

TOWN OF MARCELLUS
TOWN BOARD MEETING MINUTES
November 8, 2007

A regular meeting of the Town Board of the Town of Marcellus, County of Onondaga, State of New York was held on Thursday, November 8, 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
James A. Sheridan, Councilor
Donald G. Sherman, Councilor

Absent: Thomas C. Lathrop, Councilor

Also present: Karen R. Pollard, Town Clerk; Laurie Stevens, Deputy Town Clerk; Margaret Gerbsch, Accountant; Michael Cogswell, Counsel; Donald MacLachlan, Highway Superintendent; Phil Coccia, Recreation Leader; Doug Nightingale, Jean Schneider, Everett Teague, Gloria Teague, Matt Moses, Mary Raye Casper, Richard Casper, Audrey Kearney, Kevin Quinn, Paulette Quinn, Betsy Shake, James Shake, Peg Nolan, Bruce Widger, Hollis Abbott, Arlene Milne, Jim Milne, Chris Kaler, Michele Kmiecjak, Ellis Guiles, Michael Cirincione, David Locastro, Fred Marty, Virginia Marty, Monica Pitman, Kelly Knoeller, Alison Conley, Chris Kraai, Peter Kraai and Dan Curley.

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

Public Hearing: Proposed Local Law No. 6 for Stormwater Management and Erosion and Sediment Control

Supervisor Ross opened the Public Hearing on Proposed Local Law No. 6 for Stormwater Management and Erosion and Sediment Control by explaining the intent of the law. Hearing no objections, the Supervisor waived the reading of the legal for the public hearing and stated that notice of the public hearing was published in the Marcellus Observer on October 24, 2007 and is on file in the Town Clerk's office. Supervisor Ross opened the meeting to questions or comments from the floor by requesting that anyone who wishes to speak either in favor or in opposition to please state his or her name and address for the record. Hearing no comments or questions, Supervisor Ross closed the Public Hearing at 7:04pm.

Public Hearing: 2008 Budget

The next order of business was the public hearing on the on the 2008 Preliminary Budget. Supervisor Ross, hearing no objections waived the reading of the legal notice call for the public hearing and stated that it was published in the Marcellus Observer on October 31, 2007 and is on file in the Town Clerk's office. The notice is as follows:

TOWN OF MARCELLUS
OFFICIAL NOTICE
OF PUBLIC HEARING

PRELIMINARY BUDGET

NOTICE IS HEREBY GIVEN that the preliminary budget of the Town of Marcellus, including Fire Contract for the fiscal year starting January 1, 2008 has been completed and filed in the office of the Town Clerk, 24 East Main Street, Marcellus, New York, where it is available for inspection by any interested person during office hours.

FURTHER NOTICE IS HEREBY GIVEN that the Town Board of the Town of Marcellus will meet and review said preliminary budget and hold a public hearing thereon at the Town Hall, 24 East Main Street, Marcellus, New York at 7:10 P.M. on the 8th day of November, 2007 and at such hearing any person may be heard in favor of or against the preliminary budget as compiled of, for or against any item or items therein contained.

PURSUANT to Section 108 of the Town Law, the proposed salaries of the following Town Officers are hereby specified as follows: Supervisor \$12,000., Town Justices (2) each \$14,000., Councilors (4) each \$6,000., Town Clerk \$37,000., Superintendent of Highways \$49,325., Tax Collector \$8,450.

By Order of the Town Board
Dated: October 29, 2007
Karen R. Pollard, Town Clerk
Town of Marcellus

Supervisor Ross explained that the preliminary budget would have a 2.3% increase in the tax rate. He went on to ask if anyone wished to speak for or against the proposed budget to give his or her name and address for the record.

Peg Nolan, President of the Marcellus Historical Society, asked if the budget contained any monies for the Marcellus Historical Society. Supervisor Ross replied that there is \$5,000. in the budget line for Historian.

Supervisor Ross asked if the Board Members had any comments concerning the proposed budget.

Hearing no other comments or questions, Supervisor Ross moved on with the rest of the agenda.

Update on Limeledge Water District (out of order): A group of residents from the Browsing Road and Deer Path area appeared before the Board to for an update on the progress of the Limeledge Water District specifically the placement of the water tower. Supervisor Ross explained the process of forming the district and the progress to date. Counsel Cogswell explained that until the Town was notified of the State Comptroller's office approval for the formation of the district the application for the financing couldn't start. There has been no decision made on the location of the water tower. Negotiations are on going and hopefully there will be an commitment by the end of the month. The issue of the placement of the water tower was the main concern of the residents and there was a discussion on the commendation process. The Board understands the residents concerns and thanked them for bringing them to the Board's attention.

Copies of the minutes of the Town Board Meeting held on October 11, 2007 and the Workshop Meetings held on September 18, 2007 and October 25, 2007 were given to the Board Members.

Councilor Sherman made a motion seconded by Councilor Sheridan 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 # 49 as of November 8, 2007, Claims # 1067 thru 1163 and Highway Claims # 181 thru 203.

