

TOWN OF MARCELLUS
TOWN BOARD MEETING MINUTES

September 9, 2013

A regular meeting of the Town Board of the Town of Marcellus, County of Onondaga, State of New York was held on Monday, September 9, 2013 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
John Scanlon, Councilor
Kevin F. O'Hara, Councilor
Peter Hakes, Councilor

Also present: Sandy Taylor, Town Clerk; Susan Dennis, Deputy Town Clerk; James Gascon, Town Attorney; Phil Coccia, Recreation Director; Garth Snyder, Park Director; Don MacLachlin, Highway Superintendent; Bill Burnette, Bob Annable, Sharon Gibbons, Thomas Gibbons, Daniel Howlett, Mary Jo Paul, Nancy Frost, Betty Frost, Deana Fellos, Winnie Allen, Connie Amidon, Barbara Bayne, Bruce Bayne, Medford Frost, Jr., Richard Frost, Chuck Paul, Alexis Howlett, Christ Howlett, Matt Wilcox, Can Cupoli, Diane DeBottis, Barbara Hughes, John DeBottis, Harry Lathrop, Josh Fellows, Christopher Poole, Mike Siddale, Gary and Linda Wilcox, Dawn O'Hara.

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

Councilor Lathrop started the meeting by explaining wrong doing at the Highway Department. He is concerned that this has been going on for a number of months and nothing has been done about it yet. He noted that there has been misuse of Highway Equipment, Dangerous working conditions, many violations, foul language and harassment. There have been no suspensions or terminations. One employee has been out of work for a number of months, while the accused are still working.

Supervisor Ross stated that there is a criminal investigation and a personnel investigation going on at this time. The Town is waiting on the reports from these investigations.

Don MacLachlan, Highway Superintendent, has heard different rumors and there is tension between the guys over at the Highway Department.

Richard Frost wants to know why he is out of work and other people are still working.

Barbara Hughes, Masters Road, asked why the accused aren't suspended without pay. She also mentions that children are being harassed. The people involved need to be suspended until the outcome of the investigation.

Jim Gascon, Town Attorney, stated that when the Board became aware of the issues, they handed everything over to the Sheriff's Department. The Town didn't send out a letter because the complaint must be confidential. Our handbook doesn't allow us to suspend employees. The Town has hired a professional company to do the investigation. People are innocent until proven guilty.

Dave Wiley, Slate Hill Road, asked if the accused could hire his/her own investigator and have a report done. The Town Attorney stated that anyone can hire an investigator.

William Southern, Sheehan Road, asked if the Town will act on the report from the investigator and will the report be public information. Jim Gascon, stated that hopefully tonight a resolution will be made after the executive session, but that the report is confidential.

Barbara Hughes, Masters Road, wants to know why it is 6 months before the taxpayers found out what happened. She also asked if the books not being done have anything to do with the investigation. Jim Gascon, explained that the law requires us to protect Employees. The books not being done have nothing to do with the investigation.

Jim Gascon, stated that the Board has acted within the first week after the complaint. He also stated that there have been no cover-ups by the board.

William Southern, Sheehan Road, asked what the criminal charges are.

Barbara Hughes, Masters Road, stated that she has pictures of different situations.

Peter Hakes, Town Councilor, stated that anyone who has proof of anything, they should take it to one of the Board Members or the Police. The Investigators cannot work with rumors, they need solid evidence.

There was discussion about what was shown on Syracuse. Com regarding the meeting in August.

Jim Gascon, explained that according to the law, if three or more members meet, we have to publicize the meeting. There was a meeting scheduled to turn over information to the detective at Jim Gascon's office, in Camillus. Once Jim found out that the meeting should be within the Town, he asked the Supervisor to cancel the meeting. Two Board Members met and turned over information to the Detective. Also, Jim found out that you can't "notice" an "Executive Session", you must "notice" a "Special Meeting", then make a motion to go into "Executive Session". This Board hasn't delayed in any of the investigations.

Barbara Bayne, South Street, asked why only one employee is out of work. Supervisor Ross stated that the employee is waiting for an okay from the Doctor to come back.

Jim Gascon, stated that after the Executive Session tonight, there will be changes at the Highway Department.

William Southern, Sheehan Road, asked if the Highway Superintendent is elected. The board told him that he was. He then asked if he was talked to first,

Jim Gascon, stated that everyone had a chance to talk to the Human Resource investigator. He also stated that the handbook requires that we appoint an investigator. Hopefully we will be able to implement her recommendations tonight after the Executive Session.

Richard Frost, Otisco Valley Road, the H.R. investigation has a lot to do with the police investigation.

Jim Gascon, Resolution of criminal matter depends on the Sheriff's Department Report.

Resolution of the Civil matter after tonights Executive Session. This Board has been handed very difficult matters and as a Town Board has done a good job of handling Everything.

A resident asked if there was a conflict of interest on the Board. John Scanlon stated that the H.R. report will help so that there isn't a conflict. Dan Ross said that as far as he knows, no Board member has had any contact with the H. R. person.

