

Marcellus Town Board
Town Board Meeting
Wednesday, September 2, 2026
6:30 PM

A Regular Meeting of the Town of Marcellus, County of Onondaga, State of New York was held on Wednesday, September 2, 2026, in the Town Hall, 22 East Main Street, Marcellus, New York.

Present: Jane Attley	Supervisor
Jeff Berwald	Councilor
Percy Clarke	Councilor
Terry Hoey	Councilor
Karen Pollard	Councilor

Also Present: Mr. Eaton, Town Counsel; Mike Ossit, Highway Superintendent; Don MacLachlan, Park and Recreation Director; John Houser, Codes Officer; Linda Wilcox, Town Historian; Bill Southern, Joel McNally, Fire Department; John Pawlewicz, Patty Bishop, Jim Gascon, Kathleen Joy, Tom Lathrop, Michael Patrick, Jeff Brown, Chris Burtis, Laurie Stevens, Suzanne Tobin, Deputy Town Clerk; Rosemary Tozzi, Town Clerk.

Town of Marcellus Legal Services:

Councilor Berwald, "I would like to make a motion to address this. Let me start off with, this is not an attack on Jim Gascon. It's about putting information out to the public and being transparent. After our meeting on Wednesday, August 19th, the board was advised by Counsel that Jim Gascon had resigned at 5:00PM that day for unspecified reasons. During that meeting we all agreed to stay with Costello, Cooney & Fearon and Jeff Eaton as our new Attorney.

Tuesday the 25th Supervisor Attley texted the Board and asked our thoughts about our legal services, stay or move to the new firm with Jim? I replied that there is nothing to discuss, we all agreed the previous week to stay with the current law firm. She replied that we didn't have all the information.

On Monday the 31st at approximately 4:00PM I received a call from our Town Attorney Jeff Eaton, that he received a message from Jim Gascon telling him that he would be attending tonight's Board meeting because the Town of Marcellus had decided to stick with him. Jeff called me since he had no conversations with the Town Supervisor and wanted to hear this from the Town Board itself. I told him it was the first time I had heard of it.

At 5:36, the same day, Supervisor Attley sent a text message to all the Board members telling us she sent an email to Jeff Eaton advising him that the majority of the Board along with Codes and the Planning and Zoning Board all want to continue with Jim.

This morning, I learned that Jim Gascon will be our attorney tonight and this topic was moved to the top of tonight's agenda. As of today, I still don't know why Jim resigned from his firm or why we need a new firm right now with four months left in our contract.

The Supervisor cannot make arbitrary decisions on her own without discussing it with the entire Board and voting on it.

Anyone with concerns about the CCF law firm shouldn't have. I haven't heard of any problems with the firm [in] all the time we've been with them. Except, now that Jim is gone. Jeff, Rich and several other attorneys from the firm have worked on all our legal issues behind the scenes for years for Jim. This goes for Planning/Zoning and Comprehensive Boards.

If the intention of some of the Board [members] is to find a new law firm for whatever reason, then the Board should vote on the issuing RFPs [Request for Proposal] to law firms for consideration. That's the procedure that has been followed in the past.

But, for now, **I make a motion to continue until the end of this year's contract with Costello, Cooney & Fearon.**"

Councilor Hoey, "I think we are jumping. This is an awkward situation because she (Supervisor Attley) was in the process of introducing a motion, then we shifted over to a different motion. So now we are complicating matters."

Councilor Berwald, "I didn't hear a motion she made."

Supervisor Attley, "I was starting."

Councilor Berwald, "I didn't hear it."

Town Counsel, Mr. Eaton If there is no second to the motion then it dies on the floor, and you can move [onto] the second motion.

Councilor Hoey, "There are multiple ways you could vote on this. You could vote on ending a contract or an agreement. You could vote on as a standalone. You could vote on a combined resolution of ending something and then deciding to switch firms."

Councilor Berwald, "The motion is to continue with the current law firm we have until the end of the year until the contract is up."

Councilor Clarke, "That is for the Town and the Planning and Zoning all combined, correct?"

Councilor Berwald, "Yes."

Councilor Hoey seconded the motion to continue until the end of this year's contract with Costello, Cooney & Fearon.

Councilor Hoey requested a discussion before the final vote was taken.