	<u>Expenses</u>
General Fund	\$43,109.13
General Fund – Part Town	2,721.09
Highway – Town Wide	25,949.37
Highway – Part Town	40,817.06
Park Capital Reserve	20,000.00
Reserve	112,500.00
Fire	92,158.10
Hydrant	5,000.00
Ambulance Fund	45,450.00
Sewer	51.22
Water	23,300.00
Trust & Agency	8,028.00

Bills paid between meetings:

NYS Recreation & Park Society: (clm 1063) \$510.00 Check No. 20380

NYSE&G: Park Street Lighting (clm 1064) \$214.07, 24 East Main Street (clm 1065)
\$2031 Check No. 20383

State Insurance Fund: (clm 1066) \$154.53 Check No. 20384

Board Members were given copies of the Activity Report as of October 31, 2007 of and monthly statement of bank balances as of October 31, 2007.

	<u>Total Revenue</u>	<u>Total Expense</u>
General Fund	\$44,866.12	\$78,297.02
General Fund – Part Town	20,297.17	6,521.54
Highway – Town Wide	-0-	9,432.49
Highway – Part Town	-0-	49,944.96
Fire	13,932.69	14,068.62

Councilor Sheridan made a motion seconded by Councilor Montgomery to approve and pay the bills, approve the monthly activity report as of October 31, 2007 and the monthly statement of bank balances as of October 31, 2007. All voted aye. Carried.

OLD BUSINESS:

Report from Department Liaisons: None.

SEQR for Local Law No. 5 and No. 6: Counsel Cogswell presented to the Board a Short Environmental Assessment Form as prepared by Barton & Loguidice for the proposed Local Law No. 5, Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System and Local Law No 6, Local Law for Stormwater Management and Erosion & Sediment Control. Mr. Cogswell pointed out that section C1 – C7 have been answered in the negative and that this is

an unlisted action for the SEQR purpose with a negative impact. Councilor Montgomery made a motion seconded by Councilor Sherman to accept the Short Environmental Assessment Form for an unlisted action as prepared by Barton & Loguidice with a finding that the proposed action would not result in any significant adverse environmental impacts and have the Supervisor sign all appropriate paperwork. All voted aye. Carried

NEW BUSINESS:

Approve the 2008 Budget: Supervisor Ross made a motion to approve the 2008 Budget. There was no second. Councilor Sheridan made a motion seconded by Councilor Montgomery to continue the Public Hearing concerning the 2008 Budget on November 15, 2007 at 7:00pm and hold a Special Meeting on November 15, 2007 following the close of the public hearing. This Special Meeting will be to discuss and approve and 2008 Preliminary Budget. Councilors Sheridan, Montgomery and Sherman voted aye. Supervisor Ross voted nay. Motion Carried.

Approve Local Law No. 5: Councilor Sherman made a motion seconded by Councilor Sheridan to adopt Local Law No. 5, 2007 a Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System upon determining a Negative Declaration was issued under SEQR for its adoption. The question of the adoption of Local Law No. 5, 2007 was duly put to a vote on roll call, which resulted as follows:

Daniel J. Ross	Aye	
James A. Sheridan	Aye	
Donald G. Sherman	Aye	
Bernard L. Montgomery	Aye	Carried.

**TOWN OF MARCELLUS
LOCAL LAW NO 5, 2007**

**A
Local Law
to
Prohibit Illicit Discharges, Activities
and Connections to
Separate Storm Sewer System**

SECTION 1. PURPOSE/INTENT.

The purpose of this law is to provide for the health, safety, and general welfare of the citizens of the Town of Marcellus through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This law establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this law are:

- 1.1 To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;

- 1.2 To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- 1.3 To prohibit Illicit Connections, Activities and Discharges to the MS4;
- 1.4 To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and
- 1.5 To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

SECTION 2. DEFINITIONS.

Whenever used in this law, unless a different meaning is stated in a definition applicable to only a portion of this law, the following terms will have meanings set forth below:

- 2.1 **Best Management Practices (BMPs).** Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- 2.2 **Clean Water Act.** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- 2.3 **Construction Activity.** Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- 2.4 **Department.** The New York State Department of Environmental Conservation.
- 2.5 **Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- 2.6 **Illicit Connections.** Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:
 1. Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether

- said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the MS4, which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- 2.7 Illicit Discharge. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 6 of this law.
- 2.8 Industrial Activity. Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
- 2.9 MS4. Municipal Separate Storm Sewer System.
- 2.10 Municipal Separate Storm Sewer System. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
1. Owned or operated by the Town of Marcellus
 2. Designed or used for collecting or conveying stormwater;
 3. Which is not a combined sewer; and
 4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR 122.2
- 2.11 Municipality. The Town of Marcellus
- 2.12 Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.
- 2.13 Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- 2.14 Pollutant. Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.
- 2.15 Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- 2.16 Special Conditions.
1. Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

2. 303(d) Listed Waters. The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
 3. Total Maximum Daily Load (TMDL) Strategy. The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
 4. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- 2.17 State Pollutant Discharge Elimination System (SPDES) Stormwater Discharge Permit. A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.
 - 2.18 Stormwater. Rainwater, surface runoff, snowmelt and drainage.
 - 2.19 Stormwater Management Officer (SMO). An employee, the municipal engineer or other public official(s) designated by the Town of Marcellus to enforce this local law. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.
 - 2.20 303(d) List. A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.
 - 2.21 TMDL. Total Maximum Daily Load.
 - 2.22 Total Maximum Daily Load. The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.
 - 2.23 Wastewater. Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

SECTION 3. APPLICABILITY.

