

December 14, 2015

FIRST MEETING OF THE MONTH
TOWN BOARD TOWN OF MARLBOROUGH
21 MILTON TURNPIKE, MILTON NY
DECEMBER 14, 2015 7:30 PM
MINUTES OF MEETING

Present: Supervisor Osborn
Councilman Molinelli
Councilman Corcoran
Councilman Baker

Colleen Corcoran, Town Clerk

Absent: Councilman Koenig

ITEM #1 Call to order - Pledge of Allegiance

ITEM #2 Moment of Silence

ITEM #3 Motion to approve agenda

Councilman Baker made a motion to amend the agenda to add ITEM#4A Motion to approve minutes from the November 16, 2015 Town Board/Planning Board meeting. Motion seconded by Councilman Corcoran.

*Y*eas: 4 *N*ays: 0 *C*arried

Councilman Corcoran made a motion to amend the agenda to correct a typo in Resolution #103 To establish 2016 salaries – Transfer Station Manager should read \$11,000.00 max. Motion seconded by Councilman Baker.

*Y*ea*s*: 4 *N*ay*s*: 0 *C*arried

Councilman Corcoran made a motion to amend the agenda to correct the address on the bottom of the last page of Resolution #104 to read 21 Milton Turnpike. Motion seconded by Councilman Baker.

*Y*ea*s*: 4 *N*ay*s*: 0 *C*arried

Councilman Corcoran made a motion to amend ITEM #8 Executive Session to read ITEM #7A Executive Session. Motion seconded by Councilman Molinelli.

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Councilman Molinelli made a motion to amend Resolution # 100 on the agenda to read To award a bid. Motion seconded by Councilman Corcoran.

Yeas: 4 *Nays: 0* *Carried*

Councilman Baker made a motion to approve the agenda as amended. Motion seconded by Councilman Corcoran.

ITEM #4 Motion to approve minutes from the November 23, 2015 meeting
Councilman Baker made a motion to approve minutes from the November 23, 2015 meeting. Motion seconded Councilman Corcoran.

(Voted on before the first Public Hearing Councilman Molinelli had not arrived yet.)

ITEM#4A Motion to approve minutes from the November 16, 2015 Town Board/Planning Board meeting

Councilman Corcoran made a motion to minutes from the November 16, 2015 Town Board/Planning Board meeting. Motion seconded by Councilman Baker.

ITEM #5 Authorize payment of bills

Councilman Baker made a motion to pay the abstract in the amount of \$215,373.57. Motion seconded by Councilman Corcoran.

(Voted on before the first Public Hearing Councilman Molinelli had not arrived yet.)

ITEM #6 Comments on the agenda

No comments on the agenda

ITEM #7 Presentations

No presentations

ITEM #7A Executive Session

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ITEM #8 Report of departments

A) SUPERVISOR- STEPHEN OSBORN

No report

B) BUILDING INSPECTOR – THOMAS CORCORAN

**THOMAS CORCORAN/BUILDING INSPECTOR
MONTHLY REPORT/BUILDING DEPARTMENT
MONTH OF: NOVEMBER 2015**

CERTIFICATE OF OCCUPANCY 14 STOP WORK ORDER _____
REQUEST FOR INFORMATION 11 Z.BA APPLICATION _____
TRAILER PARK RENEWALS _____ ORDER TO REMEDY 8 _____
BUILDING EXTENSIONS 1 COMPLAINTS 41 _____
FIRE INSPECTIONS 9 BURN PERMITS ISSUED 20 _____
FIRE CALLS 2 CLOTHING BIN RENEWALS _____

BUILDING PERMITS 21

ONE FAMILY	
<u>1</u> TWO FAMILY	<u>1</u> SIGNS
<u>2</u> ELECTRICAL/GENERATOR	REPAIRS/ALTERATIONS/CONVERSION
<u> </u> FURNACE/BOILER (INDOOR)	<u>2</u> ADDITIONS/RENOVATIONS
<u> </u> DEMOLITION	FIREPLACE/CHIMNEY LINER
<u> </u> TANK INSTALLATION/REMOVAL	DECKS/STAIRS
<u>3</u> STOVES (WOODSTOVE, PELLET)	POLE BARN
<u> </u> POOL/HOT TUB	MOBILE HOME
<u>1</u> SHED	CARPORT/GARAGE
<u>1</u> ROOF	<u>10</u> SOLAR PANELS

ESTIMATED COST OF BUILDINGS \$633,655.00

CERTIFICATE OF OCCUPANCY	\$ <u>150.00</u>
REQUEST FOR INFORMATION	\$ <u>1100.00</u>
BUILDING EXTENSIONS	\$ <u>100.00</u>
TRAILER PARK RENEWALS	\$
BUILDING PERMITS	\$ <u>4888.13</u>
FIRE INSPECTION FEES	\$ <u>280.00</u>
ZBA ESCROW FEES	\$
ZBA APPLICATION	\$
TOTAL MILEAGE: 1856 MILES	
TOTAL GAS USAGE: 116 GALLONS	
TOTAL MONTHLY ZONING FEES	\$
TOTAL MONTHLY RECEIPTS	\$ <u>6518.13</u>

Tom Corcoran added that since solar is growing and the amount of open land Marlboro has, he would like to start discussing solar farms with the Town Board and get it in the code. He and the Board had a brief discussion.

