

A Meeting of the Town Board of the Town of Orchard Park, Erie County, New York, was held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 20th day of June 2007 at 7:00 P.M., (local time). The meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL:	Mary Travers Murphy	Supervisor
	David Kaczor	Councilman
	Nancy Ackerman	Councilwoman
	Mark Dietrick	Councilman
	Deborah Yeomans	Councilwoman
	Janis Colarusso	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Samuel McCune	Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer

The Supervisor read into the record the following: *"If anyone appearing before the Town Board has a family, financial or business relationship with any member of the Board, it is incumbent upon that person to make it known under State Law and the Town Code of Ethics."*

Recreation Department Awards Recognition

Recreation Director, Ed Leak, asked Supervisor Travers Murphy and Councilman Kaczor to assist him in the award ceremony this evening. He presented the Corporate Sponsorship Awards for the following individuals; Dr. Donnelly from Orchard Park Pediatrics; Jeff Horbowicz from Pepsi Bottling Group, Maureen Rasp from Gloss and Ken Jagodzinski from Verizon.

At this time Mr. Leak introduced Marty Denecke, Director of Recreation, Town of Hamburg and President of the Niagara Frontier Recreation and Parks Society. Mr. Denecke presented David F. Catena and Audrey Ramage, Chairperson for the Orchard Park Recreation Commission with the Voluntary Service Award. He also presented Diane Bond and Jim Wilson with the Publication Award for Art Rocks the Park.

The surprise of the evening was when Mr. Denecke presented the Recreation Director Ed Leak with the President Citation Award.

1) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

RESOLVED, that the minutes of the Meeting of the Town Board held on June 6, 2007 and the Executive Session Minutes for June 6 & 13, 2007, as presented by the Town Clerk, are hereby approved, and be it further

RESOLVED, that the reading of these minutes be dispensed with as each member of the Town Board has previously received copies thereof.

The resolution was unanimously adopted.

PUBLIC HEARING
Local Law for the Year 2007
"Zoning Board of Appeals Expiration of Appeal Decision"

At 7:15 PM (local time) the Supervisor called for the Public Hearing for the Town of Orchard Park to hear all interested parties for or against the Amendment to the Zoning Ordinance 144-63D(2)(d) of the Town of Orchard Park.

Affidavits of Publication and Posting of the Legal Notice of the Public Hearing were presented, read aloud and filed with the Town Board by the Town Clerk of the Town of Orchard Park.

At this time the Supervisor asked the Town Attorney, Len Berkowitz, to explain the amendment. The Town Attorney proceeded in explaining exactly what the ordinance means. The Supervisor then asked if there was anyone in the audience that would like to speak for or against the amendment.

Comments from the floor: No one spoke.

2) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

RESOLVED, that the Town Board of the Town of Orchard Park does hereby move to close the Public Hearing in the matter of the Amendment to the Zoning Ordinance of the Town of Orchard Park Section 144-63D(2)(d) at 7:21 PM.

The resolution was unanimously adopted.

3) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN YEOMANS, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

WHEREAS, following due and timely notice a Public Hearing was held in matter of an Amendment to the Zoning Ordinance of the Town of Orchard Park, which amendment provides as follows; Section 144-63D(2)(d), was conducted at the Orchard Park Municipal Center on April 20, 2005, at which time all interested parties were given an opportunity to be heard

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby adopt Local Law #2 for the Year 2007; Section 144-63D(2)(d); Expiration of Appeal Decision, which reads as follows:

(d) Expiration of Appeal Decision

"A decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary building permit or comply with the conditions of said authorized permit within twelve (12) months from the date of authorization thereof. The Zoning Board of Appeals, in its judgment of the special circumstances presented by a particular case shall have the ability to reduce the expiration time to not less than six (6) months if it believes said reduction is in the interest of public health safety or general welfare."

The question of the adoption of the foregoing resolution was duly put to a roll call vote:

Supervisor Travers Murphy	Aye
Councilwoman Ackerman	Aye
Councilman Kaczor	Aye
Councilman Dietrick	Aye
Councilwoman Yeomans	Aye

The resolution was unanimously adopted.

PUBLIC HEARING
Local Law for the Year 2007
“Storm Water Management and Erosion & Sediment Control”

At 7:24 PM (local time) the Supervisor called for the Public Hearing for the Town of Orchard Park to hear all interested parties for or against the a Proposed Local Law for the Year 2007. This Local Law provides for the adoption of a new ordinance for Stormwater Management and Erosion and Sediment Control, and to comply with Federal and State Regulation.

Affidavits of Publication and Posting of the Legal Notice of the Public Hearing were presented, read aloud and filed with the Town Board by the Town Clerk of the Town of Orchard Park.

At this time the Supervisor asked the Town Engineer, Wayne Bieler, to explain the Proposed Local Law. The Engineer proceeded in explaining exactly what the new law means. The Supervisor then asked if there was anyone in the audience that would like to speak for or against the new law.

Comments from the floor: No one spoke.

4) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board of the Town of Orchard Park does hereby move to close the Public Hearing in the matter of the a Proposed Local Law for the Year 2007; Adoption of a New Ordinance for “Stormwater Management and Erosion & Sediment Control” to comply with Federal and State Regulations, at 7:26 PM (local time).

The resolution was unanimously adopted.

5) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

WHEREAS, following due and timely notice a Public Hearing relating to the matter of a Local Law for the Year 2007; “Storm Water Management and Erosion & Sediment Control” was conducted at the Orchard Park Municipal Center on April 20, 2005, at which time all interested parties were given an opportunity to be heard

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby adopt Local Law #3 for the Year 2007; “Storm Water Management and Erosion & Sediment Control, which reads 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 salutation 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 base flow;
- 1.6 Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- 1.7 Stormwater runoff, soil erosion and non point 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 non point 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, salutation, 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 non point 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 of Orchard Park Town Board 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 Orchard Park and for the protection and enhancement of its physical environment.

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 Orchard Park, 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 of the Town of Orchard Park under subdivision, site plan, and/or special exception 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 Silvicultural activity except that landing areas and log haul roads are subject to this law.
- 5.3 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.
- 5.4 Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- 5.5 Any part of a subdivision if a plat for the subdivision has been approved by the Town of Orchard Park on or before the effective date of this law.
- 5.6 Land development activities for which a building permit has been approved on or before the effective date of this law.
- 5.7 Cemetery graves.
- 5.8 Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- 5.9 Emergency activity immediately necessary to protect life, property or natural resources.
- 5.10 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.
- 5.11 Landscaping and horticultural activities in connection with an existing structure.

Article 2. Zoning Law Amendment: Stormwater Control

The Zoning Law is hereby amended to include Article 12, a new supplemental regulation titled 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.

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, and 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 – The Town Engineer is designated.

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. The site map shall be at a scale no smaller than 1"=100'. 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 oil 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 Orchard Park 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 Orchard Park.

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 maintained 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.

4.4 Maintenance Agreements

The Town of Orchard Park 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 Orchard Park, 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.

Article 3. Subdivision Regulation Amendment

Subdivision Regulations of the Town of Orchard Park are hereby amended by adding the following to the information requirements:

A. *For Preliminary Subdivision Plat add: Stormwater Pollution Prevention Plan:* 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. *For Final Subdivision Plat approval add: Stormwater Pollution Prevention Plan:* 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

The Site Plan Review regulations of the Town of Orchard Park are hereby amended by adding the following to the information requirements:

For Site Plan Approval add: Stormwater Pollution Prevention Plan: 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. Erosion & Sediment Control Law Repeal or Amendment

This local law shall be effective upon filing with the New York Secretary of State. All prior laws or parts of law in conflict of this law are hereby repealed

Article 6. Administration and Enforcement, Section 1. Construction Inspection**1.1 Erosion and Sediment Control Inspection**

The Town of Orchard Park 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 Orchard Park 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 Orchard Park 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 Orchard Park 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 Orchard Park 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 Orchard Park in its approval of the Stormwater Pollution Prevention Plan, the Town of Orchard Park 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 Orchard Park as the beneficiary. The security shall be in an amount to be determined by the Town of Orchard Park 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 Orchard Park, 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 Orchard Park . 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 Orchard Park 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 Orchard Park 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 Orchard Park 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 Orchard Park 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 Orchard Park 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 Orchard Park 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 Orchard Park 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 Orchard Park 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 Orchard Park or performed by a third party for the Town of Orchard Park.

Section 5. Adoption of Law.

This law shall take effect upon its filing with the New York Secretary of State. All prior laws and parts of law in conflict with this law are hereby repealed.

Councilman Dietrick stated that this Local Law is an unfunded mandate from the State, it is not a new law. This law switches the responsibility of the NYS Department of Environmental Conservation to the Towns. This will also have financial impacts on the Town as well.

The question of the adoption of the foregoing resolution was duly put to a roll call vote:

Supervisor Travers Murphy	Aye
Councilwoman Ackerman	Aye
Councilman Kaczor	Aye
Councilman Dietrick	Aye
Councilwoman Yeomans	Aye

The resolution was unanimously adopted.

PUBLIC HEARING**Local Law for the Year 2007****“Prohibiting Illicit Discharge, Activities and Connection to Separate Storm Sewer System”**

At 7:27 PM (local time) the Supervisor called for the Public Hearing for the Town of Orchard Park to hear all interested parties for or against the a Proposed Local Law for the Year 2007. This Local Law provides for the Adoption of a New Ordinance for Prohibiting Illicit Discharge, Activities and Connection to Municipal Separate Storm Sewer Systems to Comply with Federal and State Regulations.

Affidavits of Publication and Posting of the Legal Notice of the Public Hearing were presented, read aloud and filed with the Town Board by the Town Clerk of the Town of Orchard Park.

At this time the Supervisor asked the Town Engineer, Wayne Bieler, to explain the Proposed Local Law. The Engineer proceeded in explaining exactly what the new law means.

