

TOWN OF MARCELLUS
TOWN BOARD MEETING MINUTES

Monday, May 9, 2016

A Meeting of the Town Board of the Town of Marcellus, County of Onondaga, State of New York was held on Monday, May 9, 2016, in the Town Hall, 24 East Main Street, Marcellus, New York. Those present were:

Karen R. Pollard, Supervisor
Kevin F. O’Hara, Councilor
John Cusick, Councilor
Chris Hunt, Councilor
Laurie Stevens, Councilor

Also present: Jim Gascon, Town Attorney; Don MacLachlan, Highway Superintendent; Phil Coccia, Recreation Director; Tom Lathrop, Gary and Linda Wilcox, Chip Van DerHoof, Marlesha Minet, Ellen Leahy, West Onondaga County Journal; Bill Southern and Sandy Taylor, Town Clerk.

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

Public Hearing: A Local Law Regarding Solicitation, Peddling, and Hawking within the Town of Marcellus. Supervisor Pollard asked if anyone had anything to say either for or against the Local Law, there were no comment from the floor. Supervisor Pollard brought to our attention, Section 5 which talks about charging a fee. At this point the Town Board does not want to charge a fee. Section 11- which talks about the times Solicitors can be out. The board discussed this and would like to change the time. The time stated is 8:00 am – 8:00 pm, the discussion is to change time to 9:00 am – 7:00 pm. The Public Hearing was closed at 7:10 pm.

Minutes: Councilor Stevens made a motion seconded by Supervisor Pollard to accept the Town Clerks minutes from the April 11, 2016 Town Board Meeting and the April 28, 2016 Town Board Workshop Meeting.

Ayes – Pollard, Stevens, Hunt, O’Hara and Cusick Carried

The Abstract of Audited Vouchers was given to the Board Members as submitted by the Town Clerk, Abstract # 5 as of May 9, 2016. Claim #'s 143956-144005.

	<u>Expenses</u>
General Fund	31,756.20
General Fund – Part Town	3,064.42
Highway – Town Wide	5,540.03
Highway – Part Town	3,239.07
Fire District	211,960.20
Trust & Agency	<u>2,426.59</u>
<u>Total</u>	\$257,986.51

Councilor Cusick made a motion seconded by Councilor Hunt to approve and pay the bills.
Ayes – Pollard, Stevens, Hunt, O’Hara and Cusick Carried

Chip VanDerHoof: Chip VanDerHoof, of VanDerHoof Roofing, would like to donate materials and labor to reroof the Annex Pavilion. The Board was greatly appreciative of this and Mr. VanDerHoof and Mr. Coccia were going to come up with a date that the pavilion was not being used.

SAM Grant – Highway Garage:

SEQR Resolution: Supervisor Pollard read the following Resolution:

**TOWN OF MARCELLUS
TOWN BOARD RESOLUTION**

May 9th, 2016

Upon motion of Councilor Hunt, seconded by Councilor Stevens, the following motion was made:

WHEREAS, the Town of Marcellus wishes to authorize the construction of an addition to the Marcellus Highway Department garage,

WHEREAS, a document summarizing the features and costs of construction of the addition is attached hereto as **Exhibit “A”**; and

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, the Town of Marcellus Town Board determined this action to be an Unlisted Action; and

WHEREAS, the Town Board has completed and submitted a Short Form Environmental Assessment Form and the same has been carefully reviewed and thoroughly considered by the Board at a public meeting; and

WHEREAS, the Town Board has considered and discussed fully the potential environmental impacts of the proposed action; and

NOW, THEREFORE, it is

BE IT RESOLVED, that the Town of Marcellus Town Board hereby determines the proposed action will not have a significant adverse effect on the environment and this resolution hereby adopts the Negative Declaration attached hereto for purposes of Article 8 of the Environmental Conservation Law, Volume 6 of the N.Y.C.R.R. Part 617 et seq. for the reasons contained herein and in the attached Negative Declaration; and

BE IT FURTHER RESOLVED, that the Town’s legal counsel shall distribute and publish the attached Negative Declaration pursuant to the requirements of 6 N.Y.C.R.R., Part 617.

The question of the adoption of the foregoing Resolution was duly put to a vote, the vote was as follows:

Karen Pollard	Supervisor	Voted	Aye
Chris Hunt	Councilman	Voted	Aye
Kevin O’Hara	Councilman	Voted	Aye
Laurie Stevens	Councilman	Voted	Aye
John Cusick	Councilman	Voted	Aye

Resolution duly adopted.

