

+

TOWN OF MARCELLUS
TOWN BOARD MEETING MINUTES
Monday, June 9, 2014

A regular meeting of the Town Board of the Town of Marcellus, County of Onondaga, State of New York was held on Monday, June 9, 2014 in the Town Hall, 24 East Main Street, Marcellus, New York. Those present were:

Mary Jo Paul, Supervisor
Kevin F. O'Hara, Councilor
John Scanlon, Councilor
Karen Pollard, Councilor

Also present: Susan Dennis, Deputy Town Clerk; Phil Coccia, Recreation Director; Don MacLachlan, Highway Superintendent; Tracie Barnes, Bookkeeper; Jim Gascon, Town Attorney; 17 Town Residents and Sandy Taylor, Town Clerk.

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

A motion was made by Councilor Scanlon and seconded by Councilor O'Hara to amend the agenda by adding the Special Meetings of June 4 and 5th to be accepted and changing number 9 from Highway, Clothing Allowance to change time of Park closing.

Ayes – Scanlon, Paul, O'Hara and Pollard.

Carried

Copies of the minutes of the Town Board Meeting held on May 12, 2014, the Workshop Meeting held on May 22, 2014 and the Special Meetings held on June 4th and 5th, 2014 were given to the Board Members. Councilor Scanlon made a motion seconded by Councilor Pollard to accept the minutes as presented.

Ayes – Scanlon, Paul, O'Hara and Pollard.

Carried

The Abstract of Audited Vouchers was given to the Board Members as submitted by the Town Clerk, Abstract # 6 as of June 6, 2014 Claims # 140271, 140374, 140375, 140387, 140397, 140398, 140491, 140498, 140499, 140500, 140506 – 140509, 140514-140589.

	<u>Expenses</u>
General Fund	\$49,413.18
General Fund – Part Town	519.21
Highway – Town Wide	10,947.10
Highway – Part Town	1,315.62
Sewer District	24.33
Trust and Agency	<u>4,011.49</u>
 Total	 \$66,230.93

Board Members were given copies of the Activity Report as of June 9, 2014 and monthly statement of bank balances as of June 9, 2014.

	<u>Total Revenue</u>	<u>Total Expense</u>
General Fund	\$1,231,478.81	\$1,335,996.15
General Fund – Part Town	120,812.04	123,365.00
Highway – Town Wide	481,376.90	430,955.33
Highway – Part Town	344,245.78	353,238.21
Capital Projects		8,115.68
Fire District	590,329.33	643,574.26
Hydrant Fund	1,900.84	1,881.49
Ambulance Fund	275,274.24	274,532.00
Sewer District	127,955.33	181,114.33
Water District	202,238.40	101,534.72

Councilor O'Hara made a motion seconded by Councilor Scanlon to approve and pay the bills, approve the monthly activity report as of June 9, 2014 and the monthly statement of bank balances as of June 9, 2014.

Ayes – Scanlon, Paul, O'Hara and Pollard.

Carried

Code Officer Stipend: Councilor O'Hara made a motion to approve a stipend of \$45/per month for the Code Officer due to the fact that he uses his personal phone for town matters. This was seconded by Councilor Scanlon.

Ayes – Scanlon, Paul, O'Hara and Pollard.

Carried

Change Meeting Time: Councilor O'Hara made a motion seconded by Councilor Scanlon to change the Workshop Meeting Times for June 26, 2014 and July 24, 2014 from 7:00 pm to 5:00 pm. This is due to the concerts in the park.

Ayes – Scanlon, Paul, O'Hara and Pollard.

Carried

Review Fire Department Financials: Councilor Scanlon made a motion seconded by Supervisor Paul to accept the Marcellus Volunteer Fire Dept. Inc. financials as presented. The total amounts from Jan. 1, - May 24, 2014 are as follows: Administrative Costs: \$39,811.86; Operations: \$31,274.58; and Building costs: \$24,053.42. The total amount is \$95, 139.86.

Ayes – Scanlon, Paul, O'Hara and Pollard.