The Supervisor then asked if there was anyone in the audience that would like to speak for or against the new law.

Comments from the floor: No one spoke.

6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board of the Town of Orchard Park does hereby move to close the Public Hearing in the matter of the a Proposed Local Law for the Year 2007. This Local Law provides for the Adoption of a New Ordinance for Prohibiting Illicit Discharge, Activities and Connection to Municipal Separate Storm Sewer Systems to Comply with Federal and State Regulations, at 7:30 PM.

The resolution was unanimously adopted.

7) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

WHEREAS, following due and timely notice a Public Hearing relating to the matter of a Local Law for the Year 2007; "Prohibiting Illicit Discharge, Activities and Connection to Separate Storm Sewer System" was conducted at the Orchard Park Municipal Center on April 20, 2005, at which time all interested parties were given an opportunity to be heard

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby adopt Local Law #4 for the Year 2007; "Prohibiting Illicit Discharge, Activities and Connection to Separate Storm Sewer System" which reads as follows:

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 Orchard Park 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 Design professional. New York State licensed professional engineer or licensed architect.
- 2.6 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.
- 2.7 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.
- 2.8 Illicit Discharge. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 6 of this law.
- 2.9 Individual Sewage Treatment System. A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwater's of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.
- 2.10 Industrial Activity. Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
- 2.11 MS4. Municipal Separate Storm Sewer System.

- 2.12 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 Orchard Park;
 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
- 2.13 Municipality. The Town of Orchard Park.
- 2.14 Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.
- 2.15 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.
- 2.16 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.
- 2.17 Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- 2.18 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.

- 2.19 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.
- 2.20 Stormwater. Rainwater, surface runoff, snowmelt and drainage.
- 2.21 Stormwater Management Officer (SMO). An employee, the town engineer or other public official(s) designated by the Town of Orchard Park to enforce this local law. The SMO may also be designated by the Town of Orchard Park to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices. The Town of Orchard Park has designated the Town Engineer as SMO (Stormwater Management Officer) to administer the Town's Stormwater program. The Building Inspector will be the Assistant SMO (Stormwater Management Officer) and assigned Stormwater Code Enforcement and Residential Construction. The Highway Superintendent is responsible for Town stormwater related Highway/Parks operation and maintenance requirements.
- 2.22 303(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.
- 2.23 TMDL. Total Maximum Daily Load.
- 2.24 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.
- 2.25 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 Town of Orchard Park 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 Town of Orchard Park 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, dechlorinated 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 FAILING INDIVIDUAL SEWAGE TREATMENT SYSTEMS

No persons shall operate a failing individual sewage treatment system in areas tributary to the Town of Orchard Park. A failing individual sewage treatment system is one which has one or more of the following conditions:

- 7.1 The backup of sewage into a structure.
- 7.2 Discharges of treated or untreated sewage onto the ground surface.
- 7.3 A connection or connections to a separate stormwater sewer system.
- 7.4 Liquid level in the septic tank above the outlet invert.
- 7.5 Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
- 7.6 Contamination of off-site groundwater.

SECTION 8. PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER

8.1 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.

8.2 Such activities include failing individual sewage treatment systems as defined in Section 7, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

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

9.1 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.

9.1.1 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.

9.1.2 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.

- 9.1.3 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.
- 9.2 Individual Sewage Treatment Systems - Response to Special Conditions Requiring No Increase of Pollutants or Requiring a Reduction of Pollutants Where individual sewage treatment systems are contributing to the municipality's being subject to the Special Conditions as defined in Section 2 of this local law, the owner or operator of such individual sewage treatment systems shall be required to:
- 9.2.1 Maintain and operate individual sewage treatment systems as follows:
1. Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within ten inches of the bottom of the outlet baffle or sanitary tee.
 2. Avoid the use of septic tank additives.
 3. Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and
 4. Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items
- 9.2.2 Repair or replace individual sewage treatment systems as follows:
1. In accordance with 10NYCRR Appendix 75A to the maximum extent practicable.
 2. A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:
 1. Relocating or extending an absorption area to a location not previously approved for such.
 2. Installation of a new subsurface treatment system at the same location.
 3. Use of alternate system or innovative system design or technology.
 3. A written certificate of compliance shall be submitted by the design professional to the municipality at the completion of construction of the repair or replacement system.

SECTION 10. SUSPENSION OF ACCESS TO MS4. Illicit Discharges in Emergency Situations.

- 10.1 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.
- 10.2 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 11. 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 12. ACCESS AND MONITORING OF DISCHARGES.

- 12.1 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.
- 12.2 Access to Facilities.
- 12.2.1 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.
- 12.2.2 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.
- 12.2.3 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.
- 12.2.4 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.
- 12.2.5 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.
- 12.2.6 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 13. 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 14. ENFORCEMENT.**14.1 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:

- 14.1.1 The elimination of illicit connections or discharges;
 - 14.1.2 That violating discharges, practices, or operations shall cease and desist;
 - 14.1.3 The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - 14.1.4 The performance of monitoring, analyses, and reporting;
 - 14.1.5 Payment of a fine; and
 - 14.1.6 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.
- 14.2 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 day's continued violation shall constitute a separate additional violation.