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C) POLICE CHIEF – GERALD COCOZZA

Following is a summary of the activity of the Police Department for the month of November 2015

<u>MOTOR VEHICLE ACCIDENT</u>	Nov. 15	Yr. Date 15	Nov. 14	Yr. Date 14
Personal injury	3	49	1	51
Fatal	0	1	0	0
Property Damage	16	166	19	159
Report Not Required	5	44	5	51

Total	24	260	Total	25	261
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SUMMONSES ISSUED

Vehicle and Traffic	103	1674	77	1414
Parking	1	19	2	11

COMPLAINT ACTIVITY

Total Blotter Entries	282	3319	320	3852
Total Arrests	23	308	17	267

<u>TOTAL TELEPHONE CALLS</u>	1696	18721	1656	17785
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POLICE DEPARTMENT OVERTIME HOURS payroll 24 & 25

Full Time Officer Overtime	256	(\$12,544)	1011	123.5	(\$5765)	838
Full Time Office Grant Overtime	22	(\$1078)	151			
Part Time Officer Overtime	121.5	(\$6075)	823	194	(\$6984)	886.25
Part Time Officer Grant Overtime	0	(\$0)	64			
Full Time Dispatchers Overtime	0	(\$0)	0	6	(\$225)	19
Part Time Dispatchers Overtime	39.5	(\$830)	218.5	72	(\$1457)	96

<u>Police Mileage</u>	10957	134,734	12195	111281
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The Chief and the Board had a brief discussion about the overtime numbers. Chief said he will soon be asking the Board for another full time officer which will alleviate a lot of the overtime.

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D) HIGHWAY SUPERINTENDENT – GAEL APPLER, SR.

HIGHWAY SUPERINTENDENT

*Town of Marlborough
1650 Rt. 9W, P.O. Box 305
Milton, New York 12547*



GAEL R. APPLER, Sr.
Superintendent of Highways

*Home: (845) 795-2469
Office: (845) 795-2272 ext. 6
Fax: (845) 795-6037*

*Supervisor Osborn
Town Clerk Colleen Corcoran
Town Board Members*

Monthly Report for November 2015

ROADS: We milled out bad spots on Cubbard Dr. then replaced these. We spent many days vacuuming leaves out of the ditch lines. We had 2-3 men cleaning out and inspecting all the c.b.s throughout the Township as required by DEC regulations.

MAINTENANCE: We finished getting all our plow trucks ready for the snow/ice season and worked on prepping our sweeper and etc. for winter storage, then putting them under cover.

SHARED SERVICES: We did blacktop ramps at the new fuel pad. We had 2 men hauling blacktop for Plattekill for a day.

WATER DEPARTMENT: We assisted W.D. in replacing a hydrant along 9W on 11/9. On 11/13 we assisted W.D. with repairing a service line off Lattintown Road.

FUEL USAGE: Gas: 344.3 gallons Diesel: 643.0 gallons.

*Gael R. Appler, Sr.
Highway Superintendent*

GRA/cw

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E) WATER SUPERINTENDENT – CHARLIE MUGGEO

**WATER SUPERINTENDENT
TOWN OF MARLBOROUGH
1650 ROUTE 9W, PO BOX 305
MILTON, NY 12547**

**CHARLES MUGGEO
WATER SUPERINTENDENT**

**FAX (845) 795-2031
PHONE (845) 795-5100**

DATE: 12/14/2015

**TO: SUPERVISOR STEPHEN OSBORN
TOWN BOARD MEMBERS
TOWN CLERK**

RE: MONTHLY REPORT FOR NOVEMBER

Water consumption totaled 12.9 million gallons that is a daily usage of 432,000. Compared to last month 13.8 million gallons and a 447,000 daily usage. Compared to a year ago water consumption was 13.3 million for the month which is a daily usage of 445,000.

SUMMARY FOR THE MONTH:

HYDRANTS: Repaired and installed hydrant on 9W because it was hit by a car. Repaired hydrant on South Rd.

CURB BOXES: Had to repair 2 curb boxes on Plattekill Rd., Lattintown Rd., and Western Ave.

WATER MAINS: We had to repair 8 inch water main on Mahoney Rd. and Hope Ln.

SERVICE LINES: Had to repair service lines on Western Ave. and Lattintown Rd.

SERVICE LINE INSPECTIONS: 1

CLOSINGS: 2

MARKOUTS: 20

Gallons of Gas: 220

Gallons of Diesel: 0

Mileage for the month: 2500

There was a brief discussion about what a curb box was.

There was a brief discussion about the cost to put the water line in on Main St. in Milton.

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F) TOWN CLERK-COLLEEN CORCORAN

12/03/2015

Town Clerk Monthly Report Monthly Report
November 01, 2015 - November 30, 2015

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Account Description	Fee Description	Account#	Qty	Local Share
Conservation	Conservation	A1255	16	117.88
			Sub-Total:	\$117.88
Dog Licensing	Female, Spayed	A2544	6	30.00
Dog Licensing	Female, Unspayed	A2544	1	10.00
Dog Licensing	Male, Neutered	A2544	6	30.00
Dog Licensing	Male, Unneutered	A2544	2	20.00
			Sub-Total:	\$90.00
General Fund	Water Service	2144SW	1	175.00
			Sub-Total:	\$175.00
LANDFILL FEES	T/s Permits	00-2130	1	75.00
LANDFILL FEES	T/s Punch Cards	00-2130	41	2,748.00
			Sub-Total:	\$2,823.00
Marriage Lic.	MARRIAGE LICENSE FEE	00-1255	2	35.00
			Sub-Total:	\$35.00
Misc Fees	Building Fees\Building Dept	00-2110	1	10,591.73
Misc Fees	Fire Fees/Building Dept	00-2025	1	560.00
			Sub-Total:	\$11,151.73
MISC. FEES	Accident Reports	00-1255	9	40.25
MISC. FEES	Certified Copies	00-1255	2	110.00
MISC. FEES	Foi Requests	00-1255	3	20.00
MISC. FEES	Minor Sales	00-2655	1	80.00
	Postage Fees		1	63.45
			Sub-Total:	\$313.70
			Total Local Shares Remitted:	\$14,706.31
Amount paid to: NYS Ag. & Markets for spay/neuter program				21.00
Amount paid to: NYS Environmental Conservation				2,021.12
Amount paid to: State Health Dept. For Marriage Licenses				45.00
Total State, County & Local Revenues:	\$16,793.43		Total Non-Local Revenues:	\$2,087.12

To the Supervisor:

Pursuant to Section 27, Sub 1, of the Town Law, I hereby certify that the foregoing is a full and true statement of all fees and monies received by me, Colleen Corcoran Town Clerk, Town of Marlborough during the period stated above, in connection with my office, excepting only such fees and monies, the application of which are otherwise provided for by law.