Carried

SAM GRANT – SEQOR: Jim Gascon, Town Attorney, read through the Short Environmental Assessment Form regarding the SAM Grant. Councilor Scanlon made a motion seconded by Councilor Pollard that there not be a negative declaration on the SEQOR.

Ayes – Scanlon, Paul, O'Hara and Pollard.

Carried

SAM GRANT- INCREASE THE AMOUNT: Councilor O'Hara made a motion seconded by Councilor Scanlon that \$1,619.00 will be financed from existing Park & Rec funds until the full \$50,000 is reimbursed from the grant. The Town has already committed \$48,381 to the park project from a Park Capital Reserve.

Ayes – Scanlon, Paul, O'Hara and Pollard.

Carried

SAM GRANT – PERMISSIVE REFERENDUM:

TOWN BOARD RESOLUTION TOWN OF MACELLUS

SUBJECT TO PERMISSIVE REFERENDUM

At a regular meeting of the Town Board of the Town of Marcellus, held at the Town Hall, 24 East Main Street, in said Town, County of Onondaga and State of New York on Monday, June 9, 2014 at 7:00 P.M., there were:

PRESENT:	Mary Jo Paul	Supervisor
	Karen Pollard	Councilor
	Kevin O'Hara	Councilor
	John Scanlon	Councilor

WHEREAS, the Town of Marcellus Parks & Recreation Department has acquired a \$50,000 SAM Grant from the State of New York for work to be completed in Marcellus Park, and

WHEREAS, pursuant to Section 6-C of N.Y. General Municipal Law the Town Board of the Town of Marcellus has created, by means of a resolution, a capital reserve fund, the Park Capital Reserve Fund for the purpose of funding projects and improvements to Marcellus Park, and

WHEREAS, such Fund has been maintained in accordance with Section 10 of N.Y. General Municipal Law, and

WHEREAS, the Town Board of the Town of Marcellus is desires to expend monies from the Park Capital Reserve Fund of the Town of Marcellus for the physical betterment & improvement of Marcellus Park in the amount of FORTY-EIGHT THOUSAND THREE HUNDRED EIGHTY-ONE DOLLARS AND 00/100 (\$48,381), and

WHEREAS, the improvement of the park entrances & stone stairs will be completed by Mend-All Masonry and Butler Fence to be paid by the Town using the \$48,381 Park Capital Reserve Fund plus \$1,619 from the 2014 Parks & Rec. budget, both amounts to be fully reimbursed by the SAM Grant.

NOW THEREFORE, BE IT RESOLVED, that the Town of Marcellus Town Supervisor is hereby authorized to make payments for services related to the physical betterment and improvement of Marcellus Park in an amount not to exceed FIFTY THOUSAND DOLLARS AND 00/100 (\$50,000); and

BE IT FURTHER RESOLVED, that this resolution is subject to permissive referendum as provided in Article 7 of the Town Law; and

BE IT FURTHER RESOLVED, that pursuant to Section 90 of the Town Law, that within ten (10) days from the date of this resolution the Town Clerk shall post and publish a notice which shall set forth the date of the adoption of the resolution, shall contain an abstract of

said resolution concisely setting forth the purpose and effect thereof, shall specify that this resolution was adopted subject to permissive referendum, and shall publish such notice in the "Eagle Observer" newspaper published in Onondaga County having general circulation in the Town of Marcellus, and in addition thereto that the Town Clerk shall post or cause to be posted on both the sign board and Town website, a copy of such notice within ten (10) days after the date of adoption of this resolution.

Said resolution was offered by Councilor Scanlon and seconded by Councilor Pollard.