This law shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.

The Stormwater Management Officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this law. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

SECTION 5. SEVERABILITY.

The provisions of this law are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this law.

SECTION 6. DISCHARGE PROHIBITIONS.

6.1 Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Section 6.1.1. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

6.1.1 The following discharges are exempt from discharge prohibitions established by this local law, unless the Department or the municipality has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, de-chlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

6.1.2 Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this local law.

6.1.3 Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.

6.1.4 The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

6.2 Prohibition of Illicit Connections.

6.2.1 The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

6.2.2 This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

6.2.3 A person is considered to be in violation of this local law if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

SECTION 7. PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER

7.1 Activities that are subject to the requirements of this section are those types of activities that:

8.1.1 Cause or contribute to a violation of the municipality's MS4 SPDES permit.

8.1.2 Cause or contribute to the municipality being subject to the Special Conditions as defined in Section 2 (Definitions) of this local law.

7.2 Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

SECTION 8. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

8.1 Best Management Practices

Where the SMO has identified illicit discharges as defined in Section 2 or activities contaminating stormwater as defined in Section 8 the municipality may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.

- 8.1.1 The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.
- 8.1.2 Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in Section 2 or an activity contaminating stormwater as defined in Section 8, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
- 8.1.3 Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

SECTION 9. SUSPENSION OF ACCESS TO MS4. Illicit Discharges in Emergency Situations.

- 9.1 The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.
- 9.2 Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefore. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMO.

SECTION 10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the municipality prior to the allowing of discharges to the MS4.

SECTION 11. ACCESS AND MONITORING OF DISCHARGES.

- 11.1 Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition, which constitutes a violation of this Law.
- 11.2 Access to Facilities.
- 11.2.1 The SMO shall be permitted to enter and inspect facilities subject to regulation under this law as often as may be necessary to determine compliance with this Law. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
- 11.2.2 Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this law.
- 11.2.3 The municipality shall have the right to set up on any facility subject to this law such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.
- 11.2.4 The municipality has the right to require the facilities subject to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- 11.2.5 Unreasonable delays in allowing the municipality access to a facility subject to this law is a violation of this law. A person who is the operator of a facility subject to this law commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.
- 11.2.6 If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 12. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may

result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 13. ENFORCEMENT.

13.1 Notice of Violation.

When the municipality's SMO finds that a person has violated a prohibition or failed to meet a requirement of this law, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

13.1.1 The elimination of illicit connections or discharges;

13.1.2 That violating discharges, practices, or operations shall cease and desist;

13.1.3 The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

13.1.4 The performance of monitoring, analyses, and reporting;

13.1.5 Payment of a fine; and

13.1.6 The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

13.2 Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period

not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

SECTION 14. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Town Board of the Town of Marcellus within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger.

SECTION 15. CORRECTIVE MEASURES AFTER APPEAL.

- 15.1 If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- 15.2 If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

SECTION 16. INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this law. If a person has violated or continues to violate the provisions of this law, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

SECTION 17. ALTERNATIVE REMEDIES.

- 17.1 Where a person has violated a provision of this Law, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Municipal Attorney and concurrence of the Municipal Code Enforcement Officer, where:

- 17.1.1 The violation was unintentional
- 17.1.2 The violator has no history of pervious violations of this Law.
- 17.1.3 Environmental damage was minimal.
- 17.1.4 Violator acted quickly to remedy violation.
- 17.1.5 Violator cooperated in investigation and resolution.

17.2 Alternative remedies may consist of one or more of the following:

- 17.2.1 Attendance at compliance workshops
- 17.2.2 Storm drain stenciling or storm drain marking
- 17.2.3 River, stream or creek cleanup activities

SECTION 18. VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this law is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator’s expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

SECTION 19. REMEDIES NOT EXCLUSIVE.

The remedies listed in this law are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

SECTION 20. ADOPTION OF LAW.

This local law shall become effective upon filing with the New York State Secretary of State as required by law. All prior laws and parts of law in conflict with this law are hereby repealed.

Approve Local Law No. 6: Councilor Sheridan made a motion seconded by Councilor Montgomery to adopt Local Law No. 6, 2007 a Local Law for Stormwater Management and Erosion & Sediment Control upon determining a Negative Declaration was issued under SEQR for its adoption. The question of the adoption of Local Law No. 6, 2007 was duly put to a vote on roll call, which resulted as follows:

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

Carried.