Dated: May 9th, 2016

Project Funding Resolution: Supervisor Pollard read the following resolution for the funding of the SAM Grant – Highway Garage:

**TOWN OF MARCELLUS
TOWN BOARD RESOLUTION
May 9th, 2016**

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

WHEREAS, the Town of Marcellus wishes to authorize funds for the construction of an addition to the Marcellus Highway Department’s garage; and

WHEREAS, a document summarizing the features and costs of construction of the addition is attached hereto as **Exhibit “A”**; and

WHEREAS, the sum of construction fees is estimated to be \$120,000.00; the sum of engineering fees is estimated to be \$15,000.00; and a contingency of \$12,000.00 is estimated, for a total estimated cost of \$147,000.00; and

WHEREAS, it is the intent of the Marcellus Town Board to authorize sufficient funds for the completion of the addition to the Marcellus Highway Department's garage.

NOW, THEREFORE, it is

RESOLVED AND DETERMINED, the Town Board hereby approves and authorizes the expenditure of up to \$147,000.00 for the construction of the Marcellus Highway Department's garage as described in Exhibit "A."

The question of the adoption of the foregoing Resolution was duly put to a vote, the vote was as follows:

Karen Pollard	Supervisor	Voted	Aye
Chris Hunt	Councilman	Voted	Aye
Kevin O'Hara	Councilman	Voted	Aye
Laurie Stevens	Councilman	Voted	Aye
John Cusick	Councilman	Voted	Aye

Resolution duly adopted.

Dated: **May 9th, 2016**

E-Waste Recycling: Councilor O'Hara made a motion seconded by Councilor Stevens to charge the following fees at the E-Waste Recycling Day, to be held June 18, 2016 from 8:00 am to 12:00 noon: \$5.00 user fee, \$20.00 for televisions/monitors that are smaller than 27" and \$40.00 for televisions/monitors that are over 27".

Ayes – Pollard, Stevens, Hunt, O'Hara and Cusick Carried

Pump Out Sump Pump at Highway Garage: Don MacLachlan, Highway Superintendent, received three bids to pump out the sump pump at the Highway Garage. He asked for a more detailed description from Safety-Kleen and has not yet received it. This will be put on the June agenda, once more details from Safety-Kleen are received.

Highway Rental of Equipment: Councilor Stevens made a motion seconded by Councilor Cusick to approve Don MacLachlan, Highway Superintendent, to rent a SK170 Excavator with thumb at \$4,500 per month and a 3000# hammer at \$1,500 per week for the Brewer Road Bridge project.

Ayes – Pollard, Stevens, Hunt, O'Hara and Cusick Carried

Adoption of Local Law: The following resolution was passed with the times amended in Section 11.

**RESOLUTION
MARCELLUS TOWN BOARD**

May 9th, 2016

The following resolution was offered by Councilor O'Hara, who moved its adoption, seconded by Councilor Stevens, to wit:

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law entitled Local Law A-2016, "A Local Law Regulating Solicitation, Peddling, and Hawking Within the Town of Marcellus", was presented and introduced at a regular meeting of the Town Board of the Town of Marcellus held on October 22nd, 2015; and

WHEREAS, a public hearing was held on said proposed Local Law Number A-2016 on May 9th, 2016 by the Town Board of the Town of Marcellus and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Town Board of the Town of Marcellus in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

WHEREAS, it has previously been determined that 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 (SEQR) 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, it has been determined that the adoption to said Local Law is a Type II action for purposes of environmental review under SEQR; and

WHEREAS, the Town Board has determined that no further environmental review is needed on this matter; and

WHEREAS, it is in the public interest to enact said Proposed Local Law No. A-2016.

NOW, THEREFORE, it is

RESOLVED AND DETERMINED, that the adoption of proposed Local Law No. A-2016 shall have no significant adverse impact on the environment; and it is further

RESOLVED AND DETERMINED, that the Town Board of the Town of Marcellus, Onondaga County, New York, does hereby enact Proposed Local Law No. A-2016 as Local Law No. 1-2016 as follows:

TOWN OF MARCELLUS

PROPOSED LOCAL LAW NO. A of 2016

**A LOCAL LAW REGULATING SOLICITATION, PEDDLING AND HAWKING
WITHIN THE TOWN OF MARCELLUS**

Be it enacted by the Town Board of the Town of Marcellus as follows:

SECTION 1. AUTHORITY

This local law is enacted pursuant to the New York State Constitution, New York Municipal Home Rule Law § 10.