Mary Jo Paul	Town Supervisor	Voted	Yes
John Scanlon	Councilor	Voted	Yes
Karen Pollard	Councilor	Voted	Yes
Kevin O'Hara	Councilor	Voted	Yes

Date: June 9, 2014

RESOLUTION – ZONE CHANGE – SHEDS:

TOWN OF MARCELLUS TOWN BOARD RESOLUTION

002-14

June 9, 2014

TOWN OF MARCELLUS LOCAL LAW A OF 2014

("A Local Law Amending the Town of Marcellus Zoning Law of 2009 to Amend Square Footage Requirements of Permitted Accessory Buildings in Residential Zones Within the Town of Marcellus

Councilor O'Hara introduced proposed Local Law No. A-2014, "A Local Law Amending the Town of Marcellus Zoning Law of 2009 to Amend Square Footage Requirements of Permitted Accessory Buildings in Residential Zones Within the Town of Marcellus", which Local Law, would increase the allowable square footage in area of permitted accessory buildings in residential zones in the Town of Marcellus, and made the following motion, which was seconded by Councilor Pollard.

WHEREAS, Volume 6 N.Y.C.R.R., Section 617 of the Regulations relating to Article 8 of the New York State Environmental Conservation Law, requires that as early as possible an involved agency shall make a determination whether a given action is subject to the aforementioned law; and

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of a local law in the Town of Marcellus, such that there are no other involved agencies within the meaning of the New York State Environmental Quality Review Act (SEQRA) with respect to the proposed enactment of said Local Law, with the result that the Town Board shall act as lead agency in this matter; and

WHEREAS, the adoption of said Local Law is an unlisted action for purposes of environmental review under SEQRA; and

WHEREAS, the Town Board has determined that a short environmental assessment form (EAF) shall be required in connection with this matter; and

WHEREAS, the said EAF has been prepared and has been reviewed by the Town Board; and

WHEREAS, the Town Board has considered the adoption of said Local Law, has considered the criteria contained in 6 N.Y.C.R.R. Part 617.7 and has compared the impacts which may be reasonably expected to result from the adoption of said Local Law against said criteria.

NOW, THEREFORE,

RESOLVED AND DETERMINED, the Town Board has determined this action shall have no significant adverse impact on the environment; that, accordingly, an environmental impact statement (EIS) shall not be required; and that this resolution shall constitute a negative declaration under SEQRA; and it is further;

RESOLVED, that the Town Board shall conduct a public hearing as to the enactment of proposed Local Law No. A-2014 at the Town Hall located at 24 East Main Street, Marcellus, New York on July 14, 2014 at 7:00 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard.

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

Mary Jo Paul	Town Supervisor	Voted	Yes
John Scanlon	Councilman	Voted	Yes
Karen Pollard	Councilman	Voted	Yes
Kevin O'Hara	Councilman	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

DATED: June 9, 2014

RESOLUTION – ZONE CHANGE – TELECOMMUNICATIONS:

TOWN OF MARCELLUS TOWN BOARD RESOLUTION

003-14

June 9, 2014

TOWN OF MARCELLUS LOCAL LAW B OF 2014

(“A Local Law Amending the Town of Marcellus Zoning Law of 2009 With Respect to Telecommunications Facilities”)

Councilor O'Hara introduced proposed Local Law No. B-2014, “A Local Law Amending the Town of Marcellus Zoning Law of 2009 With Respect to Telecommunication Facilities”, which Local Law, would amend the Town of Marcellus Zoning Law to reflect changes in Federal law and regulations pertaining to telecommunication facilities and to provide for administrative review for certain modifications to certain eligible telecommunication facilities, and made the following motion, which was seconded by Councilor Scanlon:

WHEREAS, Volume 6 N.Y.C.R.R., Section 617 of the Regulations relating to Article 8 of the New York State Environmental Conservation Law, requires that as early as possible an involved agency shall make a determination whether a given action is subject to the aforementioned law and

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of a local law in the Town of Marcellus, such that there are no other involved agencies within the meaning of the New York State Environmental Quality Review Act (SEQRA) with respect to the proposed enactment of said Local Law, with the result that the Town Board shall act as lead agency in this matter; and

WHEREAS, the adoption of said Local Law is an unlisted action for purposes of environmental review under SEQRA; and

WHEREAS, the Town Board has determined that a short environmental assessment form (EAF) shall be required in connection with this matter; and

WHEREAS, the said EAF has been prepared and has been reviewed by the Town Board; and

WHEREAS, the Town Board has considered the adoption of said Local Law, has considered the criteria contained in 6 N.Y.C.R.R. Part 617.7 and has compared the impacts which may be reasonably expected to result from the adoption of said Local Law against said criteria.

