

TOWN OF MARCELLUS
TOWN BOARD MEETING MINUTES
July 8, 2013

A regular meeting of the Town Board of the Town of Marcellus, County of Onondaga, State of New York was held on Monday, July 8, 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

Absent: Peter Hakes, Councilor

Also present: Sandy Taylor, Town Clerk; Susan Dennis, Deputy Town Clerk; James Gascon, Town Attorney; Don MacLachlan, Highway Superintendent; Phil Coccia, Recreation Director; Bernie Montgomery, Gary & Linda Wilcox, Margie Wipper, Hind VanDusen, Chuck Paul and Mary Jo Paul.

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

PUBLIC HEARING: A LOCAL LAW AMENDING THE TOWN OF MARCELLUS ZONING LAW AS ENACTED BY LOCAL LAW NO 4-2009, TITLED "TOWN OF MARCELLUS ZONING LAW OF 2009", AS HERETO FORE AMENDED BY ESTABLISHING CEMETERIES AS A PERMITTED USE IN CERTAIN ZONING DISTRICTS WITHIN THE TOWN.

Supervisor read the notice that was in the Marcellus Observer on June 19, 2013, advertising the Public Hearing. There was a request to purchase land adjacent to Highland Cemetery. No one spoke in favor or against the Local Law.

Supervisor Ross closed the Public Hearing at 7:08 pm

Copies of the minutes of the Town Board Meeting held on Monday, June 10, 2013, the Executive Session Meeting held on Monday, June 10, 2013, the Special Town Board Meeting held on Friday, June 14, 2013 and the Workshop Meeting held on Thursday, June 27, 2013 was given to the Board Members. Councilor O'Hara made a motion seconded by Councilor Lathrop to approve the minutes as presented.

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

Carried

The Abstract of Audited Vouchers was given to the Board Members as submitted by the Town Clerk, Abstract #7 as of July 8, 2013, Claims #and Highway Claims #.

	<u>Expenses</u>
General Fund	\$72, 539.67
General Fund – Part Town	311.57
Highway – Town Wide	5,566.54
Highway – Part Town	49,471.88
Capital Projects	3,035.50
Ambulance Fund	65,548.25
Sewer	14,279.76
Trust & Agency	8,662.04

Jim Gascon, Town Attorney waived the fees for the matter involving Stuart Crothers, tax matter involving ReRob LLC and the tax matter involving Niagara Mohawk. He said that he didn't want those vouchers paid. The amounts were as follows:

Voucher Number 130157	re: Stuart Crothers	\$562.50
Voucher Number 130158	re: ReRob LLC	\$532.30
Voucher Number 130159	re: Niagara Mohawk	\$1,627.00

Board Members were given copies of the Activity Report as of July 3, 2013 and monthly statement of bank balances as of July 8, 2013.

	<u>Total Revenue</u>	<u>Total Expense</u>
General Fund	\$1,023,169.43	\$ 591,136.87
General Fund – Part Town	98,167.00	42,897.48
Highway – Town Wide	420,280.90	284,553.53
Highway – Part Town	298,642.09	119,063.51
Capital Projects		2,704.68
Fire District	590,329.33	494,868.00
Hydrant Fund	1,900.84	825.33
Ambulance Fund	275,274.24	208,983.75
Sewer District	127,955.33	100,417.87
Water District	187,290.40	87,915.44

Councilor Lathrop made a motion seconded by Councilor Scanlon to approve and pay the bills, with the above vouchers being held out, approve the monthly activity report as of July 3, 2013 and the monthly statement of bank balances as of July 3, 2013.