SECTION 2. LEGISLATIVE INTENT

The purpose of this Local Law is to preserve the public peace and good order in the Town of Marcellus and to contribute to the public welfare and good order of its people by enforcing certain regulations and restrictions, which shall include registration and application obligations on hawkers, solicitors and peddlers in order to prevent fraud, crime and unethical and dishonest business practices within the Town of Marcellus and to protect the residents from such conduct.

SECTION 3. DEFINITIONS

APPLICANT – The individual who has registered or is about to register to act as a solicitor, peddler or hawker in the Town of Marcellus.

BUSINESS – The business carried on by a person who is a solicitor, peddler or hawker seeking to sell merchandise, services or take orders for such by traveling door to door and entering the boundaries of residential areas, including multi-family buildings, condominiums and similar places where people reside.

CANVASSER – One who attempts to make personal contact with a person at his or her residence within the Town of Marcellus and without his or her prior consent, to:

1. Request or attempt to induce or persuade any person to support a particular charitable, educational, civic, patriotic, political, benevolent, religious or philanthropic project or cause;
2. Seek or ask for a gift or donation for a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c)(3);
3. Sell goods, wares, merchandise, tickets, articles, services, publications, advertisements, subscriptions or things of any kind or value, with the entire proceeds of such sale to be paid directly to or used exclusively for the benefit of a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c)(3);

4. Personally deliver a handbill or flyer advertising a future event, activity, good or service that is noncommercial in nature or otherwise not-for-profit.

GOODS – Merchandise of any description, including but not limited to wares, foodstuffs and services provided to utilize goods.

HAWKING – The selling or offering for sale of any goods, wares, merchandise or services on the street by outcry or by attracting the attention of persons by exposing goods in a public place, or by placards, labels or signals.

PEDDLER – Any person who shall engage in peddling, as hereinafter defined.

PEDDLING – The selling or offering for sale of any goods, wares, merchandise or services for immediate delivery, which the person selling or offering for sale carries with him in traveling or has in his possession or control upon any of the streets or sidewalks or from house to house within the Town of Marcellus.

PERSON – Any natural person, association, partnership, firm, corporation, limited liability company, joint venture or any other form of business organization or entity.

RESIDENCE – Every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure located within the Town of Marcellus.

SOLICITING – The seeking or taking of contracts or orders for any goods, wares, merchandise or services for future delivery; or for contracts or orders or subscriptions of any kinds; or donations, gifts or contributions of any kind, including money, clothing or any other valuable things, upon any streets or sidewalks or from house to house within the Town of Marcellus.

SOLICITOR – Any person who shall engage in soliciting, as hereinabove defined.

TOWN – The Town of Marcellus, New York.

TOWN BOARD – The Town Board of the Town of Marcellus.

SECTION 4. REGISTRATION REQUIRED

No person shall engage in soliciting, peddling or hawking within the Town without first registering with the Town Clerk or an authorized representative of the Town.

SECTION 5. REGISTRATION FEES

No registration shall be accepted under this Local Law except upon payment of the established fee to the Town Clerk. The amount of such fee shall be established from time to time by resolution of the Town Board.

SECTION 6. APPLICATION REQUIREMENTS

A. Every person desiring to engage in soliciting, peddling or hawking in the Town shall first register, under oath, with the Town Clerk. Upon such application, such person shall give the following information:

1. The name, address, telephone number and birth date of the applicant;
2. Prior convictions of a crime, misdemeanor or violation of any ordinance, the nature, place and date of such offense and disposition of same;
3. The name, address and telephone number of the person for whom the applicant works and a letter appended to the application authorizing the applicant to represent the person the applicant purports to represent, if any;
4. The type or types of article, device, subscription, contribution, service or contract which the applicant desires to sell or for which the applicant wishes to solicit within the Town;
5. The dates and locations of soliciting, peddling or hawking;
6. The type of vehicle the applicant will be using while in the Town and its license number; and
7. Such other business and personal information as the Town Board finds reasonably necessary to protect the public.

B. Where a person makes application for himself or herself and one or more others, all applicable personal information specified above shall be given for each person and an individual registration shall be required for each person.

