

TOWN OF MARCELLUS
TOWN BOARD MEETING MINUTES

July 9, 2007

A regular meeting of the Town Board of the Town of Marcellus, County of Onondaga, State of New York was held on Monday, July 9, 2007 at 7:00 P.M. in the Town Hall, 24 East Main Street, Marcellus, New York. Those present were:

Daniel J. Ross, Supervisor
Bernard L. Montgomery, Councilor
Thomas C. Lathrop, Councilor
James A. Sheridan, Councilor
Donald G. Sherman, Councilor

Also present: Karen R. Pollard, Town Clerk; Laurie Stevens, Deputy Town Clerk; Margaret Gerbsch, Accountant; Donald MacLachlan, Highway Superintendent; William Reagan, Code Enforcement Officer; Phil Coccia, Recreation Leader; Edward Heinrich, Robert Dorchester, Diana Bird, James LaRose, Charles I. Black, Brud Wilson, Maureen Curtin and Mary Moran.

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

Copies of the minutes of the Town Board Meeting held on June 11, 2007 and the Special Town Board Meeting held on June 28, 2007 was given to the Board Members. Councilor Lathrop made a motion seconded by Councilor Sherman to approve the minutes as presented. All voted aye. Carried.

The Abstract of Audited Vouchers was given to the Board Members as submitted by the Town Clerk, Abstract #33 as of July 3, 2007, Claims #573 – 672 and Highway Claims #100 – 119.

	<u>Expenses</u>
General Fund	\$15,937.59
General Fund – Part Town	307.83
Highway – Town Wide	9,508.20
Highway – Part Town	55,703.73
Fire	9,835.11
Ambulance Fund	45,450.00
Sewer	37,448.93
Water	28,963.61
Trust & Agency	1,168.00

Bills paid between meetings: NYSE&G 24 East Main Street (clm 572) \$171.42 Check no. 20001

Board Members were given copies of the Activity Report as of July 3, 2007 and monthly statement of bank balances as of June 30, 2007.

	<u>Total Revenue</u>	<u>Total Expense</u>
General Fund	\$40,459.33	\$92,990.01
General Fund – Part Town	1,129.00	6,524.80

Highway – Town Wide	155.21	8,127.48
Highway – Part Town	247.50	36,082.01
Fire	1,090.16	29,814.18

Councilor Lathrop made a motion seconded by Councilor Montgomery to approve and pay the bills, approve the monthly activity report as of July 3, 2007 and the monthly statement of bank balances as of June 30, 2007. All voted aye. Carried.

OLD BUSINESS:

Report from Department Liaisons: None

NEW BUSINESS:

Resolution: New York State Property Taxpayer Protection Act: A letter and a sample resolution was received from James N. Tedisco, Assembly Minority Leader, appealing for the town’s support for the recently introduced “New York State Property Taxpayer Protection Act”. Councilor Lathrop made a motion seconded by Councilor Sherman to endorse the “New York State Property Taxpayer Protection Act” with the following resolution and to forward documentation of the support to the necessary state officials. Resolution #035-07 is as follows:

Resolution #035-07

WHEREAS, The tremendously high property tax burden on New York families and businesses is the number one issue facing our community today, and the sheer cost of living in New York has forced many residents and businesses to leave, thus slowing the economic engine of the state; and

WHEREAS, Young people are finding it difficult to purchase homes, seniors are struggling to maintain their homes, and businesses are facing immense challenges to create and retain jobs; and

WHEREAS, New Yorkers face the highest property taxes in the nation, and when measured as a percentage of home value, nine of the top 10 property tax rates in the entire country belong to counties in New York; and the State must act now to thwart the detrimental effects that high property taxes are having on local governments; and

WHEREAS, Assembly Minority Members have introduced the “New York State Property Taxpayer Protection Act (Assembly Bill 8775),” which puts forth new and innovative ideas for property tax reform that limit the amount of school districts can raise annually through local tax levies to four percent or the rate of inflation, whichever is less; in addition the Act would relieve municipalities and school districts of unfounded mandates, reduce county Medicaid costs, strengthen financial accountability over school tax dollars, promote local government efficiency, and encourage local option insurance pooling; and

WHEREAS, The “New York State Property Taxpayer Protection Act” will help fix New York’s broken property tax system, providing homeowners, businesses and municipalities significant and lasting relief from the crushing burden of skyrocketing property taxes; and now therefore, be it

RESOLVED, That this Legislative Body pause in its deliberations to acknowledge New York States property tax crisis and urge the immediate passage and chaptering of the “New York State Property Taxpayer Protection Act,” which will help local governments reinvigorate New York’s economy by providing incentives fro people and businesses to move and stay here; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to the Governor of the State of New York, the Temporary President of the New York State Senate, the Speaker of the New York State Assembly, and to each member of the New York State Legislature.