SECTION 15. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Town Board 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 16. CORRECTIVE MEASURES AFTER APPEAL.

- 16.1 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.
- 16.2 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 17. 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 18. ALTERNATIVE REMEDIES.

- 18.1 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:
 - 18.1.1 The violation was unintentional
 - 18.1.2 The violator has no history of pervious violations of this Law.
 - 18.1.3 Environmental damage was minimal.
 - 18.1.4 Violator acted quickly to remedy violation.
 - 18.1.5 Violator cooperated in investigation and resolution.
- 18.2 Alternative remedies may consist of one or more of the following:
 - 18.2.1 Attendance at compliance workshops
 - 18.2.2 Storm drain stenciling or storm drain marking
 - 18.2.3 River, stream or creek cleanup activities

SECTION 19. 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 20. 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 21. ADOPTION OF LAW.

This law shall take effect upon its filing with the New York Secretary of State. All prior laws and parts of law in conflict with this law are hereby repealed.

Councilman Dietrick stated that this Local Law is an unfunded mandate from the State, it is not a new law. This law switches the responsibility of the NYS Department of Environmental Conservation to the Towns. This will also have financial impacts on the Town as well.

The question of the adoption of the foregoing resolution was duly put to a roll call vote:

Supervisor Travers Murphy	Aye
Councilwoman Ackerman	Aye
Councilman Kaczor	Aye
Councilman Dietrick	Aye
Councilwoman Yeomans	Aye

The resolution was unanimously adopted.

Old Business #1 Schedule a Public Hearing for a Conservation Easement/5721 Seufert Road

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

RESOLVED, that the Town Board does hereby schedule a Public Hearing for Mr. and Mrs. George Preshoff, 5721 Seufert Road, for a perpetual Conservation Easement for five (5) acres of land, for Wednesday, July 18, 2007 at 7:00 PM, as recommended by the Conservation Board, and be it further

RESOLVED, that the Town Board does hereby authorize the Town Clerk to publish due notice.

The resolution was unanimously adopted.

Old Business #2 Authorize a Building Permit to I-Hop (Kelsey's Rest.) Quaker Crossing Plaza

9) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby approve the request from I-Hop (International House of Pancakes), located in the Quaker Crossing Plaza, Zoned B-1, and authorize the Building Permit for the renovations to the existing façade currently occupied and approve the site plan received, 5/14/07, as recommended by the Planning Board, 6/13/07, based on the following conditions and stipulations:

- This is an Unlisted SEQR Action based on the submitted Short EAF, and a Negative Declaration is declared.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall be recessed.
- No outside storage or display is permitted.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with §144-25 of the Town Code.

The resolution was unanimously adopted.

Old Business #3 Authorize a Building Permit to 3050 Orchard Park Road

10) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby approve the proposed site plan received on 6/13/07 from 3050 Orchard Park Road, Zoned B-2, proposing the relocation of Building "B", and issue a Building Permit for a 4,716 sq. ft. building, as recommended by the Planning Board, 6/13/07 based on the following conditions and stipulations:

- This is an Unlisted SEQR Action and a Negative Declaration was determined on 11/8/06 based on the submitted Full EAF.
- A landscape completion bond, in accordance with the Conservation Board minutes in the amount of \$19,610.00 shall be provided for the approved landscape plan, which includes 10% interior green space.
- Town Engineer Approval has been granted on 6/13/07.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lens.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with §144-25 of the Town Code.
- No outside storage or display is permitted.

The resolution was unanimously adopted.

Old Business #4 Authorize a Building Permit for the Out-Parcel located in Quaker Crossing

11) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

RESOLVED, that the Town Board does hereby approve the revised plan received on, 6/8/07, for Quaker Crossing East-Out Parcel, Zoned B-1, proposing a retail building and issue a Building Permit for an 11,440 sq. ft. building, as recommended by the Planning Board, 6/13/07, based on the following conditions and stipulations:

- This is an Unlisted SEQR Action and a Negative Declaration is determined based on the submitted Short EAF.
- A landscape completion bond, in accordance with the Conservation Board minutes in the amount of \$116,989.00 shall be provided for the approved landscape plan, which includes 18.9% green space for the total plaza area.
- Town Engineering approval has been granted on 6/12/07.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lens.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with §144-25 of the Town Code.
- No outside storage or display is permitted.

The resolution was unanimously adopted.