Supervisor _____ Date _____

Colleen Corcoran 11/30/15

Town Clerk _____ Date _____

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G) WASTEWATER TREATMENT FACILITY – ANTHONY FALCO

No report

H) DOG CONTROL OFFICER – ANDREW MCKEE

No report

I) ASSESSOR – CINDY HILBERT

No report

J) PLANNING-JOEL TRUNCALI

No report

ITEM #9 Report of Committees

A) RECREATION

Supervisor Osborn thanked Patti Haidaoui and Joe Wiles for successful Halloween events.

Councilman Molinelli thanked Steve Bianco for the work he did to the bocce court.

B) SOUTHERN ULSTER ALLIANCE

No news

C) EMERGENCY MANAGEMENT PREPAREDNESS COMMITTEE

No news

D) CAC

No news

E) IT COMMITTEE

Councilman Baker reported that the website training went very well and there was positive feedback.

Chief Cocozza said he is excited about the new website because it has some great new features.

F) MILTON TRAIN STATION FOUNDATION

No news

G) MILTON LANDING CITIZENS COMMITTEE

Supervisor Osborn said that Rosemary Wein just finished writing an Estuary Grant which will be submitted on Wednesday.

H) RIVITALIZATION/ECONOMIC DEVELOPMENT COMMITTEE

Supervisor Osborn said the committee met with the Dunkin Donuts applicant. The Town of Marlborough also was awarded \$135,000.00 from the Local Waterfront Revitalization Program. The Town now has about a quarter of a million dollars in planning funds.

I) MEET ME IN MARLBOROUGH

No news

J) HAMLET OF MILTON ASSOCIATION COMMITTEE

The tree is decorated and they had the tree lighting.

K) WATER COMMITTEE

Supervisor Osborn said the DEP wants to build a pipeline between the Town of Newburgh and the Village of Newburgh. Until issues with that are worked out the Town of Newburgh cannot guarantee a secondary supply of water. Our Town is still not signing the contract with them that doesn't say there is a secondary supply. The price of the water will also need to be renegotiated.

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L) TRANSFER STATION REIVIEW COMMITTEE

Councilman Baker said they are working with the Ulster County Resource Recovery Agency to get a new contract for 2016 because the bids from private haulers were too high. UCRRRA will have a meeting on December 22, 2015 to say if it's okay that they send us a contract. The Town will also be getting rid of tires at the Transfer Station.

ITEM #10 Old Business

A). TOMVAC

No new information

B). Survey of St. Andrews property for purchase

No new information

C). Municipal Parking

No new information

D). Proposed agreement with Newburgh

Already discussed

E). Milton Sewer Expansion 9W

No new information

F). Bayside

Councilman Corcoran said that the Board received a new proposed layout from Bayside. The layout consists of four buildings with a total of 105 apartments. They would be utilizing somewhere between 15-17 acres. The front parcel would be cut off to commercial and the corner parcel by the school would be donated to the Town. The back section of the property will be used. The proposed plan still shows the main road coming down to the traffic light.

The Board briefly discussed the new plans.

G). Local Waterfront Revitalization Program Grant

Supervisor Osborn said they received the grant and asked for a motion to remove Letter G from the agenda.

Councilman Baker made a motion to remove Letter G) Local Waterfront Revitalization Program Grant from Old Business on the agenda. Motion seconded by Councilman Corcoran.

Yea: 4

Nays: 0

Carried

H). Design Standards for Overlay District

Already discussed

I). Fueling System for the Town

Councilman Corcoran stated that the fueling station is all hooked up except for the computer system then the DEC will need to approve the tanks.

J). Milton Playground

Supervisor Osborn said he is waiting for a return call from Larry She from Danskammer to see how much of the proposed playground they would be willing to pay for.

K). Drainage District Maintenance Agreement bid

No new information

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L). Annual Maintenance for the Town Park bid

Councilman Baker made a motion to remove Letter L) Annual Maintenance for the Town Park bid from Old Business on the agenda. Motion seconded by Councilman Corcoran.

M). Sign Law

No new information

N). Transfer Station

Already discussed

ITEM #11 New Business

Colleen Corcoran asked the Board if they were going to re-bid and re-advertise the Ford Ranger that was recently put out for bid.

Councilman Baker made a motion to re-bid the 2005 Ford Ranger. Motion seconded by Councilman Corcoran.

Councilman Baker made a motion to re-advertise for the 2005 Ford Ranger. Motion seconded by Councilman Corcoran.

ITEM #12Correspondence

Supervisor Osborn read a resignation letter from Kristi Capra, Building/Zoning/Fire Secretary.

Supervisor Osborn explained that Ms. Capra had also helped the Town Clerk during tax time.

Supervisor Osborn read a letter from Colleen Corcoran, Town Clerk, stating that Sharon Broder was selected to fill the part-time vacancy for the 2016 tax season.