Councilor Berwald if some members of the Board want to switch firms, then we need to go through the proper process of RFPs and work on that through the rest of the year and then start fresh at the beginning of the year. "I'm okay with that. But to do this, I think it's wrong, what is going to take."

Councilor Hoey there's an issue of timing. In terms of when those decisions are made.

Councilor Clarke based on emails from Department heads of Planning and Zoning and Codes, they have requested to stay with Jim Gascon as legal counsel. The Town Board and Planning and Zoning can have separate firms representing the Departments.

Councilor Hoey that is a decision the Town Board can make for Planning and Zoning. "I fall somewhere in the middle on this. There are strong opinions on this board going in both directions. They're two legitimate positions, which makes it tricky. There's a lot of benefits that Jim brings to the table, of course. And we also have an existing law firm that we are pleased with. So, I understand that. I'm not super fired up about this in terms of I need [needing] to do this."

Councilor Berwald, "Bottom line is we have a contract with Costello, and Jim is not with that firm anymore. So, we stay with Costello. If we want a new firm, if we want Jim back with another firm, then go through the RFP process."

Councilor Hoey, "Regardless, we have to make a new agreement at the end of December anyway."

Town Counsel, Mr. Eaton, "I do just want to point out [that] the board does have the option, because it's a personnel matter, if some of these conversations would be better had in executive session."

Councilor Clarke, "So the contract is year to year, and what's the binding penalties for ending the contract early on our part?"

Town Counsel, Mr. Eaton, "There's no penalty."

Councilor Hoey, "Does anyone feel a need to go into executive session?"

Councilor Berwald, "No. Are we done with discussion?"

Supervisor Attley, "Call for a vote."

Councilor Clarke, "What are your thoughts, Councilor Berwald?"

Councilor Berwald, "To stay with the attorney we have now, the Costello firm. Then we should work on an RFP. Get the information from different firms and look at which firm we want to go with for next year."

Councilor Clarke, "Did we get a contract from Jim and the new firm already?"

Supervisor Attley, "I did forward the email to all of you."

Marcellus Resident, Bill Southern, "Did you get a formal contract from the other firm?"

Supervisor Attley, "Not a formal contract, just the numbers of what twenty twenty-seven would be."

Marcellus Resident, Bill Southern, "So you don't have a contract to look at?"

Councilor Hoey, "If we had that now or if we had that next week, would it be something we would like?"

Councilor Clarke, "I would think so, you always want something in writing."

Mr. Gascon, "I think Supervisor Attley's motion clarifies the issue."

Councilor Berwald, "She doesn't have a motion, I made the motion."

Marcellus Resident, Bill Southern, "You don't have a contract, how can you vote on it?"

Councilor Berwald, "We must vote on the motion that is on the table to keep Costello until the end of the year."

Councilor Hoey, "I don't know when you can make a motion to table it. I don't know if that supersedes."

Town Clerk, Rosemary Tozzi if a motion is made to table it, does that supersede Councilor Berwald's motion or do they need to follow through with that motion before they can table it?

Councilor Pollard, "There's a motion on the table. We have a first and a second. We should be voting on that motion. Unless Jeff wants to rescind it or retable it."

Councilor Hoey, "Are you interested in tabling it?"

Councilor Clarke, "Yes, I would be interested in tabling it for further discussion and a contract."

Town Counsel, Mr. Eaton, "A motion may be taken from the table after one item of business has been conducted. A motion is not taken from the table by the end, then it is considered dead. So, you could potentially move to table the motion."

Councilor Clarke, "I'll move to table."

Councilor Hoey, "Supporting Percy's position, out of deference to Percy, I will second that motion. He's asking for more information and time with that information to make a decision. I respect that. I'm willing to support tabling if that's what he needs to make a decision."

Councilor Berwald, "I made a motion to continue with Costello firm until the end of the year. That was seconded by Councilor Hoey."

Councilor Hoey, "Councilor Clarke has concerns. I'm entertaining those concerns. He's asking for more information. I'm willing to second his motion."

Councilor Pollard, "What are we voting on?"

Councilor Berwald, "My motion."

Councilor Hoey, "If there's a motion to table, you have to deal with that first."