Linda Wilcox, Route 174, stated that this is the first she has heard about any of this. She feels that there is a lot of back peddling going on.

John Scanlon, Town Councilor, thanked everyone for coming. The more interest people take, the better for the Town and the Town Board.

Joyce Frost, asked if they can hire their own investigator, and were told they could.

Copies of the minutes of the Town Board Meeting held on August 12, 2013 was given to the Board Members. Councilor Hakes made a motion seconded by Councilor Scanlon to approve the minutes as presented.

Ayes – Ross, Scanlon, Hakes, O'Hara and Lathrop. Carried

Copies of the minutes of the Workshop Meeting held on August 22, 2013 was given to the Board Members. Councilor Hakes made a motion to approve the Workshop meeting minutes with a second by Councilor Scanlon.

Ayes- Ross, Hakes, Scanlon.

Nays – Lathrop, O'Hara. Carried

The Abstract of Audited Vouchers was given to the Board Members as submitted by the Town Clerk, Abstract # 9 as of September 9, 2013, Claim #'s: 130385, 130397 – 130467, 130469 – 130476 and 201300018.

	<u>Expenses</u>
General Fund	\$ 58,893.29
General Fund – Part Town	503.12
Highway – Town Wide	9,189.71
Highway – Part Town	53,919.81
Sewer	3,135.16
Trust & Agency	120.00

Board Members were given copies of the Activity Report as of September 9, 2013 and monthly statement of bank balances as of September 9, 2013.

	<u>Total Revenue</u>	<u>Total Expense</u>
General Fund	\$1,068,490.71	\$921,999.14
General Fund – Part Town	102,082.00	56,293.83
Highway – Town Wide	474,928.90	298,712.42
Highway – Part Town	298,642.09	273,672.12
Capital Projects		2,704.68
Fire District	590,329.33	643,574.26
Hydrant Fund	1,900.84	825.33
Ambulance Fund	275,274.24	208,983.75
Sewer District	127,955.33	131,867.32

Water District

187,290.40

88,989.60

Councilor Scanlon made a motion seconded by Councilor Hakes to approve and pay the bills, approve the monthly activity report as of September 9, 2013 and the monthly statement of bank balances as of September 9, 2013. Councilor Lathrop had a question regarding a repair to a mower. Don MacLachlan explained what had happened and will get a report to Councilor Scanlon. The motion was seconded by Councilor Hakes. Ayes-Ross, Scanlon, Hakes, O'Hara and Lathrop. Carried

OLD BUSINESS:

Report from Department Liaisons: None

NEW BUSINESS:

Permission for Town Clerk and Deputy to attend seminar in Corning: A request was made by the Town Clerk for her and her Deputy to attend a Regional Education Seminar on September 23, 2013 in Corning. The cost is \$35.00 each which includes lunch. There will be a DEC update. A motion was made by Councilor Lathrop, seconded by Councilor O'Hara to allow the Town Clerk and her Deputy to attend the Seminar. Ayes – Ross, Scanlon, Hakes, O'Hara and Lathrop. Carried

Permission for court Clerk to attend NYS Magistrates Court Clerks Convention – Albany: A request was made by the Court Clerk to attend the NYS Magistrates Association Court Clerks Convention from October 6 – 9, 2013 in Albany. The Cost is \$716 for Room and Board, \$40 for Registration. Cost of mileage is not included. A motion was made by Councilor O'Hara and seconded by Councilor Scanlon to allow the Court Clerk to attend the NYS Magistrates conference. Ayes – Ross, Scanlon, Hakes, O'Hara and Lathrop. Carried

Skaneateles Ski Hill Permit: A request was made from Scott Darminio to have the fee waived for the permit for a pavilion style barn at Skaneateles Ski Hill. This is a not for profit organization 501 (c) (3) organization. The fee would be \$78.00 for the permit. A motion was made by Councilor O'Hara to waive the fee for the Skaneateles Ski Hill permit. Councilor Lathrop seconded this motion. Ayes – Ross, Scanlon, Hakes, O'Hara and Lathrop. Carried

Appointment of Assessor: A motion was made by Councilor Scanlon and seconded by Councilor Hakes to appoint Larry Fitts the Sole Assessor for the Town of Marcellus from October 1, 2013 until September 30, 2018. Ayes-Ross, Scanlon, Hakes, O'Hara and Lathrop. Carried

Sewer District Easements: Jim Gascon, Town Attorney, has spoken with John Curtin, Village Mayor, regarding the many easements across property lines in Marcellus. On many of the properties, the easement is temporary and not permanent.

The first lines that are to be looked at are behind Sheehan and Scotch Hill Roads. Jim Gascon, will be in contact with an Abstract Company.

Emergency Mowing: John Houser, Codes Officer, was concerned about a property on Seneca Turnpike that was overgrown with grass. He has since learned that the lawn has been mowed and will check on it this week.