The majority of the Town Board discussed the situation with Ms. Corcoran.

Councilman Molinelli made a motion to hire Sharon Broder for part-time tax collection in the Town Clerk's Office for a total of 160 hours at \$12.50 per hour. Motion seconded by Councilman Baker.

Yeas: 3 Nays: 0 Abstain: 1 (Corcoran) Carried

Councilman Corcoran made a motion to accept the resignation of Kristi Capra. Motion seconded by Councilman Baker.

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ITEM #13 Public Comment

Mark Reynolds asked for dates of the next few meetings. He also asked when the swearing in of the newly elected and appointed will be.

James Garofalo questioned some items in Resolution #103.

ITEM #14 Resolutions

A). Resolution #99 To exempt Verizon Wireless from local land use review and approvals under the Marlborough Town Code, including but not limited to Chapter 152 of the Town Code

B). Resolution # 100 To award a bid

C). Resolution#101 To Authorize the supervisor to execute Agreements with Ulster County

D). Resolution #102 To appoint full time court clerk

E). Resolution # 103 To establish 2016 salaries

F). Resolution #104 To Authorize the filing of Negative Declaration and notice thereof pursuant to the requirements of SEQRA and 6 NYCRR § 617.12 of its implementing Regulations.

G). Resolution #105 To adopt Local Law #3 of the year 2015

There was a disagreement regarding the interpretation of the Local Law. Supervisor Osborn said that they will table Resolution #104 and Resolution #105 until the next meeting.

ITEM #15 ADJOURNMENT

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Supervisor Osborn proposes the following:

A). Resolution #99 To exempt Verizon Wireless from local land use review and approvals under the Marlborough Town Code, including but not limited to Chapter 152 of the Town Code

WHEREAS, the Town of Marlborough has received a proposed Agreement with Verizon Wireless, for lease of space on a water tower of the Marlborough Water District on real property of the Town located at Milton Turnpike near Walnut Lane in the Town of Marlborough and bearing Marlborough tax parcel number 103.1-4-18 (the “Property”); and

WHEREAS, the purpose of the lease is to co-locate telecommunication antennae on the water tower as an existing tall structure in accordance with preferences identified within Chapter 152 of the Town Code dealing with wireless telecommunication facilities; and

WHEREAS, the Town Board duly noticed and conducted a public hearing on December 14, 2015 regarding whether the activity should be exempt from local land use review and approvals under the Marlborough Town Code, including but not limited to Chapter 152 of the Town Code; and

NOW, IT IS HEREBY RESOLVED that the Town Board makes the following findings that local land use approvals are not required for the activity, because this transaction is deemed exempt from local land use and related regulations under standards identified by the courts of this State in Matter of Monroe County (72 N.Y.2d 338; 533 N.Y.S.2d 702):

1. The nature and scope of the instrumentality seeking immunity from the Town’s local zoning laws and regulations is, in effect, the municipality itself.

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2. There is no “encroaching government” proposing to make use of lands within the municipality.

3. The activity is consistent with Town policies, including the preference for locating telecommunication facilities on existing tall structures owned by the Town of Marlborough.

4. Local regulations, if applied, would not be more protective of town land use policies or the environment, in that the activity shall be subject to review by consultants of the Town regarding issues of public health safety and welfare, and the Town Board shall solicit the advice and recommendations of the Planning Board.

5. There are no reasonable or relevant alternative locations for the activity, and the activity represents a preferred location under local regulation.

6. The effect of the activity is to benefit legitimate local, state, and federal interests.

7. The extent of the public interest to be served by the transaction as set forth hereinabove.

8. There is no inter-governmental aspect to the activity. There has been opportunity for public comment in the form of the aforesaid public hearing.

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The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Osborn	Yes
Councilman Molinelli	Yes
Councilman Corcoran	Yes
Councilman Baker	Yes
Councilman Koenig	Absent

DATED: Milton, New York
December 14, 2015

COLLEEN CORCORAN, TOWN CLERK

U:\DOCS\10244\00303\RESOLUTION\22D8663.DOCX

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B). Resolution # 100 To award a bid

Supervisor Osborn proposes the following:

Whereas, sealed bids were accepted and received until November 25, 2015 for property maintenance at Cluett Schantz Memorial Park, and

Whereas, bids were open and read aloud, and

Whereas, the lowest bidder for the project was Zambito and Sons, Marlboro NY.

Be it resolved, that Zambito and Sons be awarded the bid for property maintenance at Cluett Schantz Park for the Total bid amount of \$38, 200.00

And it moves for adoption

Councilman Corcoran	Yes
Councilman Molinelli	Yes
Councilman Koenig	Absent
Councilman Baker	Yes
Supervisor Osborn	Yes

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C) Resolution#101 To Authorize the supervisor to execute Agreements with Ulster County

Supervisor Osborn proposes the following:

Whereas, it is the objective of both the County and the Town to reduce incidences of Driving While Intoxicated and Driving While Ability Impaired within the County and the Town and to reduce the sale of alcoholic beverages to persons under the age of twenty one, and

Whereas, the Towns Police Department is qualified and willing to provide DWI police patrols and other related services to assist the County in meeting said objectives, and

Be it resolved, that the Town Board hereby authorizes the Supervisor to sign a Task Force Agreement and a DWI Crack Down Enforcement Agreement with the county.

And it moves for adoption

Councilman Corcoran	Yes
Councilman Molinelli	Yes
Councilman Koenig	Absent
Councilman Baker	Yes
Supervisor Osborn	Yes

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December 14, 2015

D) Resolution #102 To appoint full time court clerk

Supervisor Osborn proposes the following:

Whereas, The Town of Marlborough Justice Court has a need for a full time court clerk, and

Whereas, Renee Borchert has been the part time court clerk since May 2015.