Councilor Pollard made a motion to go into executive session for personnel issue at 6:50 PM, Supervisor Attley seconded the motion.

Ayes – Attley, Berwald, Clarke, Hoey and Pollard

Carried

Supervisor Attley I will call the meeting back in order at 7:07 PM.

Supervisor Attley I make a motion to table this discussion to further get more information. Councilor Clarke seconded the motion.

Ayes- Attley, Clarke and Hoey

Nyes – Berwald and Pollard

Carried

Waive the Reading and Accept the Minutes: Councilor Clarke made a motion seconded by Councilor Hoey to waive the reading and accept the minutes as submitted by the Town Clerk for August 5, 2026, Town Board meeting and for August 16, 2026, Workshop meeting.

Ayes – Attley, Berwald, Clarke, Hoey and Pollard

Carried

Monthly Activity: The Abstract of Audited Vouchers was given to the Board Members as submitted by the Town Clerk. Abstract #8 for August 24, 2026, Claim's # 159963-159971.

Expenses

General Fund	\$16,470.36
Part Town General	2,546.42
Townwide Highway	2,191.47
Part Town Highway	2,613.80
Trust and Agency	1,888.27
Total	\$25,710.32

The Abstract of Audited Vouchers was given to the Board Members as submitted by the Town Clerk. Abstract #9 for September 2, 2026, Claim's # 159972-160006, 160018-160022.

Expenses

General Fund	\$39,622.25
Part Town General	94.73
Townwide Highway	222.78
Part Town Highway	2,288.56
Fire District	89,983.50
Ambulance Fund	76,725.00
Total	\$208,936.82

Board Members were given the Activities Report as August 28, 2026. Fiscal year 2026 Period 8.

	<u>Revenue</u>	<u>Expense</u>
General Fund	(1,425,029.93)	964,400.74
Part Town General	(225,179.34)	115,573.12
Townwide Highway	(684,537.11)	319,273.49
Part Town Highway	(391,337.86)	172,857.16
Fire District	(447,730.48)	307,370.25
Hydrant Fund	(3,493.64)	1,797.83
Ambulance Fund	(311,771.70)	233,821.50
Sewer District	(216,244.20)	137,967.76
Water District	(88,746.61)	181,099.90

Bank Balances:

The total of all Bank Balances for July 2026 is \$5,605,155.12

Councilor Hoey made a motion seconded by Councilor Clarke to approve the Abstract of Audited Voucher Report for August 24, 2026, September 2, 2026, the Activities Report as of August 28, 2026, and the bank balance as of July 2026.

Ayes – Attley, Berwald, Clarke, Hoey and Pollard

Carried

Old Business:

Town Hall Security: The Town has reached out to QPK Design for a consultation regarding modifying the building to update security for all employees. More information will be provided at a later date.

Local Law NO. C of 2026 Regulating Battery Energy Storage Systems in the Town of Marcellus:

**TOWN OF MARCELLUS
TOWN BOARD RESOLUTION
September 2, 2026
TOWN OF MARCELLUS LOCAL LAW C-2026**

**(“A Local Law to Amend Chapter 235 of the Code of the Town of Marcellus to Add a New Section
Regulating Battery Energy Storage Systems in the Town of Marcellus”)**

Pursuant to the Municipal Home Rule Law § 10, Councilor Hoey introduced proposed Local Law C-2026, relating to amending the Town of Marcellus Zoning Law to add a new section regulating battery energy storage systems within the Town of Marcellus, which was seconded by Councilor Clarke.

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

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

WHEREAS, the adoption of said Local Law is a Type 1 action for purposes of environmental review under SEQRA; and

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

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

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

WHEREAS, the Town Board previously introduced proposed Local Law C-2026 at the Town Board's regular meeting of August 19, 2026, with the proposed adoption of said proposed Local Law noted as an unlisted action for purposes of environmental review under SEQRA; and

WHEREAS, due to the heightened environmental review needed to adopt proposed Local Law C-2026 as a Type 1 action for purposes of environmental review under SEQRA, the Town Board desires to repeal the introduction of proposed Local Law C-2026, re-introduce proposed Local Law C-2026, and undertake a more thorough environmental review and completion of a full environment assessment form (EAF).