All voted aye.

Carried.

Dated: July 9, 2007

Set Public Hearing: Proposed Local Law for Brush, Grass, Rubbish and Weed

Control: Councilor Montgomery made a motion seconded by Councilor Sherman to schedule a public hearing for August 13, 2007 at 7:00 pm for the proposed Local Law No. 4 dealing with Brush, Grass, Rubbish and Weed Control in the Town of Marcellus. All voted aye.

Carried.

The notice of public hearing is as follows:

TOWN OF MARCELLUS
NOTICE OF PUBLIC HEARING

Please take notice that the Town Board of the Town of Marcellus, Onondaga County, New York will hold a public hearing at the Marcellus Town Hall, located at 24 E. Main Street, Village of Marcellus, New York on the 13th day of August, 2007 at 7:00 pm to consider Local Law No. 4 of the year 2007,

TITLED

BRUSH, GRASS, RUBBISH AND WEED CONTROL

§ 1 Title

This Local Law shall be known as the “Brush, Grass, Rubbish and Weed Control Local Law of the Town of Marcellus.

§ 2. Declaration of Policy.

- A. It is hereby declared to be the policy of the Town Board of the Town of Marcellus to provide for the proper use of land to prevent unhealthful, hazardous or dangerous conditions resulting from the accumulation of brush, grass, rubbish or weeds, or growth of harmful or poisonous shrubs or weeds, and to protect the public health, safety and general welfare of the residents of this Town.
- B. By this Local Law, the Town Board of the Town of Marcellus seeks to remove such dangers to health, life and property by requiring owners of land to cut, trim or remove brush, grass, rubbish or weeds or cut, trim, remove or

destroy poisonous or harmful shrubs or weeds, and, upon the default of the owner to do so, cause the same to be done and assess the costs against the real property(s) on which such brush, grass, rubbish, shrubs or weeds are found.

§ 3. Definitions.

The following terms shall have the meanings indicated:

"Owner" includes the following:

- A. The owner of the real property(s) on which any brush, grass, rubbish or weeds ordered cut, trimmed or removed pursuant to this Local Law is located, or upon which any harmful or poisonous weeds or shrubs ordered cut, trimmed, removed or destroyed are located.
- B. The owner of the real property(s) immediately fronting on a portion of any highway, street or road of the Town of Marcellus upon which portion any rubbish ordered removed pursuant to this Chapter is located.

"Rubbish" includes the following:

- A. Refuse, garbage and discarded matter;
- B. Tree trimmings, or trees or portions thereof severed from their roots, or uprooted; and
- C. Brush or shrubbery trimmings, or brush or shrubbery, or portions thereof, severed from their roots, or uprooted.

§ 4 Duty of Owner or Occupant.

It shall be the duty of any owner or occupant or person having control of any lot or plot of land in the Town of Marcellus to cut and remove, or cause to be cut and removed, all brush, grass, rubbish and weeds or other harmful or poisonous vegetation as often as may be necessary to comply with the provisions of this Local Law. All premises and immediate exterior property shall be maintained free from and grass or weeds in excess of 10 inches, rubbish and harmful or poisonous vegetation.

§ 5 Inspection and Report.

Upon receipt of a written complaint that there exists an unhealthful, hazardous or dangerous condition due to the accumulation of brush, grass, rubbish or weeds, or an accumulation of poisonous or harmful shrubs, weeds or other vegetation upon any property within the Town of Marcellus, the Code Enforcement Officer shall make or cause to be made an inspection of the subject property. A written report of such inspection shall be made by and maintained in the office of the Code Enforcement Officer. Copies shall be transmitted to the Town Board.

§ 6 Regulation by Town .

After review of such complaint, the Code Enforcement Officer shall make a determination as to whether unhealthful, hazardous, or dangerous conditions exist due to the accumulation of brush, grass, rubbish or weeds, or a growth or accumulation of poisonous or harmful shrubs or other vegetation upon property within the Town. Upon

making an affirmative determination, the Code Enforcement Officer shall serve or caused to be served the notice as herein provided, upon the owner(s), occupant(s) or person(s) having control of such property(s) in person or by regular mail or certified mail, return receipt requested.