Be it resolved, that Renee Borchert be appointed as full time court clerk effective January 1, 2016, and

Be it further resolved, that the yearly rate is 30,000.00.

And it moves for adoption

Councilman Corcoran	Yes
Councilman Molinelli	Yes
Councilman Koenig	Absent
Councilman Baker	Yes
Supervisor Osborn	Yes

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E). Resolution # 103 To establish 2016 salaries

Supervisor Osborn proposes the following:

Be it resolved, that the salaries for the fiscal year 2016 are as follows:

NAME	SALARIES 2016
Town Supervisor	\$15,550.00
Budget Officer	\$59,852.00
Secretary to the Supervisor/Water	\$41,382.00
Deputy Supervisor	\$3,000.00
Town Clerk	\$45,521.00
Deputy Town Clerk	\$32,640.00
Town Council (each)	\$5,500.00
Website Administrator	\$1,000.00
Town Justices	\$27,000.00
Prosecutors	\$250.00 PER SESSION
Court Clerk (Full-Time)	\$33,150.00
Court Clerk (Full – Time)	\$30,000.00
Assessor	\$55,047.00
Assessor Assistant	\$36,808.00
ZBA Chairman	\$1,890.00
ZBA Members (each)	\$1,620.00
Planning Board Chairman	\$3,000.00
Planning Board Members (each)	\$2,400.00
Planning Board Secretary	\$13,000.00
Planning Board Secretary	\$1,133.00
Building Inspector	\$55,329.00
Secretary Building/ZBA	\$39,461.00

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Transfer Station Manager	\$11,000.00 max
Transfer Station Attendants	\$11,000.00 max
Recycling Coordinator	\$1.00
Water Superintendent	\$52,020.00
Water Department Employee	Contract
Water Department Employee	Contract
Dog Control Officer	\$18,805.00
Town Historian	\$500.00
Police Chief	\$91,332.00
Full-Time Police	Contract
Part-Time Police	Contract
Full-Time Dispatchers	Contract
Part-Time Dispatchers	\$13.96
Traffic Control Officer	\$4500.00 max
Park /Cemetery Superintendent	\$10,000.00
Park Custodian	\$5,000.00
Custodian	\$9,500.00
Highway Secretary	\$34,210.00
Highway Superintendent	\$58,262.00
Highway Employees	Contract

And it moves for adoption

Councilman Corcoran	Yes
Councilman Molinelli	Yes
Councilman Koenig	Absent
Councilman Baker	Yes
Supervisor Osborn	Yes

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TABLED until December 28, 2015

December 14, 2015

Supervisor Osborn proposes the following:

F). Resolution #104 To Authorize the filing of Negative Declaration and notice thereof pursuant to the requirements of SEQRA and 6 NYCRR § 617.12 of its implementing Regulations.

Local Law No3 of 2015, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING SECTION 155-12(H) OF THE TOWN CODE TO MODIFY THE PROCEDURES FOR ESTABLISHMENT OF A BUSINESS CORRIDOR OVERLAY DISTRICT.

**SEQRA NEGATIVE DECLARATION AND
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

Whereas, the Town of Marlborough Town Board proposes to adopt Local Law No. 3 of 2015, a Local Law of the Town of Marlborough, Ulster County, New York amending Chapter 155-12(H) of the Town Code's Business Corridor Overlay District regulations to modify its procedures for establishment of an overlay zone; and

WHEREAS, this determination of non-significance, i.e. negative declaration, is prepared in accordance with Article 8 of the Environmental Conservation Law: the NY State Environmental Quality Review Act ("SEQRA") and its implementing regulations set forth in 6 NYCRR Part 617 ("Regulations"); and

WHEREAS, the Town Board is directly undertaking the Action and is the only involved agency and is therefore the lead agency for the environmental review of the Action pursuant to SEQRA and its implementing Regulations; and

WHEREAS, the name and address of the lead agency is: Town of Marlborough Town Board, 21 Milton Turnpike, Milton, NY 12547 and the Responsible Officer is Stephen Osborn, Town of Marlborough Town Supervisor, with a telephone number at (845) 795-5100; and

WHEREAS, the Town of Marlborough Town Board, as lead agency, has classified this Action as a Type 1 action pursuant to 6 NYCRR § 617.6 of the Regulations; and

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WHEREAS, the Town of Marlborough Town Board has caused the preparation of a Full Environmental Assessment Form (EAF) for review of the Action; and

WHEREAS, the Town of Marlborough Town Board, as lead agency for the environmental review of the Action, has reviewed the Action and all relevant supporting information and documentation, has identified the relevant areas of environmental concern, has compared the reasonably expected results of the Action with the criteria set forth in 6 NYCRR § 617.7 and has determined that there will be no significant adverse environmental impacts associated with the Action; and

WHEREAS, this negative declaration is supported and substantiated by the following conclusions of the Lead Agency:

The proposed zoning amendments included in this action are not inconsistent with the existing Comprehensive Plan of the Town of Marlborough. Rather, they serve to implement growth and development policies established by the Town Board, none of which have any actual physical impact on the environment. Consequently, the proposed zoning changes do not rise to the level of creating any adverse physical impacts in those areas of the Town for which they are intended to be implemented. In the policy judgment of the Town Board, the proposed zoning amendments will create positive and beneficial impacts to those areas of town for which they are intended. The regulations will offset existing unfavorable impacts caused by outdated land use regulations.

The proposed local law does not, of itself, cause any new action to occur.