NOW, THEREFORE,

RESOLVED AND DETERMINED, the Town Board has determined this action shall have no significant adverse impact on the environment; that, accordingly, an environmental impact statement (EIS) shall not be required; and that this resolution shall constitute a negative declaration under SEQRA; and it is further;

RESOLVED, that the Town Board shall conduct a public hearing as to the enactment of proposed Local Law No. B-2014 at the Town Hall located at 24 East Main Street, Marcellus, New York on July 14, 2014 at 7:00 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard.

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

Mary Jo Paul	Town Supervisor	Voted	Yes
John Scanlon	Councilman	Voted	Yes
Karen Pollard	Councilman	Voted	Yes
Kevin O'Hara	Councilman	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

DATED: June 9, 2014

PARK CLOSING TIME: Supervisor Paul made a motion seconded by Councilor Scanlon to change the time Marcellus Park is closed. The time will be 9:30 pm – 5:00 am.

Ayes – Scanlon, Paul, O'Hara and Pollard.

Carried

SETTLEMENT: Councilor O'Hara made a motion seconded by Councilor Pollard to approve the following settlement. Councilor Scanlon expressed his opinion that he doesn't feel the Town is obligated to pay this amount (\$23, 957.50).

Kevin M. Gilligan
Robert J. Smith*
Michael A. Tremont
Alicia S. Calogiovanni
James J. Gascon
Paul G. Ferrara**
Maureen G. Falcherio
Timothy J. Conan
John R. Langley

Daniel P. Fletcher
Anthony R. Hanley
Dennis P. Hensigan
Robert W. Connolly**
Nicole Marlow-Jones
Donald S. DiBenedetto
Nadine C. Bell+
Wendy S. Reese



COSTELLO • COONEY • FEARON
PLLC
Attorneys at law since 1896

Christopher G. Todd
Jennifer L. Wang
Jennifer L. Alleri
Shannon R. Becker++
Richard J. Andino
Elizabeth A. Hoffman
Daniel R. Rose
Taranco V. Walsh+++
Megan E. Gimsley

Shelly L. DiBenedetto
Jennifer E. Mathews**
Special Counsel

Donald L. Nicholas, Of Counsel
Warren W. Bader, Of Counsel
Robert D. Essig, Of Counsel
Peter J. Corrigan, Of Counsel
Scott W. Bush, Of Counsel

5701 WEST GENESEE STREET | CAMILLUS, NY 13031
TEL. 315.422.1152 | FAX 315.484.7350

* Also admitted in Texas
** Also admitted in Massachusetts
+ Also admitted in Pennsylvania
++ Also admitted in Colorado
+++ Also admitted in New Jersey

June 2, 2014

SETTLEMENT AGREEMENT

Daniel L. Welch, Esq.
19 South Street
Marcellus, New York 13108

Re: Legal Fees for Representation of Donald MacLachlan

Dear Dan:

The Board has reviewed your request for reimbursement of legal fees in your representation of Donald MacLachlan. As our firm indicated to Don in our letter of April 16, 2014, the Town is not required by law to reimburse these fees.

However, in an attempt to bring all legal matters to a close and in exchange for a full release from Donald MacLachlan, the Board is willing to reimburse reasonable fees incurred that are not related to the defense of criminal matters. Accordingly, the Board is willing to reimburse your fees as follows:

The March and April 2013 entries could only be related to the pending criminal investigation as no civil complaints had been filed by any Highway employee until June 2013. Moreover, communications with the District Attorney have been disallowed at .4 per entry. The Board has agreed, therefore, to reimburse 136.90 hours at a rate of \$175.00 per hour for a total of \$23,957.50. The Board must receive in exchange for this payment a full release from Donald MacLachlan for the Town Board and each of its individual members. A copy of the Release is attached hereto and made a part hereof as Exhibit "A."