NOW, THEREFORE, BE IT

RESOLVED AND DETERMINED that the introductory resolution dated August 19, 2026 for proposed Local Law C-2026 is hereby repealed; and

RESOLVED AND DETERMINED that the introductory resolution dated September 2, 2026 for proposed Local Law C-2026, and adjoining full environment form (EAF), shall dictate the renewed re-introduction of proposed Local Law C-2026 and necessary environmental review under SEQRA; and

RESOLVED AND DETERMINED that the Town Board shall conduct a public hearing as to the enactment of proposed Local Law C-2026 at the Marcellus Town Hall located at 22 East Main Street,

Marcellus, New York in the Town of Marcellus on October 7, 2026 at 6:30 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard.

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

Jane Attley	Town Supervisor	Voted	Yes
Terry Hoey	Councilor	Voted	Yes
Jeff Berwald	Councilor	Voted	Yes
Percy Clarke III	Councilor	Voted	Yes
Karen Pollard	Councilor	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

DATED: September 2, 2026

New Business:

Otisco Lake Preservation Association (OLPA): Kathleen Joy, OLPA Board Member is requesting the Town of Marcellus add \$8,000.00 to next year's Town budget and each year thereafter, dedicated to OLPA to remove the invasive weeds in Otisco Lake, specifically for the portion of the cost to operate and maintain the harvester. Weed abatement in the lake and contributing sources in the watershed have been a major focus of OLPA. Onondaga County has provided OLPA with a grant to purchase a weed harvester for the lake. Harvesting comes with an operating cost. Gas, maintenance, salaries, insurance, storage for the winter and weed disposal itself costs approximately \$44,000.00 per year. Weed management benefits the entire lake and its surrounding Towns yet there is no steady revenue to support it. Otisco Lake is not only a drinking water source for parts of Onondaga County, it is a recreational source bringing in sales tax and revenues it is also a source of property tax revenue for the Town. The request for \$8,000.00 in this year's budget is an investment in the future of the Town and the Lake itself.

Local Law NO. D of 2026 Tax Levy Override:

**TOWN OF MARCELLUS
TOWN BOARD RESOLUTION
September 2, 2026
TOWN OF MARCELLUS LOCAL LAW NO. D OF 2026
("A Local Law Overriding the Tax Levy Limit Established
in General Municipal Law §3-c in the Town of Marcellus")**

Councilor Berwald introduced proposed Local Law No. D-2026, relating to the ability of the Town of Marcellus to override the limit on the amount of real property taxes that may be levied by the Town of Marcellus pursuant to General Municipal Law §3-c, and to allow the Town of Marcellus to adopt a Town

budget for the fiscal year 2027 in excess of the “tax levy limit,” if necessary, and made the following motion, which was seconded by Town Supervisor Attley:

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

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

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

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

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

NOW, THEREFORE, it is

RESOLVED AND DETERMINED, that the enactment of proposed Local Law No. D-2026 is an unlisted action, there are no other involved agencies and this Board shall act as lead agency in this matter for purposes of SEQR review; and it is further

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

RESOLVED AND DETERMINED, that the Town Board shall conduct a public hearing as to the enactment of proposed Local Law No. D-2026 at the Town Hall located at 22 East Main Street, Marcellus,

New York on October 7, 2026, at 6:30 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard; and it is further

RESOLVED AND DETERMINED, that notice of said public hearing shall be provided at least five (5) days prior to the date of said public hearing in a newspaper of general circulation within the Town of Marcellus and to any affected municipalities described above.

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

Jane Attley	Town Supervisor	Voted	Yes
Terry Hoey	Councilor	Voted	Yes
Jeff Berwald	Councilor	Voted	Yes
Percy Clarke III	Councilor	Voted	Yes
Karen Pollard	Councilor	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

DATED: September 2, 2026

Reports from Department Heads:

Codes: John Houser, Codes Officer; I want to be transparent and present my support for Attorney Jim Gascon to remain as legal counsel for the Town Board and Planning and Zoning. I have worked with Mr. Gascon for fourteen years on multiple projects.

Highway: Mike Ossit, Highway Superintendent; We received an estimate today for more work to be done on the roof units from Advance Mechanical. They fixed the two motors that were not working on separate units. While they were doing that, they were going through and checking everything they found more repairs are needed. The RTU serving the meeting/court room and the RTU serving the middle of the building have a controller issue causing the condenser fan to run constantly. The quote provided for the repairs is \$3,646.92.