The increase in the eligibility of sites for the establishment of the Business Corridor Overlay District treatment by floating zone is an exercise in creating merely the potentiality for re-adaptation or change of land uses along Route 9W within the current R-1 or R-Ag-1 zones, and only after future legislative and administrative review of each specific proposal for drop-down of the floating zone based upon a specific concept plan of development.

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The act of adopting the proposed local law will not result in any direct or physical adverse environmental impact. It may result in indirect or secondary effects in the event of future applications received by the Town that employ the standards or opportunities set forth in the legislation. Each application will involve a unique and individual set of circumstances. The particular nature of the secondary impacts resulting from the future applications is not currently ascertainable and will not be ascertainable until site-specific proposals are received. Each individual proposal will be subject to the standards established by this local law or elsewhere set forth in the Town's land use regulations. The evaluation of individual proposals involves the exercise of future legislative or administrative discretion upon a full and complete analysis of the conditions and impacts related to the individual proposal, including SEQRA review of specific actions and their actual impacts.

The potential for these secondary effects do not support the conclusion that the legislation may create a significant adverse environmental impact requiring preparation of an environmental impact statement. Further, the potential secondary impacts do not give rise to any currently identifiable potential adverse environmental effects of significance.

The proposed amendments to Marlborough's local zoning law will not propose any actions or land uses that may be different from, or in sharp contrast to current surrounding land use patterns (Full EAF, Part 2, 17[a]). They will not cause the permanent population of the Town to grow by more than 5% (Full EAF, Part 2, 17[b]). They are not inconsistent with the current local land use plan (Full EAF, Part 2, 17[c]). They are not inconsistent with any County plans, or other regional land use plans (Full EAF, Part 2, 17[d]). They will not cause a change in density of development that is not supported by existing infrastructure or is distant from existing infrastructure (Full EAF, Part 2, 17[e]). They are not in an area characterized by low density development that will require new or expanded public infrastructure (Full EAF, Part 2, 17[f]). They may give rise to secondary development impacts, in the nature of residential or commercial development, but such impacts are not currently ascertainable and will not be ascertainable until site-specific proposals are received, at which time they will be subject to legislative or

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administrative review, as well as review under SEQRA addressing the actual identity and nature of such proposals.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Marlborough Town Board makes the following findings based upon the conclusions identified above:

1. The Action will not result in a substantial adverse change in existing air quality, ground or surface water quality, traffic or noise levels, a substantial increase in solid waste production; or a substantial increase in potential for erosion, flooding, leaching or drainage problems;

2. The Action will not result in the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movements of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial impacts on a threatened or endangered species of animal or plant or the habitat of such a species or other significant adverse impacts to natural resources;

3. The Action will not create a material conflict with the community's current plans or goals as officially approved or adopted;

4. The Action will not result in the impairment of the character or quality of important historical, archeological, architectural or aesthetic resources of the existing community or neighborhood character;

5. The Action will not create a hazard to human health;

6. The Action will not cause a substantial change in the use or intensity of use of land, including agricultural, open space or recreational resources or in its capacity to support existing uses;

7. The Action will not result in the creation of a material demand for other actions that would result in one of the above consequences; and

8. The Action does not involve changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; and

BE IT FURTHER RESOLVED, that the Town of Marlborough Town Board, acting as lead agency, has examined the impacts which may be reasonably anticipated to result from the

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Action, and has determined that it will not have any significant adverse impact on the environment and that therefore a Draft Environmental Impact Statement need not be prepared; and

BE IT FURTHER RESOLVED, that the Town of Marlborough Town Board hereby issues this Negative Declaration and notice thereof pursuant to the requirements of SEQRA and its implementing Regulations; and

BE IT FURTHER RESOLVED, that the Town of Marlborough Town Board hereby authorizes the filing this Negative Declaration and notice thereof pursuant to the requirements of SEQRA and 6 NYCRR § 617.12 of its implementing Regulations.

The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Osborn	_____
Councilman Molinelli	_____
Councilman Corcoran	_____
Councilman Baker	_____
Councilman Koenig	_____

This Negative Declaration is adopted this 14th day of December, 2015 and is ordered into the record of the Town of Marlborough Town Board with respect to the adoption of Local Law No 3 of 2015.

COLLEEN CORCORAN, TOWN

Contact Person:
Colleen Corcoran, Town Clerk
Town of Marlborough
P.O. Box 305
21 Milton Turnpike
Milton, NY 12547
845-795-5100

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TABLED until December 28, 2015

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G). Resolution #105 To adopt Local Law #3 of the year 2015

Supervisor Osborn proposes the following:

WHEREAS a Local Law was introduced entitled Local Law No. 3 of 2015, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING SECTION 155-12(H) OF THE TOWN CODE TO MODIFY THE PROCEDURES FOR ESTABLISHMENT OF A BUSINESS CORRIDOR OVERLAY DISTRICT.

WHEREAS, a public hearing in relation to said local law was held on December 14, 2015; and

WHEREAS, the public hearing was closed on December 14, 2015; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Marlborough for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted:
A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK
AMENDING SECTION 155-12(H) OF THE TOWN CODE TO MODIFY THE
PROCEDURES FOR ESTABLISHMENT OF A BUSINESS CORRIDOR OVERLAY
DISTRICT.