By signing this letter agreement you are agreeing to accept \$23,957.50 as fair and reasonable compensation for all of your services rendered. You further agree not to seek any further reimbursement from either the Town of Marcellus, Donald MacLachlan or any other person or entity for services rendered to Donald MacLachlan.

ALBANY OFFICE
220 COLUMBIA TURNPIKE | RENSSELAER, NY 12144

SYRACUSE OFFICE
500 PLUM STREET, SUITE 300 | SYRACUSE, NY 13204-1401

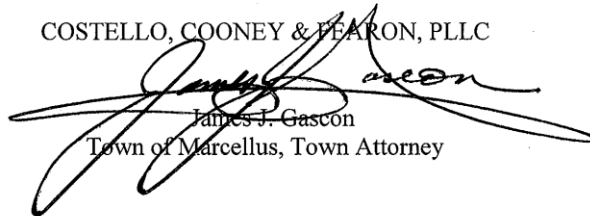
Daniel L. Welch, Esq.
June 2, 2014
Page 2

This agreement is expressly contingent upon approval of same by the Marcellus Town Board.

Please acknowledge your agreement by signing below.

Very truly yours,

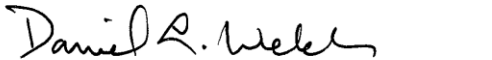
COSTELLO, COONEY & PEARON, PLLC

A large, stylized handwritten signature in black ink, appearing to read "James J. Gascon".

James J. Gascon
Town of Marcellus, Town Attorney

JJG/ks

SO AGREED:



DANIEL L. WELCH, ESQ.

RELEASE

TO ALL TO WHOM THESE PRESENTS SHALL COME OR MAY CONCERN, KNOW THAT DONALD MACLACHLAN as RELEASOR, in consideration of the sum of Twenty-Three Thousand Nine Hundred Fifty-Seven Dollars and Fifty Cents (\$23,957.50), received from the Town of Marcellus as reimbursement for certain legal fees incurred with attorney Daniel L. Welch, as RELEASEE, receipt whereof is hereby acknowledged, releases and discharges the Town of Marcellus, the Town of Marcellus Board, and the Town of Marcellus Board members, Daniel Ross, Mary Jo Paul, Thomas Lathrop, Peter Hakes, John Scanlon, Karen Pollard, and Kevin O'Hara, individually and in their capacity as officials of the Town of Marcellus, the RELEASEES, RELEASEES heirs, executors, administrators, successors and assigns from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, liens, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which against the RELEASEES, the RELEASOR, RELEASOR'S heirs, executors, administrators, successors and assigns ever had, now have or hereafter can, shall or may, have for, upon, or by reason of any matter, cause or thing whatsoever known or unknown from the beginning of the world to the day of the date of this RELEASE.

The words "RELEASOR" and "RELEASEE" include all releasors and all releasees under this RELEASE.

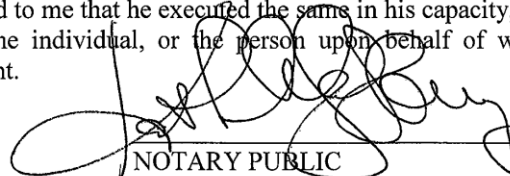
This RELEASE may not be changed orally.

IN WITNESS WHEREOF, the RELEASOR has hereunto set RELEASOR'S hand and seal on the 5 day of June, 2014.


DONALD MACLACHLAN

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

On the 5th day of June in the year 2014 before me, the undersigned, a Notary Public in and for said State, personally appeared **DONALD MACLACHLAN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


NOTARY PUBLIC

KATHLEEN A. SALISBURY
Notary Public, State of New York
No. 01SA6004223
Qualified in Cayuga County
My Commission Expires September 21, 2017

SUPERVISORS REPORT:

June 9, 2014 SUPERVISOR'S UPDATE

FISHING DERBY: On May 31st the Marcellus Optimist Club Leon Plochocki Fishing Derby was held in beautiful Marcellus Park. 110 children participated, 92 fish were caught. Every child received a gift for just showing up & every fish caught meant a prize for that child. The longest fish caught was 16”.