Old Business #5 Authorize a Building Permit for Delta Sonic Car Wash, 3205 Orchard Park Road

12) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby authorize a building permit for Delta Sonic Car Wash, 3205-3225 Orchard Park Road, Zoned B-2, for the proposed expansion of the existing Delta Sonic Site, combining the former Mobil Oil Station Site, to construct a 3,180 sq. ft. Detail Shop and 3,900 sq. ft. Convenient Store, and approve the site plan received, 4/26/07, as recommended by the Planning Board 6/13/07, based on the following conditions and stipulations:

- This is an Unlisted SEQR Action based on the submitted Long EAF, Parts One and Two and a Negative Declaration is declared.
- No outside storage or display is permitted.
- Dumpsters screening must be eight (8) feet high, in accordance with §144-25 of the Town Code.
- Town Engineering Approval was granted on 6/12/07.
- A landscape completion bond, in accordance with the Conservation Board Minutes, in the amount of \$23,000 shall be provided for the landscape plan received 1/18/07 which includes 15% total green space, prior to the receipt of a Building Permit.
- The Zoning Board of Appeals granted a variance to allow front yard parking on 2/20/07.
- No building Permit shall be issued until a lighting plan approved by the designated Planning Board Member Mr. John Bernard is found to be acceptable.
- The Board grants relief, per §144-29, with regards to the proposed 35-parking spaces in lieu of the 38 required; it is noted that in the site could add three (3) parking spaces if in the future it is deemed necessary by the Town. The three (3) parking spaces are placed (converted) into the landscape area to provide additional green space.

The resolution was unanimously adopted.

13) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

RESOLVED, that the Town Board does hereby grant the submitted signage plan received, 3/26/07 for Delta Sonic Car Wash, 3205-3225 Orchard Park Road, Zoned B-2 with the following conditions:

- This is a Type II SEQR Action and, therefore, no determination of significance is required.
- Two non-advertisement or logo signs are approved and permitted by §144-38H.
- Four (4) Enter/Exit signs 2' x 3', totaling 24 square feet, which are internally illuminated.
- Five (5) Direction signs, 2' x 4', totaling 40 square feet, non-illuminated.
- The signs will be located per the approved location plan dated 3/27/07.
- A permit fee shall be paid in accordance with §144-70A(1).

- A "No left-turn" sign shall be erected to prevent traffic on Southwestern Boulevard from east bound egress/ingress into the site during the hours of 6-9 AM and 3-7 PM, unless the DOT withdraws this requirement noted in their correspondence dated 4/26/07.

The resolution was unanimously adopted.

Old Business #6 Town Board to take Lead Agency Status for the Comprehensive Plan update

14) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

RESOLVED, that the Town Board does hereby declare themselves as Lead Agency for the Orchard Park Comprehensive Plan.

Councilwoman Ackerman stated that by Law, the Town Board is required to take Lead Agency as the next process of approving the Comprehensive Plan. She said she would be presenting the updates to the plan at the next Town Board Meeting July 18th. Councilwoman Ackerman stated that she has reviewed all the comments received by the residents pertaining to the Comprehensive Plan. She stated that there are conflicting opinions on whether the plan should be approved now or wait until it is perfect. The Town Board is in agreement that it is appropriate to move ahead and pass a document with as much input that makes sense. After the document is passed, committees, or task forces, can be established to review the document. In discussing the plan with various department heads and members of the Board, it became clear that the document should be generic in nature and should be generalized to the point where the specific recommendations can be included, ultimately, in the recommendations for action. Councilwoman Ackerman stated that she is going to incorporate an addendum to the report so there will be a permanent record of all the comments that were made pertaining to the plan. She also stated to be clear about the plan, it should be a general outline that gives the direction that the Town wants to take. Councilwoman Ackerman plans to present a completely updated document at the next Town Board meeting for the Board to review and implement what ever they feel is necessary, before it is presented for a public hearing again.

The resolution was unanimously adopted.

New Business #1 Authorize the Cancellation of the July 4th Town Board Meeting/Holiday

15) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

RESOLVED, that the Town Board does hereby authorize the cancellation of the July 4th Town Board Meeting due to that evening being the Fourth of July holiday. The next Town Board Meeting is scheduled for Wednesday, July 18, 2007 at 7:00 PM.

The resolution was unanimously adopted.

New Business #2 Authorize the 2007 Stable Permit for Willow Glen Stables, 7895 E. Quaker Road

16) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby approve the 2007 Public Stable Permit for Willow Glen Stables, 7895 East Quaker Road, as recommended by the Building Inspector.

The resolution was unanimously adopted.

New Business #3 Authorize the Public Display of Fireworks for Armor Bible/Presbyterian Church

17) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN YEOMANS, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does approve the Public Display of Fireworks for Armor Bible/Presbyterian Church, 5650 Powers Road, for July 1st @ 9:30 PM.

The resolution was unanimously adopted.

New Business #4 Appointments/2007 Spring/Summer Staff for the OP Recreation Department

18) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby authorize the following 2007 Spring/Summer Staff Appointments to the Orchard Park Recreation Department, dependent upon the applicant providing the required certifications, as recommended by the Recreation Director.

Name	Address	Position	Title	Rate
Christina Wojciechowski	Orchard Park	PT2-B	Aide	\$9.00
Patrick Fellner	Orchard Park	PT6-D	Aide	\$15.00
Mary Schichtel	Orchard Park	PT6-D	Aide	\$15.00

The resolution was unanimously adopted.