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Section 1. Section 155-12(H) of the Town Code of the Town of Marlborough is amended in its entirety to read as follows:

H. BC - Business Corridor Overlay District

(1) Purpose. The Town of Marlborough is bisected along a north to south axis comprising New York State Route 9W which parallels the Hudson River. Historically, the Route 9W corridor has served the Town of Marlborough as both a significant transportation facility and the location of mixed residential, commercial, and light industrial land uses. There are various zoning district designations along the Route 9W corridor, including the HD, R, C-1, R-1, and RAG-1 districts. Within the areas of the Route 9W corridor which are zoned R-1 or R-Ag-1, there exist various improved or unimproved parcels with frontage on the state highway and which are currently, or previously have been, devoted to use for commercial or light industrial activities of the type which are currently allowable within the HD zoning district. Some of the existing structures are devoted to commercial or light industrial activities as non-conforming uses in the R-1 or R-Ag-1 zones. Some of these existing structures are not currently put to commercial or light industrial uses, and may be devoted to residential uses which, nonetheless, exist as meaningful opportunities for readaptation to commercial or light industrial uses for the benefit of public commerce and the generation of municipal revenues for the community depending upon the content and nature of a specific concept plan of development. The Town Board concludes that a Business Corridor Overlay District, in the nature of a floating zone, is an appropriate device to encourage readaptation of existing structures, business use of unimproved parcels, or to eliminate non-conformities of active uses, within eligible properties within the Route 9W corridor.

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(2) The Business Corridor Overlay District is a floating zone which may be established through the exercise by the Town Board of the procedures stated herein with respect to properties located within eligible areas along the transportation corridor of Route 9W in the Town of Marlborough, as such areas of eligibility are more particularly defined within subsection (3) of this Section 155-12(H).

(3) Eligible areas. Parcels located within the R-1 or R-Ag-1 zoning districts within the Town of Marlborough are eligible locations for establishment of a Business Corridor Overlay District if they (a) enjoy highway frontage useable for access to and from Route 9W, and (b) are within 250 feet of the right of way line of NYS Route 9W and are currently devoted to, or were previously devoted to, residential, commercial or light industrial use and which are deemed an acceptable site for corridor overlay districting by the Town Board in order to implement a specific concept plan of development for commercial or light industrial activity.

(4) Permitted uses. In the event that the Town Board establishes a Business Corridor Overlay District designation, the principal permitted uses, the permitted accessory uses, and the permitted special uses of the property shall be those uses which are allowable within the HD - Highway Development district. In the exercise of legislative discretion, the Town Board shall be entitled to establish such lot, height, yard, bulk, and area requirements as the Town Board finds to be appropriate to the circumstances of each particular development proposal. In the exercise of legislative discretion, the Town Board may authorize mixed uses on lands to be rezoned to BC in order to allow for the continuation of pre-existing uses which might otherwise become non-

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conforming as a result of the zoning change. Notwithstanding the foregoing, new and used car sales, and adult entertainment uses, shall be prohibited in a BC district.

(5) Procedure for establishment.

(a) Petitions for the establishment of a Business Corridor Overlay District by amendment of the Zoning Map shall be made in writing to the Town Board. Applications shall be made by the owner or owners of the land proposed to be included in such district or by a person or persons possessing written contract or option rights to purchase such lands. In the event that an application is made by a person or persons holding contract or option rights to purchase the lands, the application shall be accompanied by a statement signed by the owner or owners granting authority on the part of such applicant to make the application. Upon submission of a complete application, the Town Board shall refer the application to the Planning Board for recommendation.

(b) Application materials. The applicant shall submit a conceptual development plan of sufficient detail as shall be determined by the Town Board. The conceptual development plan shall consist, at a minimum, of the following:

(1) A metes and bounds description of the proposed district;

(2) A survey of the land prepared and certified by a licensed land surveyor;

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(3) A map drawn to scale showing existing conditions of the parcel, including:

[i] The name and address of the owner of record and, if the applicant is not the owner, then also the applicant;

[ii] The name of the person or firm preparing the plan;

[iii] The date, north arrow and scale of the plan;

[iv] The names, addresses and tax map parcels of owners of all parcels within 500 feet of the subject property. The applicant shall include mailing labels for all property owners of parcels within 500 feet of the subject parcel;

[v] The acreage of the parcel and the tax number or numbers;

[vi] The location and width of existing and proposed state, county or town highways or streets and rights-of-way abutting or within 200 feet of the parcel;

[vii] The approximate location and outline of existing structures both on the parcel and within 100 feet of the property line;

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[viii] The location of any existing storm or sanitary sewers, culverts, water lines, hydrants, catch basins, manholes and other visible infrastructure as well as other utilities within or adjacent to the parcel;

[ix] The existing zoning of the parcel;

[x] The approximate location and outline of existing water bodies, streams, marshes or wetland areas and their respective classification as determined by the appropriate governmental regulatory body;

[xi] The approximate boundaries of any areas subject to flooding or stormwater overflows;

[xii] The location and outline of existing vegetation clusters (for a distance of 50 feet onto adjoining property);

[xiii] The identification of any other significant natural features.

(4) The conceptual development plan, drawn approximately to scale, shall clearly show the following:

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- [i] The approximate location and dimension of proposed principal and accessory buildings on the site and their relationship to one another, and to other structures in the vicinity;
- [ii] The approximate location and dimensions of vehicular traffic circulation features of the site, including proposed roadways, internal driveways, parking and loading areas, and proposed access to the site;
- [iii] The proposed source of water supply and method of delivery to the site;
- [iv] A general plan for the collection and disposal of sanitary waste from the site;
- [v] A general plan of proposed stormwater management facilities;
- [vi] Preliminary identification of areas which will be disturbed and areas which will remain undisturbed by project implementation.

(5) A vicinity map showing the proposed use in relationship to adjoining uses, transit services, food stores, community facilities, social service facilities, medical facilities, pharmacy, and religious institutions.

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(6) Preliminary architectural treatment of any readapted or new buildings.