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

Carried

OLD BUSINESS:**Report from Department Liaisons:** None**NEW BUSINESS:**

Recreation Agreements: A motion was made by Councilor O'Hara and seconded by Councilor Scanlon to approve the following recreation agreements and concert.
Ayes – Ross, Scanlon, O'Hara and Lathrop. Carried

TRX Exercise Class	May 4 – June 8, 2013	\$60.00 per student
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ER Lacrosse Camp	July 15 – 19, 2013 Aug. 5 – 9, 2013
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Fees for Lacrosse Camp: \$60.00 per student without Lacrosse stick
\$60.00 per student with pinnie
\$40.00 per student with Lacrosse stick

Concert:

JoAnne Perry & the Combination	Aug. 8, 2013	\$600.00
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Softball Fields: There was a request from T. J. Fraher, President of the Marcellus Code Red Softball Organization, asking permission to use the softball fields at Marcellus Park on July 13 – 14, 2013. They would like to hold a softball tournament for the 10U and 12U softball teams, involving 8 teams. They would like to use the main softball field all day, t-ball field all day and the A League field until 12:00 pm on Saturday, July 13, 2013. They would also like to use 2 fields on Sunday, July 14, 2013 all day.

All teams that participate are certified by the Amateur Softball Association and hold a certificate of insurance.

A motion was made by Councilor O'Hara to approve the request for the usage of the Softball Fields on July 13 and 14, 2013. This was seconded by Councilor Lathrop.
Ayes-Ross, Scanlon, O'Hara and Lathrop. Carried

Insurance Renewal and Marketing Results: We received our Insurance Renewal and Marketing Results from Reagan Companies. Our insurance is through Selective Insurance. The rate has increased about 4%. Last year's rate was \$44,867.00 and this Year's rate is \$45,255.00. Councilor Lathrop would like to have an updated list of all the Highway equipment and Park equipment to compare it to the insurance list. Supervisor Ross made a motion to renew the insurance through Selective insurance. Councilor Lathrop seconded this motion.

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

Appoint Town Clerk as receiver of Notice of Claims Act: A motion was made by Councilor Scanlon to appoint the Town Clerk as the receiver of Notice of Claims. What this means, is that effective June 15, 2013, a person wishing to sue a town will have another option for serving a notice of claim upon the town. The notice of claim may be delivered to the Secretary of State. The Secretary of State will then forward the notice of claim to the person designated by the town board. The person filing a notice of claim with the Secretary of State may be charged a fee of up to \$250, half of which shall be forwarded to the town providing that the town files its certificate of designation with the Secretary of State within 30 days. Councilor Lathrop seconded this motion.

Ayes – Ross, Scanlon, O’Hara and Lathrop.

Carried

Amicus Brief: A motion was made by Councilor Lathrop and seconded by Councilor Scanlon to approve the resolution of the Town Board of the Town of Marcellus to approve becoming an AMICUS CURIAE in actions involving Municipal Home Rule in the Court of Appeals of the State of New York.

Ayes- Ross, Scanlon, O’Hara and Lathrop.

Carried

Resolution is as follows:

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF MARCELLUS TO APPROVE BECOMING AN AMICUS CURIAE IN ACTIONS INVOLVING MUNICIPAL HOME RULE IN THE COURT OF APPEALS OF THE STATE OF NEW YORK

Date: July 8, 2013

WHEREAS, the Towns of Middlefield and Dryden have recently revised their zoning laws to prohibit heavy industrial uses (including natural gas drilling) in their communities and such laws were challenged in court by opponents claims that the Towns did not have the power to regulate natural gas drilling as a land use through zoning; and

WHEREAS, the Town of Ulysses filed an amicus curiae or “friend of the court” brief in both lawsuits in support of its sister Towns in order to reassert the right of each municipality throughout New York State to determine what land uses are appropriate in its community through municipal home rule law powers granted by the NYS Constitution and the NYS Municipal Home Rule Law; and

WHEREAS, the Town of Marcellus joined with the Town of Ulysses and a coalition of over 50 other municipalities from across the State to file these amicus curiae briefs in the Appellate Division, Third Department in 2012; and

WHEREAS, the Appellate Division, Third Department, ruled in favor of the Towns of Dryden and Middlefield in the matters of Norse Energy Corporation USA v. Town of Dryden et al., and Cooperstown Holstein Association v. Town of Middlefield; and