AMERICAN GAS & POWER: The Town's agreement with this company includes monthly rebates. The Town has received rebates recently in the amount of \$127.14 for May & \$234.61 for April and, as promised, has rebated the sales tax paid thus far this year in the amount of \$780.21. Other windfall dollars are coming from NY State CHIPS for additional road repairs resulting from the extremely harsh winter conditions in the amount of \$5,219.86

LAST YEAR'S CONTAMINATED WELLS: On Tues. June 3rd, in response to the Town of Marcellus' request to DEC to attend one of our workshop meetings, a program was put together & presented by 8 different agencies at the State Fairground regarding well contamination due to manure runoff last March in the Amber/Marietta area. Residents from across the county were able to ask questions, receive updates & materials from the various groups represented. Some Marcellus Town residents were there to avail themselves of all the information.

CAP: The Corrective Action Plan was submitted last week to the Office of the State Comptroller as a response to the audit conducted last Nov/Dec. A copy is included in the May 22nd Workshop Meeting and is posted on the Town website.

PAID LUNCH: According to our Employee Handbook, ALL town employees are to receive a paid lunch of at least ½ hour. Due to the way the park time sheets are filled out, it has not been evident that the employees HAVE NOT been receiving the ½ hour paid lunch. They were working from 7 to 3:30 (with an unpaid lunch) in order to “work” an 8 hour day. They will now work from 7 to 3 with a paid ½ lunch as intended in the handbook. This correction to this oversight will commence 6/29/14.

AMERICAN LEGION: The Marcellus American Legion currently is sponsoring a “PRESERVE THE LANDMARK” project for needed repairs & rehabilitation to their Historic Landmark building. They are looking to the community to aid with the cost. All donations are tax deductible.

MONTHLY ABSTRACTS: Effective starting with June 26th Workshop Meeting, abstracts will be presented for approval by the Board for half a month. This will guarantee all bills are paid in a timely manner & will no longer show outstanding balances that need to be verified each month. As the workshop meetings are legal, official, and open to the public --decisions can be made & votes can be taken to insure the business of the Town is conducted on a timely basis.

Discussion Agenda

Items from the Board: Councilor Scanlon thanked Mr. Coccia, Recreation Director, for the scholarships for the children at KCH to be able to participate in Park and Recreation activities.

Councilor O’Hara thanked Mr. Coccia, Recreation Director, stating that everything at the Park went smoothly during Old Home Days.

Councilor O’Hara suggested that a banner be made saying “Town of Marcellus” so the residents recognize the Town of Marcellus employees.

Councilor Pollard asked about the Workshop Meetings and the business being conducted. Supervisor Paul stated that they are open meetings, the public is invited and the only Business conducted would be necessary business, so that we are not waiting two or three week’s in-between meetings. They would then continue as a Workshop Meeting.

There was some discussion about “some” paving at the fire dept. The paving project last year at a cost of \$75,000 has some issues/problems with cracking.

Items from the Floor: There was discussion on fireworks being set off from The Ultimate Goal. This will be on a Workshop Agenda in June or July.

A request was made from a resident that the Advisory Committee be put last on the Workshop Agenda since the time is being changed to 5:00 pm.

A resident spoke out about the fact that the Town is paying for an unauthorized attorney. Jim Gascon, Town Attorney, stated that because he represents the Town, he couldn’t represent Mr. MacLachlan, Highway Superintendent. Supervisor Paul stated that this is the most cost-effective way, going another route may cost the taxpayers a lot more.

Phil Coccia, Recreation Director, asked if there is any decision on the 5th Board member yet. The Supervisor stated no, they all could bring something good to the Board. It is a very tough decision.

Councilor Pollard made a motion seconded by Councilor Scanlon to adjourn the
Marcellus Town Board meeting at 8:40 P.M.
Ayes – Scanlon, Paul, O’Hara and Pollard.

Carried

Respectfully submitted,

Sandy Taylor, Town Clerk