**TOWN OF MARCELLUS
LOCAL LAW NO 6 for 2007**

**A
Local Law
for Stormwater Management and**

Erosion & Sediment Control

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

Article 1. General Provisions

Section 1. Findings of Fact

It is hereby determined that:

- 1.1 Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- 1.2 This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- 1.3 Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- 1.4 Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- 1.5 Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- 1.6 Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- 1.7 Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- 1.8 The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- 1.9 Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

Section 2. Purpose

The purpose of this local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in Section 1 hereof. This local law seeks to meet those purposes by achieving the following objectives:

- 2.1 Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-02-02 or as amended or revised;

- 2.2 Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;
- 2.3 Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- 2.4 Minimize increases in pollution caused by stormwater runoff from land development activities, which would otherwise degrade local water quality;
- 2.5 Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- 2.6 Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

Section 3. Statutory Authority

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Marcellus has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Town of Marcellus and for the protection and enhancement of its physical environment. The Town Board may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

Section 4. Applicability

- 4.1 This local law shall be applicable to all land development activities as defined in this local law, Article 2, Section 1.
- 4.2 The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Town Board of the Town of Marcellus engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.
- 4.3 All land development activities subject to review and approval by the Town Board, Planning Board and Zoning Board of Appeals of the Town of Marcellus under subdivision, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this local law
- 4.4 All land development activities not subject to review as stated in section 4.3 shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

Section 5. Exemptions

The following activities may be exempt from review under this law.

- 5.1 Agricultural activity as defined in this local law.

- 5.2 Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- 5.3 Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- 5.4 Any part of a subdivision if a plat for the subdivision has been approved by the Planning Board of the Town of Marcellus on or before the effective date of this law.
- 5.5 Land development activities for which a building permit has been approved on or before the effective date of this law.
- 5.6 Cemetery graves.
- 5.7 Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- 5.8 Emergency activity immediately necessary to protect life, property or natural resources.
- 5.9 Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- 5.10 Landscaping and horticultural activities in connection with an existing structure.

Article 2. Stormwater Control

Section 1. Definitions

The terms used in this local law or in documents prepared or reviewed under this local law shall have the meaning as set forth in this section. Where said definitions within the Zoning Ordinance or Subdivision Regulations conflict with the definitions herein, the definitions herein prevail.

Agricultural Activity - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

Applicant - a property owner or agent of a property owner who has filed an application for a land development activity.

Building - any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

Channel - a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clearing - any activity that removes the vegetative surface cover.

Dedication - the deliberate appropriation of property by its owner for general public use.

Department - the New York State Department of Environmental Conservation

Design Manual - the *New York State Stormwater Management Design Manual*, most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.

Developer - a person who undertakes land development activities.

Erosion Control Manual - the most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book".

Grading - excavation or fill of material, including the resulting conditions thereof.

Impervious Cover - those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

Industrial Stormwater Permit - a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries, which regulates the pollutant levels, associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration - the process of percolating stormwater into the subsoil.

Jurisdictional Wetland - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land Development Activity - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre (*see ? Note*), or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

Landowner - the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Maintenance Agreement - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

Nonpoint Source Pollution - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Phasing - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

Pollutant of Concern - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

Project - land development activity

Recharge - the replenishment of underground water reserves.

Sediment Control - measures that prevent eroded sediment from leaving the site.

Sensitive Areas - cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES General Permit for Construction Activities GP-02-01 - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02 - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards

Stabilization - the use of practices that prevent exposed soil from eroding.

Stop Work Order - an order issued which requires that all construction activity on a site be stopped.

Stormwater - rainwater, surface runoff, snowmelt and drainage

Stormwater Hotspot - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

Stormwater Management - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

Stormwater Management Facility - one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

Stormwater Management Officer - an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices

Stormwater Management Practices (SMPs) - measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

Stormwater Pollution Prevention Plan (SWPPP) - a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

Stormwater Runoff - flow on the surface of the ground, resulting from precipitation

Surface Waters of the State of New York - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

Watercourse - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Waterway - a channel that directs surface runoff to a watercourse or to the public storm drain.

Section 2. Stormwater Pollution Prevention Plans

2.1. Stormwater Pollution Prevention Plan Requirement

No application for approval of a land development activity shall be reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

2.2 Contents of Stormwater Pollution Prevention Plans

2.2.1 All SWPPPs shall provide the following background information and erosion and sediment controls:

1. Background information about the scope of the project, including location, type and size of project.
2. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show

- the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
3. Description of the soil(s) present at the site;
 4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
 5. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 6. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill -prevention and response;
 7. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
 8. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
 9. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 10. Temporary practices that will be converted to permanent control measures;
 11. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 12. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 13. Name(s) of the receiving water(s);
 14. Delineation of SWPPP implementation responsibilities for each part of the site;
 15. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 16. Any existing data that describes the stormwater runoff at the site.
- 2.2.2 Land development activities as defined in Section 1 of this Article and meeting Condition “A”, “B” or “C” below shall also include water

quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 2.2.3 below as applicable:

Condition A - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B - Stormwater runoff from land development activities disturbing five (5) or more acres.