§ 7 Contents of Notice and Order.

Such Notice shall contain a description of the premises, a statement of the particulars in which the premises is unhealthful, hazardous or dangerous, and shall contain an Order of the Code Enforcement Officer requiring abatement of the conditions stated in the Notice, stating a time for the completion of such abatement. The Order shall state that such abatement must be completed within five (5) days of the service of the Notice and Order.

§ 8 Compliance Required.

Any person, corporation or association being the owner of real property in the Town of Marcellus shall be required to cut, trim or remove brush, grass, rubbish or weeds or poisonous or harmful vegetation upon their lands when ordered to do so by the Code Enforcement Officer and upon receipt of the Notice and Order provided for herein.

§ 9 Failure to Comply.

Whenever a Notice and Order provided for herein has been served upon such owner(s), occupant(s) or person(s) having control in the manner required, and such person shall neglect or fail to comply with the requirements of such Notice and Order within the time provided, the Code Enforcement Officer shall direct that a Notice of Hearing shall be issued and served upon the property owner(s), occupant(s) or person(s) having control directing that person or entity to appear before the Town Board.

§ 10 Hearing.

At least five (5) days' written notice of the hearing shall be given to the owner(s), occupant(s) or person(s) having control and other interested parties. The Notice shall state the time, date and place of a hearing to be conducted to review the determination of the Code Enforcement Officer that such unhealthful, hazardous or dangerous conditions exist and that appropriate enforcement action will be considered. The owner(s), occupant(s) or person(s) having control and other interested parties may attend the hearing, be represented by counsel, offer evidence and call witnesses on their behalf. The hearing shall be conducted by the Supervisor of the Town of Marcellus or by a hearing officer appointed by the Supervisor and the Town Board.

If the hearing results in a determination that unhealthful, hazardous or dangerous conditions exist and that the owner(s), occupant(s) or person(s) having control has willfully failed to abide by the Notice and Order of the Town Board, the Supervisor may direct the performance of appropriate remediation work by Town employees or agents.

§ 11 Performance of Work by Town.

Upon authorization from the Supervisor, Town employees or agents shall enter upon the subject property and perform such remediation work as is required to alleviate the unhealthful, hazardous or dangerous conditions that have been found to exist.

§ 12 Reimbursement for Costs; Assessment upon Real Property.

The Town shall be reimbursed for the cost of the work performed or services rendered by Town employees or agents at the direction of the Supervisor and Board. Such costs shall include all costs related to ascertaining the identity and location of the owner(s), occupant(s) or person(s) having control of the property, service of Notices required hereunder, the performance of remediation work on the property by Town employees, and the removal and disposal of brush, grass, or rubbish. The expenses so determined shall be reimbursed to the Town by means of assessment and levy upon the land whereon such work was performed or such services rendered, and such expenses shall constitute a lien and a charge on the real property on which it is levied and shall be collected in the same manner and at the same time as other Town taxes.

§ 13 Interference with Town Employee or Agent.

It shall be unlawful for any person to resist, obstruct, or interfere with any Town employee or agent engaged in the performance of remediation work ordered by the Supervisor and Town Board of the Town of Marcellus.

§ 14 Penalties for Offenses.

Any person who shall violate any provision of this Local Law shall, in addition to reimbursing the Town for the costs of remediation work, be liable for a fine of not more than Two Hundred Fifty Dollars (\$250.00) for each offense. For purposes of enforcement such violation shall be deemed a violation subject to term of imprisonment for an excess of 90 days to allow the Town of Marcellus Justice Court to obtain jurisdiction for service of a warrant.

§ 15 Repeat Offenses.

The owner(s), occupant(s) or person(s) having control over any land or property found to be in violation of this Local Law, after the hearing provided for herein, shall not thereafter be entitled to further hearings for subsequent offenses in the same calendar year. Repeat or subsequent offenses occurring within the same calendar year on the same property shall be corrected by the Town, or its agent, without notice to the owner(s), occupant(s) or person(s) having control of the property. After initial notification and a hearing, such owner(s), occupant(s) or person(s) having control of the property will be presumed to have been given sufficient notice of violation of this Local Law for the duration of the calendar year.

§ 16 Validity.

If any article, section, subsection, paragraph, sentence, clause, phrase or provision of this Local Law shall be, for any reason, held or adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall not affect the validity and enforceability of the remainder of this Local Law.

§ 17 Effective Date.