New Business #5 Appointments to the Planning, Zoning, Public Safety & Trails Tasks Boards

19) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

RESOLVED, that the Town Board does hereby accept the resignation of Kim M. Bowers from the Zoning Board of Appeals (contingent upon her submission of a letter of resignation, as per the Town Attorney) and the Trails Task Force.

RESOLVED, that the Town Board does hereby appoint Kim M. Bowers to the Planning Board, term to expire December 31, 2009, and be it further

RESOLVED, that the Town Board does hereby except the resignation of Nick J. Taneff from the Public Safety Committee.

RESOLVED, that the Town Board does hereby appoint Nicholas J. Taneff as Alternate Member to the Planning Board, and be it further

RESOLVED, that the Town Board does hereby move Richard Zajac from Alternate member to an acting Zoning Board of Appeals Member, term to expire December 2010.

RESOLVED, that the Town Board does hereby appoint Dwight Mateer to the Public Safety Board, term to expire December 31, 2008, and be it further

RESOLVED, that the Town Board does hereby appoint Roland E. Pigeon to the Trails Task Force, term to expire December 31, 2007, and be it further

RESOLVED, that the Town Board does hereby appoint Barbara Little to the Trails Task Force, term to expire December 31, 2007.

Supervisor Travers Murphy and Councilwoman Yeomans believe the process for the appointments that took place this evening was unfair. They feel the appointments should be fully discussed and carefully scrutinized before they are made and this did not happen. There were many qualified people who submitted their resumes and were not considered. They also felt that appointing political party office holders to the boards undermines the confidence in government and gives the appearance of a conflict of interest.

Councilmembers Ackerman, Kaczor and Dietrick all commented on their ideas of making appointments to the various boards & committees. Their philosophy is to see people move through the different committees so they can learn about the Town and how it operates. This process also affords the Town Board the ability to see how an individual will serve the Town and operate within the Boards & Committees. Qualifications are important, but it is just as important to make sure the community is represented by individuals who have the Town's interest in mind, not people who are connected to other interests.

Supervisor Travers Murphy	Nay
Councilwoman Ackerman	Aye
Councilman Kaczor	Aye
Councilman Dietrick	Aye
Councilwoman Yeomans	Nay

The resolution was duly adopted.

New Business #6 Authorize Building Inspector to have Lawn Mowed at 61 Velore Avenue

20) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby authorize the Building Inspector to have the lawn mowed at 61 Velore Avenue (due to the property being vacant and neglected) the months of June, July, August, September and October 2007 as deemed necessary. All costs will be applied to the tax roll for the property.

The resolution was unanimously adopted.

New Business #7 Authorize Town Attorney to Proceed w/Dedication for PIP #2006-03

21) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

WHEREAS, on June 14, 2007, a final inspection was conducted of the public improvements constructed in Baker Highlands Subdivision. This project included the construction of cul-de-sac. The completion of this subdivision will allow 21 new single family residential lots to be developed and provide a Neighborhood Town Park with 44.39 acres of recreational lands being deeded to the Town. This subdivision also includes a stormwater detention pond and two stormwater quality treatment units, and

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications with the exception of; installation of all required survey monuments (#31-property and #1-"GPS" monuments) and submit associated survey data; installation of eight street lighting, poles and wire; misc. grading & seeding in areas of disturbance due to utility/landscaping installations; landscaping in the cul-de-sac island, the pond area, along the pond access road, and at the entrance of the subdivision; and placement of landscaping, installing fencing and driveway gate on 3145 Baker Road property as agreed between developer and owner, and

WHEREAS, the Town Engineer is in receipt of \$16,000 cash security for the required survey monuments, \$35,000 cash security for street lighting, poles and wire, \$5,000 cash security for grading and seeding, \$20,000 cash security for required subdivision landscaping, and \$5,000 for landscaping and fencing at the 3145 Baker Road property, and

WHEREAS, a two-year maintenance bond in the amount of \$350,000.00 has been submitted along with all other necessary documents. The legal description has been forwarded to the Town Attorney. With the Developer's Attorney and Town Board approval, filing of Town Parkland with the Erie County Clerk can take place. Per the Town Attorney, no building permits can be issued unless the recreation property is transferred to the Town.

RESOLVED, that the Town Board does hereby authorize the Town Attorney to proceed with the dedication of the public improvements in the Baker Highlands Subdivision constructed under PIP #2006-03, accept/complete the transfer of 44.39 acres of recreation land, and be it further

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release the performance security in the amount of \$70,000.00.

The resolution was unanimously adopted.

New Business #8 Authorize a Traffic Order for a Stop Sign on Saddle Brook Court @ Baker Road

22) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN YEOMANS, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

WHEREAS, per the request from the Police Chief, Town Engineer and the Highway Superintendent, and pursuant to the authority granted by §1660 of the Vehicle and Traffic Law of the State of New York

NOW, THEREFORE, it is hereby

ORDERED, that the posting of a "Stop Sign" on Saddle Brook Court at the intersection of Baker Road within the Town of Orchard Park, and be it further

ORDERED, that the Superintendent of Highways be and is hereby directed to post the proper and necessary sign at said location.