Condition C - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

2.2.3 SWPPP Requirements for Condition A, B and C:

1. All information in Section 2.2 .1 of this local law
2. Description of each post-construction stormwater management practice;
3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms
5. Comparison of post-development stormwater runoff conditions with pre-development conditions
6. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
7. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
8. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
9. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this local law.
10. For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

2.3 Other Environmental Permits

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

2.4 Contractor Certification

- 2.4.1 Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice

installation shall sign and date a copy of the following certification statement before undertaking any land development activity : “I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards.”

2.4.2 The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

2.4.3 The certification statement(s) shall become part of the SWPPP for the land development activity.

2.5 A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

Section 3. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control

All land development activities shall be subject to the following performance and design criteria:

3.1 Technical Standards

For the purpose of this local law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

3.1.1 The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)

3.1.2 New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

3.2 Equivalence to Technical Standards

Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Article 2, Section 3.1 and the SWPPP shall be prepared by a licensed professional.

3.3 Water Quality Standards

Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

Section 4. Maintenance, Inspection and Repair of Stormwater Facilities

4.1 Maintenance and Inspection During Construction

- 4.1.1 The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- 4.1.2 For land development activities as defined in Section 1 of this Article and meeting Condition A, B or C in Section 2.2.2, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.
- 4.1.3 The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.

4.2 Maintenance Easement(s)

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Marcellus to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Marcellus.

4.3 Maintenance after Construction

The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained¹ to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

- 4.3.1 A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
- 4.3.2 Written procedures for operation and maintenance and training new maintenance personnel.
- 4.3.3 Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Article 2, section 3.3.

¹

4.4 Maintenance Agreements

The Town of Marcellus shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this local law entitled Sample Stormwater Control Facility Maintenance Agreement. The Town of Marcellus in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Section 5. Severability and Effective Date

5.1 Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

5.2 Effective Date

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

Approved by: _____ Date _____

Article 3. Subdivision Regulation Amendment

The Subdivision Regulations of the Town of Marcellus are hereby amended by adding the following to the information requirements:

A. A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this local law shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Preliminary Subdivision Plat shall be consistent with the provisions of this local law.

B. A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law and with the terms of preliminary plan approval shall be required for Final Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Final Subdivision Plat shall be consistent with the provisions of this local law.

Article 4. Site Plan Review Regulation Amendment

Site Plan Review regulations of the Town of Marcellus Zoning Ordinance are hereby amended by adding the following to the information requirements:

A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Site Plan shall be consistent with the provisions of this local law.

Article 5. Administration and Enforcement

Section 1. Construction Inspection

1.1 Erosion and Sediment Control Inspection

The Town of Marcellus Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Marcellus enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- 1.1.1 Start of construction
- 1.1.2 Installation of sediment and erosion control measures
- 1.1.3 Completion of site clearing
- 1.1.4 Completion of rough grading
- 1.1.5 Completion of final grading
- 1.1.6 Close of the construction season
- 1.1.7 Completion of final landscaping
- 1.1.8 Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

1.2 Stormwater Management Practice Inspections

The Town of Marcellus Stormwater Management Officer, is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

1.3 Inspection of Stormwater Facilities After Project Completion

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or

water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

1.4 Submission of Reports

The Town of Marcellus Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

1.5 Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of Marcellus the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 1.3.

Section 2. Performance Guarantee

2.1 Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Marcellus in its approval of the Stormwater Pollution Prevention Plan, the Town of Marcellus may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Marcellus as the beneficiary. The security shall be in an amount to be determined by the Town of Marcellus based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Marcellus provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town of Marcellus. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

2.2 Maintenance Guarantee

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Marcellus with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Marcellus may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

2.3 Recordkeeping

The Town of Marcellus may require entities subject to this law to maintain records demonstrating compliance with this law.

Section 3. Enforcement and Penalties

3.1 Notice of Violation.

When the Town of Marcellus determines that a land development activity is not being carried out in accordance with the requirements of this local law, it may issue a written notice of violation to the landowner. The notice of violation shall contain :

- 3.1.1 the name and address of the landowner, developer or applicant;
- 3.1.2 the address when available or a description of the building, structure or land upon which the violation is occurring;
- 3.1.3 a statement specifying the nature of the violation;
- 3.1.4 a description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;
- 3.1.5 a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- 3.1.6 a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

3.2 Stop Work Orders

The Town of Marcellus may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Town of Marcellus confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

3.3 Violations

Any land development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.

3.4 Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However,

for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

3.5 Withholding of Certificate of Occupancy

If any building or land development activity is installed or conducted in violation of this local law the Stormwater Management Officer may prevent the occupancy of said building or land.

3.6 Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Marcellus may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

Section 4. Fees for Services

The Town of Marcellus may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Marcellus or performed by a third party for the Town of Marcellus .