E-Z Pass Contract: Jim Gascon, Town Attorney, looked over E-Z Pass contract and brought a number of items to the Board. At this point, the Board has decided to table this item for now. The Board wants to weigh the pros and cons of this service.

Set Meeting Date to receive 2014 Preliminary Town Budget: Supervisor Ross made a motion to set a meeting date of Thursday, October 3, 2013 at 5:00 pm to accept the Preliminary Budget and set the dates of the Budget workshops. This meeting will be held at the Marcellus Town Hall, 24 E. Main St., Marcellus, NY. This motion was seconded by Councilor O'Hara.

Ayes- Ross, Scanlon, Hakes, O'Hara, and Lathrop.

Carried

Change of Highway Department work schedule: Councilor Lathrop asked if there is still a need to be on a 4-day work schedule for the Highway Department. Don MacLachlan, Highway Superintendent, stated that they just switched back to five days a week. Jim Gascon, Town Attorney, read from the handbook the section regarding work hours for the Highway Department. He also stated that any State Law regarding work hours for a Highway Department overrides the Handbook.

Clean-up from paving at Fire Department: Councilor Lathrop asked why there hasn't been any clean-up at the Fire Department after the paving of the parking lot. He stated that there is asphalt on the grass, sidewalks and curbs. Don MacLachlan, Highway Superintendent, stated that he knows of a spot around a drain and they plan on blacktopping that when they are helping the village. Don MacLachlan asked Councilor Lathrop to stop over and talk about these issues. Councilor Scanlon mentioned that he would get together with Don MacLachlan.

Exterior Painting of the Fire Department: Councilor Lathrop mentioned that the Fire Department Building is 20 years old and would like permission to get Estimates to have it repainted. Permission was granted by the Board to get estimates.

Board of Assessment Review- Resignation: A letter of resignation from Kathleen Karlovitz was received in August. She is going to resign from the Board of Assessment Review. A motion to accept this resignation was made by Councilor Lathrop. Councilor Scanlon mentioned that she is a very valuable member of the Board. Councilor Hakes seconded this motion.

Ayes- Ross, Scanlon, Hakes, O'Hara and Lathrop.

Carried

Request for Accountant to Attend a One-Day Seminar: Tracie Barnes has requested to attend a one-day seminar at the Sheraton Syracuse University Hotel and Conference Center on October 2, 2013. This seminar is on Human Resource Law. The cost of the Seminar is \$339. Councilor O'Hara made a motion to allow Tracie Barnes to attend the seminar. The motion was seconded by Councilor Lathrop.

Ayes- Ross, Scanlon, Hakes, O'Hara and Lathrop.

Carried

Executive Session: A motion was made by Councilor O'Hara made a motion to enter into Executive Session at 9:20 p.m. Councilor Lathrop seconded this motion. The purpose of Executive Session is to discuss the ongoing criminal investigation and a meeting with the Sheriff's detective.

Ayes- Ross, Scanlon, Hakes, O'Hara and Lathrop.

Carried

Supervisor Ross left the meeting at 10:03 p.m. whereupon the meeting was chaired by Deputy Supervisor Tom Lathrop.

Meeting returned to Town Board Meeting at 11:23 p.m.

Board resolutions following Executive Session: Councilor Hakes made a motion for the Town of Marcellus to take the following actions:

The Town Board will take the necessary action to ensure that the Highway Superintendent consistently enforces all work rules and policies and will hold him accountable for same.

The Town Board agrees to meet with the Highway Superintendent to take necessary steps to ensure that the Town work rules and policies as outlined in the employee handbook are clearly communicated to employees and followed.

The Town Board resolves that harassment and workplace violence training for all Highway personnel be conducted to ensure that employees understand proper workplace behavior and comply with the Towns policies that address these issues.

The Town Board resolves that a procedure be developed to ensure that employee complaints are immediately reviewed and addressed.

The Town Board resolves to recommend to the Highway Superintendent that the current Deputy Highway Superintendent be removed from his role as Deputy Highway Superintendent.

The Town Board authorizes Public Sector- H. R. Consultants LLC to further investigate a Highway Department member's complaint dated July 22, 2013. The Town Board directs the complainant to give a further interview regarding said matter to Public Sector H.R. Consultants, LLC.

The Town Board authorizes an audit of the Highway Department time records and payroll sheets to determine the validity of claims made by employees that the time records have been falsified and to determine appropriate corrective action if the claims are proven to be true.

The Town Board authorizes the implementation of an electronic time keeping system in the Highway Department to replace the current system.

This motion was seconded by Councilor O'Hara.

Ayes: Lathrop, O'Hara, Scanlon and Hakes. Supervisor Ross was absent. Carried

Motion to adjourn: A motion was made by Councilor Hakes to adjourn the Marcellus Town Board meeting at 12:00 midnight. This motion was seconded by Councilor Hakes. Ayes – Lathrop, O'Hara, Hakes and Scanlon. Supervisor Ross was absent. Carried

Respectfully submitted,

Sandy Taylor, Town Clerk