councilman</b>	<b>Voted</b>	<b>Aye</b>
<b>Thomas C. Lathrop</b>	<b>Councilman</b>	<b>Voted</b>	<b>Aye</b>
<b>Kevin O’Hara</b>	<b>Councilman</b>	<b>Voted</b>	<b>Aye</b>
<b>Peter Hakes - Absent</b>			

Resolution duly adopted.

**Dated: July 25, 2013**

**Motion to adjourn Special Meeting:** A motion was made by Councilor O’Hara to Adjourn the Special Meeting at 5:15 PM. This motion was seconded by Councilor Scanlon. Ayes – Ross, Scanlon, O’Hara and Lathrop. Carried.

Respectfully Submitted,

Sandy Taylor  
Town Clerk