Subject to the provisions of Municipal Home Rule Law of the State of New York, this Local Law shall take effect immediately upon its filing in the Office of the Secretary of State of the State of New York.

DATED: July 9, 2007

Southern Onondaga Water: Resolution for the Advertising for Bids for

Construction of Water Lines: Supervisor Ross presented to the Board for their consideration, the following resolution for the Advertisement of Bids for the Construction of Water Lines for the Southern Onondaga (Marcellus) Water District. Resolution #036-07 is as follows:

#036-07

At a regular meeting of the Town Board of the Town of Marcellus, held at the Town Hall, 24 E. Main Street in the Town of Marcellus, County of Onondaga and State of New York on July 9, 2007.

PRESENT:	Daniel J. Ross	Supervisor
	James A. Sheridan	Councilor
	Donald G. Sherman	Councilor
	Thomas C. Lathrop	Councilor
	Bernard L. Montgomery	Councilor

IN THE MATTER OF ADVERTISING FOR BIDS FOR THE CONSTRUCTION OF WATER LINES AND DISTRIBUTION SYSTEM FOR THE SOUTHERN ONONDAGA (MARCELLUS) WATER DISTRICT AND CONSTRUCT AN INTER-MUNICIPAL WATER DISTRIBUTION SYSTEM FOR WATER DISTRICTS IN SPAFFORD, MARCELLUS AND OTISCO.

WHEREAS, the Town Board of the Town of Marcellus (“Marcellus”) by resolution duly adopted on August 24, 2006 previously approved the creation of the Southern Onondaga Area (Marcellus) Water District (the “Marcellus Water District”); and

WHEREAS, the Town Board of the Town of Spafford (“Spafford”) by resolution duly adopted on August 25, 2006 previously approved the creation of the Southern Onondaga Area (Spafford) Water District (the “Spafford Water District”); and

WHEREAS, the Town Board of the Town of Otisco (“Otisco” and, collectively with Spafford and Marcellus, the “Towns”) by resolution duly adopted on August 14, 2006 previously approved the creation of the Southern Onondaga Area (Otisco) Water District (the “Otisco Water District” and, collectively with the Spafford Water District and the Marcellus Water District, the “Water Districts”); and

WHEREAS, Spafford recently received a notice from the New York State Department of Audit and Control, Albany, New York (the “Comptroller”), dated August 2, 2006, stating that the Comptroller had approved the formation of the Spafford Water District; and

WHEREAS, the Town Board of Spafford has reviewed a completed Full Environmental Assessment Form, and on the basis of such review, issued a negative declaration determining that the Improvements to be undertaken in furtherance of the purpose to be financed pursuant to this Resolution will not have a significant effect on the environment.

NOW THEREFORE BE IT RESOLVED BY THIS TOWN BOARD OF MARCELLUS AS FOLLOWS:

1. Bids shall be solicited for Job No. 823.004 as approved by Barton & Loguidice, P.C., engineers for the project.
2. The following contracts will be bid:
 - a. Contract No. 1: Water Mains (General Construction)

- b. Contract No. 2A: Booster Pump Station (General Construction)
- c. Contract No. 2B: Booster Pump Station (Electrical Construction)
- d. Contract No. 3: 388,000 Gallon Water Storage Tank (General Construction)

Moved by Councilor Lathrop seconded by Councilor Sheridan.

VOTING:

Daniel J. Ross	Aye
James A. Sheridan	Aye
Donald G. Sherman	Aye
Thomas C. Lathrop	Aye
Bernard L. Montgomery	Aye

Resolution Carried.

Zoning Board of Appeals: Cunningham Refund: The Town Board members were requested by the Zoning Board of Appeals to refund a special permit fee of \$25.00 to Shannon Cunningham, 4452 Dublin Road. Mrs. Cunningham's building plans have changed and a special permit is no longer necessary. Councilor Montgomery made a motion seconded by Councilor Sherman to refund the special permit fee of \$25.00 to Shannon Cunningham. All voted aye. Carried.

Recreation Contracts: Doug Rougeux – Bubble Show: Councilor Lathrop made a motion seconded by Councilor Montgomery to authorize Supervisor Ross to enter into an agreement with Doug Rougeux for a Bubble Show at a charge of \$290.00 to be held on the last day of the Summer Recreation Program. All voted aye. Carried.