(c) Initial Review:

(1) In its review of the application, the Town Board may suggest such changes in the conceptual development plan as are found to be necessary or desirable by the Town Board in order to meet the standards of 155-12(H). The Town Board may notify the applicant of such changes and may discuss such changes with the applicant. The suggestion of changes by the Town Board shall not constitute a waiver of its legislative discretion to reject or deny the rezoning application.

The Town Board may reject the application at any time.

(d) Planning Board review.

(1) Upon the Town Board's satisfaction with the conceptual development plan, and upon the receipt of a request from the Town Board, the Planning Board shall review the project for purposes of site plan or special permit approvals, as such approvals may be required for the particular project under the regulations pertaining to the HD-Highway Development district. Upon the filing of complete application documents for site plan or special permit approval as otherwise set forth in this Chapter, the Planning Board shall schedule and hold a public hearing.

It is anticipated that, as between the Planning Board and the Town Board, the

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Planning Board may serve as lead agency pursuant to the New York State Environmental Quality Review Act.

(2) In the event that the Planning Board approves the application for site plan approval or special permit, as the case may be, the Planning Board shall condition the approval upon the Town Board's amendment of the zoning map by local law to establish a business corridor overlay zone designation for the subject property.

(e) Town Board Review.

(1) Following conditional approval by the Planning Board, and after legislative public hearing by the Town Board, the Town Board may act to approve, approve with modifications or conditions, or disapprove the rezoning application in the exercise of its sole legislative discretion. Approval shall result in amendment by local law of the Zoning Map established by this Chapter.

(f) Criteria for rezoning by the Town Board to Business Corridor Overlay District. In determining whether or not amend the Zoning Map to establish a BC district, the Town Board shall consider, together with the intent and objectives of this section, whether the proposed district and development plan meet the following criteria:

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- (1) How the site be served by potable water and sanitary sewer facilities, and whether such facilities will be adequate to accommodate any additional demand placed upon them by the proposed development or readaptation;
- (2) Whether the site is well drained, and stormwater generated by development of the site shall not place an undue burden on existing facilities or contribute to downstream flooding;
- (3) Whether the site is located in an area suitable for the proposed elimination of non-conformity or readaptation of buildings and site development so as to be reasonably free of objectionable conditions such as odors, noise, dust, air pollution, traffic volumes beyond the capacity of the existing road system or proposed road improvements, and other environmental constraints;
- (4) The site shall be located in a manner that allows access to the site from a public street with adequate site distances and that meets current engineering standards of the Town;
- (5) The architectural style of any proposed readaptation or modification of development and exterior materials, finish and color shall be consistent with the character of nearby properties;

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- (6) The readadaptation or modification of the site shall not produce undue adverse effects on the surrounding neighborhood;
- (7) The extent to which the scope and design of the project will establish a worthwhile asset for this segment of the community and the community as a whole.

- (g) Time limit on validity of rezoning. Any zoning permitted by this section shall be null and void and the zoning of the parcel shall revert back to its original zoning classification by a ministerial designation on the Zoning Map by the Town Clerk, when directed by the Town Board, unless actual construction, pursuant to an approved site plan and a valid building permit is commenced within two (2) years from the date of adoption by the Planning Board of a resolution of site plan approval following the rezoning.
- (h) Fee. An application fee shall be charged in the amount provided for in the relevant fee schedule prevailing at the time of application. Actual consultant expenses incurred by the Town at all stages of processing a project under this section shall be defrayed by the applicant as provided within this chapter.

Section 2. This local law shall take effect upon filing with the New York State Secretary of State.

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Section 3. If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

RESOLVED, that the Ulster County Planning Board has issued an advisory statement which disapproves of the aforesaid amendments to Section 155-12(H) of the Town Code.

RESOLVED that the Town Board disagrees with the recommendations of the Ulster County Planning Board, and adopts this legislation by super-majority vote, for the following reasons: (a) the amendments do not yield the effective rezoning of the Route 9W corridor to entirely commercial or industrial district uses; (b) any implementation of the floating Business Overlay Zone would require legislative action by the Town Board based upon a specific and detailed concept plan of development, and the Town Board retains the inherent and virtually unchallengeable right to reject, to deny or to condition any proposed implementation of the floating zone based upon the worth of the specific concept plan, the circumstances of the site and neighboring sites, and environmental factors; (c) while the purpose of the legislation is to create expanded eligibility of sites for development of sorely needed public commerce and higher tax revenues, the enhanced eligibilities create mere potential for commercial and industrial development without creating any entitlements to same; and (d) the Town Board concludes that its advance conceptual approval of a concept development plan, and referral of the matter to the Planning Board for site plan or special permit review before establishment of an overlay zone change, will not occur absent significant chance that the overlay zone will be established, so that there is not undue burden placed upon applicants .

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RESOLVED that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) certified copy in the Office of the Secretary of State, State of New York, such certified copy to have attached thereto a certificate that it contains the correct text and that all proper proceedings have been had or taken for the enactment of this local law.

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Osborn	_____
Councilman Molinelli	_____
Councilman Corcoran	_____
Councilman Baker	_____
Councilman Koenig	_____

DATED: Milton, New York
December 14, 2015

COLLEEN CORCORAN, TOWN CLERK

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Councilman Corcoran made a motion to enter executive session at 8:54PM. Motion seconded by Councilman Molinelli.

Yeas: 4 **Nay**s: 0 **Carried**

Councilman Corcoran made a motion to end executive session at 9:16PM. Motion seconded by Councilman Baker.

Yeas: 4 **Nay**s: 0 **Carried**

No decisions were made.

Councilman Corcoran mad a motion to adjourn the meeting at 9:16PM. Motion seconded by Councilman Molinelli.

Yeas: 4 **Nay**s: 0 **Carried**

*Respectfully submitted,
Danielle Cherubini
Deputy Town Clerk*