Councilor Berwald made a motion seconded by Councilor Clarke to approve the quote for \$3,646.92 to allow Advance Mechanical to complete the repairs.

Ayes – Attley, Berwald, Clarke, Hoey and Pollard

Carried

Two staff members have resigned from the Highway Department. The Department is looking to hire new staff.

Parks/Recreation: Don MacLachlan, Park and Recreation Director; A recent part-time park staff hire has decided to resign from the position. I would like approval to hire Pat Cheevers to replace the staff member that left.

Councilor Berwald made a motion seconded by Councilor Hoey to approve Don to hire Pat Cheevers as a part-time park employee.

Ayes – Attley, Berwald, Clarke, Hoey and Pollard

Carried

The amphitheater will be completed soon apart from landscaping.

Town Clerk- monthly report: Rosemary Tozzi, Town Clerk; presented the monthly report for August 2026.

CNYSPCA \$5.00

Dog Licensing \$310.00

Certified Copies of Marriage \$20.00

One-day Marriage Officiant \$25.00

Passports \$560.00

Conservation \$129.91

Marriage Licensing Fees \$70.00

Trash Permit-truck \$45.00

Building \$654.00

Zoning Fees \$300.00

Discussion Agenda:

Fire Department Financials: The Marcellus Fire Department turned in their financial statements through July 31, 2026, and the chief's report. A copy is available at the Town Clerk's Office upon request during business hours 8:30AM-4:00PM Monday through Friday.

Joel McNally, Fire Department; The Marcellus Fire Department will be holding a 9/11 remembrance in the Village at the point. The American Flag will be hung from a fire truck, and a firefighter will sit in gear under the Flag from the time the first tower was hit at 08:46 to the time the last tower fell at 10:28.

Moratorium for Data Centers: Councilor Hoey, the moratorium for data centers comes from the comprehensive plan committee.

Councilor Pollard, the Town should have one. A company is trying to put one up on Cayuga Lake in the town of Lansing right now. Lansing has done nothing, moratorium or otherwise, to stop it. They're going to look at the northeast and say, "Look at the water we have." It's a mistake if we don't do a moratorium.

Councilor Hoey, the state has one, but it's for larger data centers. It doesn't cover smaller ones.

Councilor Berwald, it's only for a year.

Town Counsel, Mr. Eaton, we have had a lot of requests from towns in the area recently. In addition to the State's moratorium, Albany's objectives change at times, if that moratorium goes away, it's open season again. There is one in Lansing. There's also one in Lysander that was going to be considered before they adopted a moratorium as well. The issue with the data centers that people are concerned about is noise, location to residential or high-traffic areas like schools and things, and significant drain on resources such as power and water. We can have something ready, if the board wants to look at it at the next meeting.

Councilor Pollard, A moratorium would allow us time to study the issue and come up with some regulations that the planning board could go by. We have a lot of open land around here, and a lot of water, and that is what they want.

Town Counsel, Mr. Eaton, similar to how you are moving forward with the battery storage, with reasonable restrictions to allow for it in certain areas or not, it would probably make sense to adopt those sorts of things for data centers as well. A moratorium would allow you to do that in peace without the fear of somebody coming in and trying to rush for a permit before you get the legislation together

and exploit any weakness in the zoning to try and put it somewhere. So, if you are interested, we can have something for you at the next board meeting.

Councilor Hoey, it was the recommendation from the comprehensive plan committee to the Town Board that the Town Board acts and move forward with a moratorium for data centers.

Councilor Pollard, this should be put on the agenda for next month.

Budget Meetings:

Supervisor Attley, we are going to cancel the meeting on September 16th. We are going to add two meetings, one on Tuesday, September 22nd at 4:00, and another one on Wednesday, September 23rd at 4:00. The meeting on September 23rd will be as needed.

Adjournment: Councilor Clarke made a motion seconded Councilor Hoey to adjourn the Meeting at 7:39 PM.

Ayes – Attley, Berwald, Clarke, Hoey and Pollard

Carried

Respectfully submitted,

Rosemary Tozzi
Town Clerk