Schedule A

Stormwater Management Practices Acceptable for Water Quality (From: New York State Stormwater Management Design Manual, Table 5.1)		
Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.

Wetland	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
Infiltration	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F-2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
Open Channels	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

Schedule B

SAMPLE STORMWATER CONTROL FACILITY
MAINTENANCE AGREEMENT

Whereas, the Municipality of _____ ("Municipality") and the _____ ("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Municipality for the below named project, and

Whereas, the Municipality and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Municipality and the facility owner agree as follows:

1. This agreement binds the Municipality and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Municipality within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Municipality.
6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Municipality or in accordance with the recommendations of the inspecting engineer.
7. The facility owner shall provide to the Municipality within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of (a Bond, letter of credit or escrow account).
8. This agreement shall be recorded in the Office of the County Clerk, County of _____ together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to _____.
9. If ever the Municipality determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Municipality or by the inspecting engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.
10. This agreement is effective _____.

Agreement: Additional County Roads for Snow Plowing: Supervisor Ross presented to the Board an Amended Contract dated June 28, 2005 between the Town and Onondaga County Department of Transportation for an increase of .97 miles of plowing of county roads. The County is asking the Town to plow Sheehan Road .03 miles and Coon Hill Road (from Route 174 to Rose Hill Road) .94. This would make the total miles of county roads plowed by the Town 15.36. Councilor Sherman made a motion seconded by Councilor Sheridan to authorized the Supervisor to sign the Amended Contract with Onondaga County for the Town to plow Sheehan Road .03 miles and Coon Hill Road (from Route 174 to Rose Hill Road) .94 miles for an increase of .97 miles of county roads making the total 15.36 miles. All voted aye. Carried.

Southern Onondaga Water District: Approval of Vouchers #46, #47, #48:

Councilor Sheridan made a motion seconded by Councilor Montgomery to approve the following payments in conjunction with the Southern Onondaga Area Water District:

Voucher #46	Reagan and Dailey	\$ 4,717.75
Voucher #47	Thomas Chartrand Accounting	\$ 41.10
Voucher #48	Barton & Loguidice	\$ 16,412.59

All voted aye.

Carried.

Set Time for the 2007 Year End Meeting to be Held on December 27th: The Town Board set 5:00 pm for the Year End Meeting scheduled for December 27, 2007.

P&A Group – Renewal of Flex Spending Plan: Councilor Sherman made a motion seconded by Councilor Sheridan to authorize the Supervisor to sign the Census Status Sheet for the Renewal of the Flex Spending Plan administered by P&A Group. All voted aye. Carried.

Authorize the Closing of Town Hall on December 24th: Councilor Sherman made a motion seconded by Supervisor Ross to close the Marcellus Town Hall on December 24, 2007. All voted aye. Carried.

Old Park Building – Asbestos Sampling: Barton & Loguidice presented a proposal for engineering services for asbestos sampling of roofing insulation at the old park building in the amount of \$375.00. Councilor Montgomery made a motion seconded by Councilor Sherman to authorize Supervisor Ross to enter into an agreement with Barton & Loguidice for engineering services for asbestos sampling of roofing insulation at the old park building in the amount of \$375.00. All voted aye. Carried.

Barton & Loguidice – Proposal for Engineering Services – Town Highway Garage:

Barton & Loguidice presented a proposal for engineering services concerning the Town Highway Garage for Environmental Compliance Assessment and Structural Condition Assessment Report. The Environmental Compliance Assessment would be in the amount of \$6,600.00 and the Structural Condition Assessment Report would be in the amount of \$950.00. The Environmental Protection Agency is strongly urging municipal highway garages to conduct compliance evaluations. Councilor Montgomery made a motion seconded by Councilor Sherman to authorize Supervisor Ross to enter in an agreement with Barton & Loguidice for engineering services for Environmental Compliance Assessment of the Town Highway Garage in the amount of \$6,600.00 and Structural Condition Assessment Report in the amount of \$950.00. All voted aye. Carried.

Sidewalk District – Sage Meadows: A petition was received on behalf of Brookview Court, Inc. d/b/a Pigliavento Builders for the creation of a sidewalk district in the Sage Meadows subdivision. Councilor Sherman made a Resolution #044-07 seconded by Councilor Sheridan to accept the petition and schedule a public hearing for December 10, 2007 at 7:00pm for the creation of a sidewalk district in the Sage Meadows subdivision. Resolution #044-07 is as follows:

#044-07

NOTICE OF PUBLIC HEARING

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 November 8, 2007

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

**IN THE MATTER OF THE CREATION OF
SAGE MEADOWS SIDEWALK DISTRICT
IN THE TOWN OF MARCELLUS, COUNTY OF ONONDAGA, NEW YORK**