SECTION 7. EXPIRATION OF REGISTRATION

A registration issued as provided in this Local law shall automatically expire on January 1st following the date of issuance, but such registration may specifically state and provide for a specific expiration date.

SECTION 8. ASSIGNMENT OF REGISTRATION

A registration as provided in this Local Law shall not be assignable. Any person who holds such registration who permits it to be used by any other person and any person who uses a registration granted to it by another person shall each be guilty of a violation of this Local Law.

SECTION 9. PROOF OF REGISTRATION

Every person registered pursuant to this Local Law shall carry the registration with him or her and shall exhibit the same upon demand.

SECTION 10. DENIAL OR REVOCATON REGISTRATION

- A. Registration may be denied or revoke for any of the following reasons:
 - 1. Fraud, misrepresentation or any false statement made in furnishing the information required by this Local Law;
 - 2. Fraud, misrepresentation or any false statement made in the course of conducting the activities for which the person is registered;
 - 3. Any violation of this Local Law;
 - 4. Conviction of the registration holder of any felony or crime involving moral turpitude;
 - 5. Conducting the soliciting, peddling or hawking in an unlawful manner or in such manner as to constitute a breach of the peace or to be a threat to the health, safety or general welfare of the people of the Town.
- B. Any person whose registration has been denied or revoked shall be entitled to appear, with council, if desired, before the Town Board of the Town, at a regular or special meeting, and be heard on behalf of a request for issuance or reinstatement of said registration.

SECTION 11. DAY AND HOUR LIMITATIONS

Except upon invitation from or an appointment with a particular resident, no person shall engage in soliciting, peddling or hawking during the following times:

- A. At any time on Sundays or national holidays; and
- B. Before 9:00 a.m. or after 7:00 p.m. on any other day.

SECTION 12. PROHIBITED ACTS

- A. No person engaged in soliciting, peddling or hawking shall occupy any of the streets, alleys or sidewalks of the Town for the purpose of soliciting, peddling or hawking, with or without any stand or counter.
- B. No person engaged in soliciting, peddling or hawking shall enter upon premises for the purpose of soliciting, peddling or hawking which are posted with signs indicating that soliciting, peddling or hawking thereon is prohibited.
- C. No person engaged in soliciting, peddling or hawking shall refuse to leave the premises owned, leased or rented by another after having been notified by the owner or occupant of such premises, or his agent, to leave the same and not return to such premises.
- D. No person engaged in soliciting, peddling, hawking or canvassing shall falsely or fraudulently misrepresent the quantity, character or quality of any good, merchandise or article offered for sale or offers any unwholesome, tainted or diseased provisions of any good merchandise or article.

SECTION 13. SALES ON TOWN PROPERTY

Notwithstanding any other provision of this Local Law, no person shall sell merchandise at any public function held in the Town or on lands owned by the Town without first obtaining written permission thereof from the Town Board; and the Board may, from time to time, adopt rules and regulations concerning such sales.

SECTION 14. EXEMPTIONS FROM REGISTRATION REQUIREMENTS

The following persons are exempt from the registration requirements of this Local Law:

- A. Persons 18 years of age or under engaged in selling or soliciting the sale of goods or services for educational, non-profit or religious purposes.

- B. Persons who act solely as canvassers within the Town of Marcellus as defined herein.

SECTION 15. RECORDS; SUPERVISION

The Town Clerk shall keep a record of all registrations made under this Local Law, including the number and date of each registration, and the name, age and residence of each registered person, and the Town Clerk shall supervise the activities of all registered persons.

SECTION 16. PENALTIES AND ENFORCEMENT

- A. Any person violating the provisions of this Local Law shall be guilty of an offense and, upon conviction thereof, shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment. Each day's continuation of the offense shall be considered a separate punishable offense.

- B. In addition or as an alternative to the above provided penalties, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this Local Law.

- C. In addition, any person who violates any provision of the foregoing may be subject to a loss of registration privilege herein granted.

SECTION 17. SEVERABILITY

If any clause, sentence, paragraph, subdivision or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 18. EFFECTIVE DATE

This Local Law shall be effective upon filing with the office of the Secretary of State.

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

Chris Hunt	Councilor	Voted	No
Kevin O’Hara	Councilor	Voted	Yes
John Cusick	Councilor	Voted	No
Laurie Stevens	Councilor	Voted	Yes
Karen R. Pollard	Supervisor	Voted	Yes

The Foregoing resolution was thereupon declared duly adopted.