WHEREAS, the Norse Energy Corporation and the Cooperstown Holstein Association (“Appellants”) recently filed motions for leave to appeal each decision to the Court of Appeals – the State’s highest court; and

WHEREAS, if the Appellants are granted leave to appeal to the Court of Appeals, the Town of Ulysses will seek leave to file amicus curiae brief(s) with the Court and will file such brief(s) if leave is granted; and

WHEREAS, the Town of Ulysses has requested that other municipalities in the State consider joining the municipal coalition supporting the Ulysses’ amicus brief(s) to send a powerful statement to the Court of Appeals, the NYS Department of Environmental Conservation and the NYS Legislature about the importance of protecting municipal home rule in New York State and a municipality’s right to decide, for itself, whether natural gas drilling - or any other land use - is appropriate for its citizens.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Town of Marcellus hereby determines that it is in the public interest of the citizens of the Town to support municipal home rule by joining in the amicus brief(s) being filed in the Court of Appeals by the Town of Ulysses and a coalition of municipalities from across the State.
2. The Town of Marcellus hereby authorizes and directs the Supervisor to complete or cause to be completed any and all such further documents and papers in the name and on behalf of the Town as the Supervisor deems necessary or appropriate to carry into effect the foregoing resolution.
3. The Town Clerk will promptly send a certified copy of this adopted resolution to the Town of Ulysses, 10 Elm Street, Trumansburg, NY 14886.

DATE ADOPTED July 8, 2013

SEQRA FOR LOCAL LAW: Jim Gascon, Town Attorney, read through the SEQRA State Environmental Quality Review Assessment Form) pertaining to Local Law 2-2013. A motion was made by Councilor Scanlon to approve the Town Board SEQRA Resolution and Negative Declaration. This motion was seconded by Councilor Lathrop. Ayes – Ross, Scanlon, O’Hara and Lathrop. Carried

esolution is as follows:

TOWN OF MARCELLUS**TOWN BOARD SEQRA RESOLUTION
AND NEGATIVE DECLARATION****July 8, 2013****TOWN OF MARCELLUS**

Councilor Scanlon moved and Councilor Lathrop seconded the following Resolution:

WHEREAS, the Town Board of the Town of Marcellus, at its regular meeting held on June 10, 2013 introduced proposed Town of Marcellus Local Law No. 2-2013, in accordance with the New York State Municipal Home Rule Law; and

WHEREAS, the proposed law consists of the adoption of proposed Town of Marcellus Local Law No. 2-2013, “A Local Law Amending The Town Of Marcellus Zoning Law As Enacted By Local Law No. 4-2009, Titled ‘Town of Marcellus Zoning Law of 2009’, As Heretofore Amended By Establishing Cemeteries As A Permitted Use In Certain Zoning Districts Within The Town”; and

WHEREAS, proposed Local Law No. 2-2013 will have the effect of establishing cemeteries as a permitted use in certain zoning districts within the Town of Marcellus; 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 of New York (SEQRA), requires that as early as possible after submission of a proposed action, an involved agency shall make a determination whether a given action is subject to the aforementioned law; and

WHEREAS, on June 10, 2013 the Town of Marcellus Town Board declared itself lead agency and determined the adoption of Local Law No. 2-2013 to be a Type 1 action for purposes of SEQRA; and

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

WHEREAS, the aforementioned 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; and

NOW, THEREFORE, 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 reason contained therein; and it is further

RESOLVED, that the Town's legal counsel, distribute and publish the attached Negative Declaration pursuant to the requirements of 6 N.Y.C.R.R., part 617, as necessary.

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

Peter Hakes	Councilor	Voted	Absent
Thomas C. Lathrop	Councilor	Voted	Yes
Kevin O'Hara	Councilor	Voted	Yes
John Scanlon	Councilor	Voted	Yes

Daniel J. Ross	Supervisor	Voted	Yes
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The foregoing resolution was thereupon declared duly adopted.