Centers for Nature Education at Baltimore Woods: Contract for Project Watershed: Supervisor Ross advised the Board of a request from Patty Weisse, Executive Director of Centers for Nature Education at Baltimore Woods, for the Town of Marcellus' assistance with a contract for a Legislative Member Initiative for the Project Watershed Sustainability. This New Member Item process requires the funds be channeled through a municipal agent. Councilor Sheridan made a motion seconded by Councilor Sherman to authorize the Supervisor to sign the necessary paperwork for the contract for Legislative Member Initiative for the Project Watershed Sustainability. All voted aye. Carried.

Establish a Search Committee for Town Attorney: Due to the forthcoming retirement of the current Town Attorney, effective January 1, 2008, Councilor Sheridan made a motion seconded by Councilor Montgomery to form a search committee for a replacement. All voted aye. Carried.
Supervisor Ross will develop an outline of duties for the position and appoint the committee.

Cancellation of July 26th Workshop: Councilor Lathrop made a motion seconded by Councilor Sheridan to cancel the regularly scheduled Workshop Meeting set for July 26, 2007. All voted aye. Carried.

Southern Onondaga Water District: Approval of Vouchers #30 - #32: Councilor Sherman made a motion seconded by Councilor Sheridan to approve the following payments in conjunction with the Southern Onondaga Area Water District:

Voucher #30	Barton & Loguidice	\$	1,480.50	
Voucher #31	Barton & Loguidice	\$	1,536.00	
Voucher #32	Hiscock & Barclay	\$	1,073.01	
Voucher #33	Town of Otisco	\$	24,167.71	
Voucher #34	Craig J. Billinson & Associates	\$	194.47	
Voucher #35	Reagan and Dailey	\$	3,780.00	
All voted aye.				Carried.

Reagan Insurance Renewal: Supervisor Ross advised the Board that the Reagan Agency has provided a proposal for the renewal of our insurance policy. There is a decrease in the premium from \$42,532.00 to \$39,804.00. Councilor Sherman made a motion seconded by Councilor Sheridan to accept the proposal for the renewal of insurance with the Reagan Agency. All voted aye. Carried.

ITEMS FROM THE BOARD:

Councilor Lathrop questioned the status of the Agreement of Municipal Cooperation for the Limeledge Water District. Supervisor Ross advised the Board that the Towns of Marcellus and Skaneateles have signed it and it is now at the Village of Marcellus. There are a couple of issues the Village is working on and need to be resolved before they sign the agreement.

Councilor Montgomery asked if the survey of the Town Hall by the Office of Court Administration has been received yet? Supervisor Ross reported that at this point he has not heard anything.

Councilor Lathrop wondered if the site has been chosen for the water tank in conjunction with the Limeledge Water District. Supervisor Ross reported that it has not yet been decided and the issue will be held until the return of Counsel Cogswell.

Councilor Lathrop asked if there is any information on the banking comparison the Town has recently completed. Supervisor Ross reported not at this time, but it will be soon.

Councilor Lathrop made a motion seconded by Councilor Sheridan to proceed with a study and have a discussion on the possible addition and renovation of the current Town Hall. This would be held at a work session of the Town Board and would include the architect. All voted aye. Carried.
Supervisor Ross will contact the architect to check on available dates and will inform the Board.

ITEMS FROM THE FLOOR:

Edward Heinrich, 3819 Bishop Hill, commended the Board of the absolutely beautiful condition of the Marcellus Park. The Recreation Department and the Park Staff should be complimented on the pride they take in the park and new playground is wonderful addition. Mr. Heinrich stated that he was pleased that the Town Board is moving ahead with Town Hall project and he hopes that the recommendations set forth by the Town Hall Advisory Committee are considered.

William Reagan, Code Enforcement Officer, brought to the Board attention a problem in the Aquinnah Heights development. There is a swale was never properly graded and therefore is not draining correctly. Mr. Reagan has received numerous complaints from the adjacent homeowners. Supervisor Ross directed Mr. Reagan to send a letter to the developer to correct the issue. Also inform the developer if he fails to comply, the Board will instruct the Marcellus Highway Department to grade the swale and the cost will be assessed against the letter of credit for the Aquinnah Heights development.

Charles Black, 2525 Lawrence Road, discussed with the Board the issue the eastern end of Lawrence Road being included in the Limeledge Water District. They have been receiving water from the Marcellus Village system for years. Supervisor Ross advised Mr. Black that the boundaries for the district have been drawn but will continue to look into the matter.

Councilor Sherman made a motion seconded by Councilor Sheridan to adjourn the meeting at 8:03 P.M. All voted aye. Carried.

Respectfully submitted,

Karen R. Pollard, Town Clerk