RESOLUTION CALLING FOR PUBLIC HEARING

WHEREAS, Brookview Court, Inc. d/b/a Pigliavento Builders, being the owner of taxable real property situated in the proposed **SAGE MEADOWS SIDEWALK DISTRICT**, hereinafter described, and owning in the aggregate at least one-half of the assessed valuation of all taxable real property of said proposed sidewalk district creation as shown upon the latest completed assessment roll of said Town, and including resident owners of said proposed sidewalk district creation owned by resident owners, if any, according to the latest completed assessment roll of said Town, has petitioned this Board to create **SAGE MEADOWS SIDEWALK DISTRICT** in the Town of Marcellus, County of Onondaga, State of New York, outside of any incorporated Village and wholly within the said Town of Marcellus, to be known and designated as "SAGE MEADOWS SIDEWALK DISTRICT", pursuant to Article 12, of the Town Law of the State of New York, and

WHEREAS, the proposed sidewalk system in Sage Meadows will include 2052.50 lineal feet of sidewalk, 4 feet in width, constructed of tarvia, and providing a pedestrian travel way for 21 lots, and

WHEREAS, the capital cost for the sidewalk system including construction costs and legal and engineering fees will be paid by the Petitioner, Brookview Court, Inc. d/b/a Pigliavento Builders, and dedicated to the Town at no cost to the proposed district or the Town of Marcellus, and

WHEREAS, the estimated annual unit charge will be \$46.91 per year to each of the 21 units benefited, based upon the estimated life expectancy of the sidewalks being 10-15 years (12.5 years) and at a replacement cost of \$1.50 per square foot. (2052.50 lineal feet x 4 feet wide = 8210 square feet x 1.5 ÷ 12.5 years = 985.2 ÷ 21 lots = 46.91), and

WHEREAS, the proposed District is bounded and described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Marcellus, County of Onondaga and State of New York and being a part of Lot 17 in said Town and being more particularly described as follows: BEGINNING at the intersection of the common lines between lands now or formerly owned by Frank Howlett as recorded in the Onondaga County Clerk's Office in Liber of Deeds #41 Page #32 and lands now or formerly owned by Brookview Court, Inc. d/b/a as Pigliavento Builders as recorded in the Onondaga County Clerk's Office in Liber of Deeds #4992, Page #406, with the centerline of West Seneca Turnpike; thence N.04°36'23"W., along the common line between said Howlett and Brookview Court, Inc. d/b/a/ Pigliavento Builders properties, a distance of 2,083.62 feet to a point for corner in the southerly line of lands now or formerly owned by Harold Brinkerhoff as recorded in the Onondaga County Clerk's Office in Libel' of Deeds #2582, Page #296; thence N.85°40'37"E. along the southerly line of said Brinkerhoff property, a distance of 597.43 feet to an iron pipe found for comer, said iron pipe found being the northwesterly corner of Lot 6, Smoke Ridge Estates. as recorded in the Onondaga County Clerk's Office, Map #4756; thence S.04°36'23"E., along the westerly line of Lots 6 - 14, Smoke Ridge Estates and the westerly line of lands now or formerly owned by Frederick Brockway as recorded in the Onondaga County Clerk's Office in Libel' of Deeds #3027, Page #4, a distance of 2,162.72 feet to a point for corner in the centerline of West Seneca Turnpike; thence N.86°47'09"W., along the centerline of said West Seneca Turnpike, a distance of 603.03 feet to the POINT OF BEGINNING. CONTAINING 29.119 acres ofland more or less.

WHEREAS . there is no encumbrance of public debt related to the formation of the extension, and

ON MOTION OF Councilor Sherman
SECONDED BY Councilor Sheridan

BE IT RESOLVED , that 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 on December 10, at 7:00 p.m., this Board will consider the establishment of the proposed Sage Meadows Sidewalk District and to hear all persons interested in the subject thereof, concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it

FURTHER RESOLVED, that the Town Clerk publish at least once in the Marcellus Observer, a newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of section 30 of the Town Law, a copy of this resolution , certified by said Town Clerk, the first publication thereof and said posting to be not less than 10 nor more than 20 days before the date of such public hearing; and

FURTHER RESOLVED that Petition and Map prepared by CNY Land Surveying LLC, Douglas J. Reith, LS dated 10/16/07 filed in this matter on behalf of the applicant Brookview Court, Inc. d/b/a Pigliavento Builders is available at the Town Offices for review; and

FURTHER RESOLVED that the resolution be posted on the Town of Marcellus website; and

FURTHER RESOLVED that this resolution be entered in the minutes of the meeting.

VOTING:	Daniel J. Ross	Aye
	James A. Sheridan	Aye
	Donald G. Sherman	Aye
	Bernard L. Montgomery	Aye

Key Bank – Authorization for Direct Deposit: Councilor Montgomery made a motion seconded by Councilor Sherman to authorize the Supervisor to sign the necessary paperwork for authorization for direct deposit in Key Bank. This is warranted because of the change in banks. All voted aye. Carried.

Key Bank – Corporation Depository Certificate: Councilor Montgomery made a motion seconded by Councilor Sherman to authorize the Supervisor to sign the necessary paperwork for corporate depository certificate in Key Bank. This is warranted because of the change in banks. All voted aye. Carried.