DATED: July 8, 2013

ADOPT LOCAL LAW: Jim Gascon, Town Attorney, requested that we table adopting the Local Law until we hear back from the County.

SEVICE AWARDS RESOLUTION: Councilor O'Hara made a motion to accept The Resolution closing the Town of Marcellus Service Awards Reserve Fund and transfer all the monies to a newly created account titled Town of Marcellus Fire Fund #1. Councilor Scanlon seconded this motion.

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

Carried

TOWN OF MARCELLUS

TOWN BOARD RESOLUTION

July 8, 2013

TOWN OF MARCELLUS

Councilor O'Hara moved and Councilor Scanlon seconded the following Resolution:

WHEREAS, the Town of Marcellus maintains a Service Award Program established pursuant to Article 11-A of the General Municipal Law for the benefit of qualifying members of the Town of Marcellus Volunteer Fire Department; and

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WHEREAS, in furtherance of the Town's obligations pursuant to the Service Award Program, the Town established the "Town of Marcellus Service Award Reserve Fund", Account Number: 320125010605 ("Reserve Fund"); and

WHEREAS, the Town Board hereby determines it is necessary and in the best interest of the Service Award Program to close the Reserve Fund and transfer all monies contained therein to a newly created account titled, “Town of Marcellus Fire Fund #1”, Account Number 320125010530; and

WHEREAS, the Town of Marcellus Fire Fund #1 shall be maintained and administered pursuant to Article 11-A of the General Municipal Law and any rules and/or regulations promulgated thereunder, for the benefit of the Town of Marcellus Volunteer Fire Department; and

NOW, THEREFORE BE IT RESOLVED, that pursuant to the Town’s obligations under the Service Award Program the Town Board hereby authorizes the opening of the account, Town of Marcellus Fire Fund #1, Account Number 320125010530 (“Fire Fund #1); and it is further

RESOLVED, all funds contained in the Reserve Fund in the amount of approximately Twenty Three Thousand Ninety Seven Dollars and 00/100 (\$23,097.00) shall be transferred to Fire Fund #1; and it is further

RESOLVED, following the transfer of funds from the Reserve Fund to Fire Fund #1, the Reserve Fund shall be closed.

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

Peter Hakes	Councilor		Absent
Thomas C. Lathrop	Councilor	Voted	Yes
Kevin O’Hara	Councilor	Voted	Yes
John Scanlon	Councilor	Voted	Yes
Daniel J. Ross	Supervisor	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

DATED: July 8, 2013

Discussion Agenda

Items from the Board: Councilor Lathrop asked how come we are paying so many late fees. Supervisor Ross explained that sometimes bills are due before the next board meeting, but they have to be approved by the Board.

Councilor Scanlon requested that the Highway Department start writing on vouchers, which track the voucher is for.

Councilor Lathrop asked about the house on Scotch Hill that had a fire last year. Jim Gascon is sending a notice to John Houser, Code Enforcement Officer, explaining step by step what actions will need to be taken to demolish the house.

Councilor O'Hara wants to thank the community and the employees at Marcellus Park for the "Teal there's a Cure" walk/run. Over 700 people participated in the event. Everything went very well this year.

Items from the Floor: Marge Wipper, of Brewer Road, asked about the update on the water issue. Wondering if someone from the DEC would still be available to come out and have a meeting regarding the water issues. Supervisor Ross stated that he is in contact with the DEC. At this time, the DEC is still working with the three families that have the major water issues in the Amber Road, Brewer Road and Hayden Road area.

Bernie Montgomery asked about the 2010 Supervisor's report and if it was filed yet. Supervisor Ross explained that the accountant just received new software and that she is still working on it.

Executive Session: Councilor Scanlon made a motion to enter into Executive Session at 7:55 pm seconded by Councilor O'Hara. The purpose of this meeting is a personnel matter at the Highway Department.

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

Carried

Respectfully Submitted,

Sandy Taylor,
Town Clerk