DATED: May 9th, 2016

Section 5 of Local Law: Councilor O’Hara made a motion seconded by Councilor Stevens to have peddlers just register, there will be no fee charged at this time.
Ayes – Pollard, Stevens, Hunt, O’Hara and Cusick Carried

Speed Limit: Councilor Cusick made a motion seconded by Councilor Hunt to send a letter of support to the County to reduce the speed limit on Frank Gay Road after a request was made by a resident.
Ayes – Pollard, Stevens, Hunt, O’Hara and Cusick Carried

Recreation Handbook: Councilor Stevens made a motion seconded by Councilor Cusick to approve the Recreation Handbook. This is revised from the Employees handbook for the Recreation Department.
Ayes – Pollard, Stevens, Hunt, O’Hara and Cusick Carried

Recreation Agreements: Councilor O’Hara made a motion seconded by Councilor Stevens to approve the following contracts for concerts in the Park.
Ayes – Pollard, Stevens, Hunt, O’Hara and Cusick Carried

Marcellus Bluegrass Artists	June 30, 2016	\$400.00
Thunder Canyon	July 21, 2016	\$600.00
Tangled Roots	Aug. 4, 2016	\$600.00
Joe Whiting	Aug. 11, 2016	\$750.00

Workday Resolution: Councilor Stevens made a motion seconded by Councilor Cusick to approve the following workday resolution for the state retirement.
Ayes – Pollard, Stevens, Hunt, O’Hara and Cusick Carried

20152015 Title	Name	Social Security Number (Last 4 digits)	Registrati on Number	Standard Work Day (Hrs/day)	Term Begins/Ends	Participates in Employer's Time Keeping System (Y/N)	Days/Month (based on Record of Activities)
Elected Officials							
Town Justice	Mary R. Dailey			6	1/1/2016- 12/31/2019	N	7.53
Town Clerk	Sandra Taylor			6	01/01/2016- 12/31/2019	N	21/22
Highway Superintendent	Donald MacLachlan			6	01/01/2016- 12/31/2019	N	21/22
Tax Collector	Elaine Potter			6	01/01/2016- 12/31/2019	N	9
Town Councilor	Laurie Stevens			2	1/1/2016- 12/31/2019	N	5
Town Councilor	John Cusick			2	1/1/2016- 12/31/2016	N	5
Appointed Officials							
Deputy Town Clerk	Susan Dennis			6	10/22/2016- 12/31/2016	Y	21/22
Accountant	Lori Petrocci			6	01/01/2016- 12/31/2016	Y	21/22
Court Clerk	Judith Schneider			8	01/01/2016- 12/31/2016	Y	21/22
Code Enforcement Officer	John Houser			6	01/01/2016- 12/31/2016	Y	21/22
Dog Control Officer	James La Rose			6	01/01/2016- 12/31/2016	N	5
Secretary to Highway Superintendent	Sandra M Elsey			6	01/01/2016- 12/31/2016	Y	21/22
Clerk I	Heidi Randall			6	07/19/2016- 12/31/2016	Y	6/8
Clerk I / Secretary to Planning & Zoning	Karen A Cotter			6	01/01/2016- 12/31/2016	Y	16/18
Deputy Highway Superintendent	Michael Ossit			6	01/01/2016- 12/31/2016	Y	21/22

Thank You-Tom Kuss Foundation: Councilor Stevens made a motion seconded by Councilor Cusick to approve Supervisor Pollard to sign the Thank You letter to be sent to the Tom Kuss Foundation for the donation of \$750.00. These donations are used for children to be able to participate in recreation activities.

Ayes – Pollard, Stevens, Hunt, O’Hara and Cusick

Carried

Discussion Agenda

Items from the Board: Councilor O’Hara stated that the Park looks great.

Jim Gascon, Town Attorney, stated that any of the elected officials are invited to march in the Old Home Days parade. This year, the Old Home Days will be honoring the Marcellus Public Works Employees.

Items from the Floor : Bill Southern, Scotch Hill Road, asked about the signs for the metal detectors at the park. Phil Coccia, Recreation Director, stated that they have been ordered.

Councilor Stevens made a motion seconded by Councilor Cusick to adjourn the Marcellus Town Board meeting at 8:20 pm.

Ayes – Pollard, Stevens, Hunt, O’Hara and Cusick

Carried

Respectfully submitted,

Sandy Taylor, Town Clerk