Retainer Agreement: Counsel Cogswell presented to the Board a retainer agreement dealing with issues beyond the formation of the Limeledge Water District. Councilor Sheridan made a motion seconded by Councilor Sherman to authorize Supervisor Ross to enter into the retainer agreement with Michael C. Cogswell. This agreement will deal with issues that are beyond the formation stage of the Limeledge Water District. All voted aye. Carried.

THIS AGREEMENT, made and entered into this November 8, 2007 between the Town of Marcellus (the “Town”), a municipal corporation of the State of New York situate in Onondaga County, acting for and on behalf of Limeledge (Marcellus) Water District in said Town, (the “District”), and Michael C. Cogswell Attorney-at-Law, with offices at 106 E. Main Street, Elbridge, (the “Attorney”),

WITNESSETH:

WHEREAS, the Town, acting for and on behalf of said District, retained Michael C. Cogswell, to advise the Town concerning all requirements of law affecting formation of the Limeledge (Marcellus) Water District and prepare for the Board all documents required in said formation, and

WHEREAS, the Town, acting for and on behalf of said District has further retained Michael C. Cogswell, Esq, for all legal issues concerning financing and construction of facilities within said “District” and wishes to confirm said agreement in relation to legal assistance provided to date,

NOW, THEREFORE, it is hereby agreed and confirmed by and between the parties hereto as follows:

1. The Town Board of the Town of Marcellus hereby authorizes and confirms the employment of Michael C. Cogswell, on behalf of said Town to assist the Town and the Town engineering firm of Barton & Loguidice, P.C. (Engineer), in regard to:

- a. any and all requirements of law affecting the said project;
- b. preparation of proposed contracts for the execution of the work;
- b. review of construction contracts, bid-letting procedure, and surety and contractual bonds in connection therewith;
- d. review of sealed proposals as to requirements of law;
- e. preparation, where necessary, and review of deeds, easements and other right-of-way documents, and other instruments for sites for the Limeledge Water District that may require takings and other facilities necessary to the system and to provide continuous rights-of-way therefore; rendering title opinions with reference thereto; and providing for the recordation thereof;
- f. obtain necessary permits and certificates from county and municipal bodies, from state regulatory agencies, and from other public or private sources with respect to the approval of the system, the construction and operation thereof, pipeline crossings, and the like;
- g. cooperate with the Engineer employed by Town in connection with preparation of easements and other necessary title documents, construction contracts, water supply contracts, health permits, crossing permits, and other instruments;
- h. cooperate with retained bond counsel in the preparation of the documents necessary for the financing aspects of the system. The Attorney will not be responsible for the preparation and approval of those documents pertaining to the issuance of the Town's obligations;
- i. the completion and execution of documents for obtaining a loan made by the Drinking Water State Revolving Fund (DWSRF); and
- j. such other action as may be necessary in connection with the financing, construction, and operation of the system.

The remuneration to Michael C. Cogswell, Esq, for said services is to be at the rate of \$135.00 per hour, plus all necessary disbursements incurred by said attorney in connection therewith, with partial payments to be made during the progress of said work as the Board may hereafter direct and authorize. It is anticipated that the maximum amount for legal services to the Attorney shall not exceed \$60,000.

2. The Attorney will attend all meetings and conferences as required by the Town regarding performance of his/her services to be rendered hereunder.

3. The Supervisor of the Town of Marcellus shall executed this agreement pursuant to a resolution adopted by the Town Board of the Town of Marcellus, on November 8, 2007

IN WITNESS WHEREOF, THE TOWN OF MARCELLUS acting for and on behalf of said Limeledge (Marcellus) Water District, caused its corporate seal to be affixed hereto and these presents to be signed by Daniel J. Ross, Supervisor, duly authorized to do so, and to be attested to by Karen R. Pollard, Town Clerk, and the said Michael C. Cogswell, Esq., has hereunto set his hand and seal the day and year first above written.

Attest: Town of Marcellus
By:

S/: Daniel J. Ross
Daniel J. Ross, Supervisor

S/: Karen R. Pollard
Karen R Pollard, Town Clerk

Councilor Montgomery made a motion seconded by Councilor Sherman to authorize Counsel Cogswell to retain the services of Hiscock & Barclay LLC for condemnation processes concerning the Southern Onondaga Area Water District. All voted aye.
Carried.

ITEMS FROM THE BOARD: None

ITEMS FROM THE FLOOR: Everett Teague, 3057 Brewer Road, appeared before the Board to lodge a complaint concerning speeding on Brewer Road. Mr. Teague stated that trucks, ATVs and motorcycles not only speed on the road but also cut up resident's lawns. It seems to be happening mostly on the weekends. Supervisor Ross thanked Mr. Teague for bringing the problem to the Board's attention. He will contact the Sheriffs Department to see if they can increase patrols in the area.

Councilor Montgomery made a motion seconded by Councilor Sheridan to adjourn the meeting at 8:45 P.M. All voted aye. Carried.

Respectfully submitted,

Karen R. Pollard, Town Clerk