The resolution was unanimously adopted.

New Business #9 Schedule a Public Hearing for Orchard Park Drainage District OPDD #3-3

23) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

WHEREAS, the Town Board of the Town of Orchard Park (herein called "Town Board" and "Town" respectively), in the County of Erie, New York, has received a petition pursuant to §191 of Town Law, for the establishment and creation of Town Drainage District OPDD #3-3, which petition was signed by the sole owners of taxable real property situate on the proposed new water district owning all of the taxable real property of the proposed new drainage district, as shown upon the latest completed assessment roll of said Town and was accompanied by a map plan and report prepared by Wm. Schutt & Assoc., competent engineers duly licensed by the State of New York, and was the drainage district to be constructed and paid for by or on behalf of petitioners, to provide stormwater drainage to prospective new homeowners within the proposed district consisting of the construction and installation of drainage facilities in accordance with the specifications of the New York State Department of Environmental Conservation and the Town of Orchard Park Engineering Department all in the proposed new Town Drainage District OPDD #3-3, which map and plan have been duly filed in the Office of the Town Clerk of the Town for public inspection; and

WHEREAS, said petition described the boundaries of the proposed new Town Drainage District OPDD #3-3 in a manner sufficient to identify the lands included therein as in a deed of conveyance and was signed by the petitioners and acknowledged or proved in the same manner as a deed to be recorded; and

WHEREAS, the proposed new Town Drainage District OPDD #3-3 is bounded and described in the map, plan and report, and

WHEREAS, the Town Board has given due consideration to the impact that the establishment of the new Town Drainage District OPDD #3-3 may have on the environment and, on the basis of such consideration, the Town Board has found that no substantial adverse environmental impact will be caused by the establishment of such new Town Drainage District OPDD #3-3 and

WHEREAS, the Town Board and the Town have complied in every respect with all applicable Federal, State and Local Laws and Regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, a duly executed Short Environmental Assessment Form has been filed in the office of the Town Clerk; and

WHEREAS, the Town Board has determined to proceed with the establishment of the proposed new Town Drainage District OPDD #3-3; and

WHEREAS, said new Town Drainage District OPDD #3-3 hereinabove described is to be constructed and paid for by or on behalf of the petitioners, Pine View Gorge, Inc. and the expense of the establishment and maintenance of the Drainage District shall be paid by the assessment, levy and collection of property taxes upon the several lots and parcels of land within the proposed Town Drainage District OPDD #3-3 in the same manner and at the same time as other Town charges;

NOW, THEREFORE, be it

ORDERED, that meeting of the Town Board of the Town be held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 18th day of July, 2007 at 7:00 PM (prevailing time); to consider the establishment and creation of the new Town Drainage District OPDD #3-3; as herein referred to, 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

FURTHER ORDERED, that the Town Clerk publish as least once in the South Towns Citizen, a newspaper published in the Town of Orchard Park, New York, which newspaper is hereby designated as the official newspaper of the Town for this publication, and post on the sign board of the Town, pursuant to Subdivision 6 of §30 of the Town Law. A copy of this Order certified by the Town Clerk, the first publication and said posting to be not less than ten (10) days nor more than twenty (20) days before the day designated herein for said public hearing as aforesaid.

The resolution was unanimously adopted.

New Business #10 Authorize the Advertisement of Bids for Pilger, Fay, Glen Street & Old Orchard

24) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN YEOMANS, TO WIT:

WHEREAS, the Orchard Park Engineering Department is preparing design plans, and is coordinating utility relocations for Concrete Gutter Installation and Replacement on various Town roads including: Fay Street, Glen Street, Pilger Place, Old Orchard Road, and Old Post Road, and

WHEREAS, the Highway Department does not have the capability of installing the amount of concrete gutters required for this project in the necessary time frame and because the cost is estimated at \$75,000.00 the gutter work must be completed through the formal bidding process.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the advertisements in the Southtowns Citizen and The Buffalo News for sealed bids to be opened for Concrete Gutter Installation for Various Town Roads on July 12, 2007 at 2:00 P.M. in the Supervisor's Conference Room at the Orchard Park Municipal Center, 4295 South buffalo Street, Orchard Park NY 14127, and be it further

RESOLVED, that the Town Clerk shall publish due notice in the official newspaper of the Town.

The resolution was unanimously adopted.

New Business #11 Tabled; Authorize the Supervisor to sign an Agreement with Wendel Duchscherer for Professional Services in the design of Orchard Park Library Renovations, as recommended by the Town Engineer.

New Business #12 OP Village requesting the use of the OP Library Grounds for Summer Events

25) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby authorize the Village of Orchard Park to use the Orchard Park Library grounds for the Annual Ice Cream Social on Friday, July 27th, from 7:00 PM to 10:00 PM and Saturday, July 28th, from 7:30 PM to 11:30 PM, and be it further

RESOLVED, that the Town Board does hereby authorizes the Supervisor to execute the form granting the Village the permission to sell/serve alcoholic beverages at the Street Dance. A Certificate of Insurance has been submitted.

The resolution was unanimously adopted.

New Business #13 Authorize Residents of Orchard Meadow to hold their Annual July 4th Parade

26) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN YEOMANS, TO WIT:

RESOLVED, that the Town Board does hereby authorize the residents from Orchard Meadow to hold their Annual Fourth of July Parade, Wednesday, July 4, 2007 at 9:45 AM. The parade committee will line up on Bittersweet Lane at Peppermill Road and proceed along Old Orchard Lane to the Orchard Meadows Playground.

The resolution was unanimously adopted.

New Business #14 Authorize the Residents of Barrington Heights to Hold their Annual Block Party

27) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN YEOMANS, TO WIT:

RESOLVED, that the Town Board does hereby authorize the residents of Barrington Heights to hold the 4th Annual Block Party, Saturday, July 21, 2007, at 4:00 PM, with a rain date scheduled for July 22nd, and be it further

RESOLVED, that the Town Board does hereby authorize the Highway Department to drop off barricades for the residents use for the children's safe play and festivities.

The resolution was unanimously adopted.

New Business #15 Authorize the Revised Landscape Completion Bond/Eastco Multimedia Solutions

28) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN YEOMANS, TO WIT:

RESOLVED, that the Town Board does hereby authorize the revised Landscape Completion Bond for Eastco Multimedia Solutions, Inc., 3646 California Road, Zoned I-1, in the full amount of the landscape cost \$3,150.00 or a certified check for half the amount of the landscaping, \$1,575.00, as requested by the Conservation Board. (The original amount was \$19,000.00, which was an error.)

The resolution was unanimously adopted.

New Business #16 Refer to the Planning Board and/or Conservation Board

29) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby refer to the Planning Board and/or Conservation Board the following: Benderson Development, 3165 Southwestern Boulevard, Zoned B-2, the elimination of 68 parking spaces that were previously approved in the site plan to construct a single story 7,560 square foot retail building.

The resolution was unanimously adopted.

Elected Officials & Department Heads

30) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby approve the following 2007 Budget Transfer(s) as requested by the Tax Receiver:

\$ 500.00	From: A.1330.000.413	Travel & Conference
	To: A.1330.000.419	Other Expenses

The resolution was unanimously adopted.

Supervisor Travers Murphy stated that an article in "The Buffalo News" back in December of 2006; *How 439 Politicians Cost Us Effective Government*, detailed the excessive number of taxing jurisdictions in Western New York, the inefficiencies bred by all this government, and the resulting overlapping of public services. After that article was published, she was approached by residents asking what the Town is going to do about this and they offered their assistance. Supervisor Travers Murphy announced the appointment of five town residents to an advisory group charged with investigating ways to streamline the many layers and excesses of government, in an effort to make recommendations on how to save taxpayers money. She stated the newly appointed volunteer group includes professionals from a variety of successful backgrounds and operate in a non-partisan atmosphere. In an effort to promote that the advisory panel act in a non-partisan manner, the group would like to reach out to the Town and Village to appoint one resident to the committee.

Councilwoman Yeomans stated she is still holding her Town Hall meeting this evening following the Town Board meeting to discuss Ethics.

Schedule a Public Hearing for Historic Preservation Code

31) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR TRAVERS MURPHY, TO WIT:

RESOLVED, that the Town Board does hereby schedule a Public Hearing for Wednesday, August 1, 2007 at 7:00 PM (local time) at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park New York, regarding a Proposed Amendment to the Town Code of Ordinance; Historic Preservation, and be it further

RESOLVED, that the Town Clerk shall publish due notice in the official newspaper of the Town.

Councilman Kaczor stated that the Town of Orchard Park is trying to get the "Certified Local Government" designation from New York State, and they stated that our current code needs to be updated to be compliant with their guidelines.

The resolution was unanimously adopted.

Councilman Kaczor stated that the Economic Development Committee is currently conducting a study to review the assets, weaknesses and land usage in the commercial and industrial areas of town to get an idea of what the blueprint for Economic Development might be in the future. The land utilization portion and inventory, is being done in cooperation with the UB Urban Design project. Councilman Kaczor said that the Economic Development Committee has been asked to act as a facilitator to bring together the Town Board, the Planning Board, Zoning Board, Conservation Board, Engineering and the community to look at the study of Commercial and Industrial land use and our current zoning, to establish what needs to be done for Orchard Park to successfully plan for the future. Councilman Kaczor stated one of the steps in the study being conducted by the Economic Development Committee was a meeting conducted with 25–30 representatives of the business community and the Chamber of Commerce. One of the common complaints is that they feel the policy and procedures for development projects are too stringent. Since the Town would like to attract higher level, clean, development, such as the health related manufacturing we have now, the Town will have to do a little more outreach to bring these types of businesses to the Town. The Town also needs to look at the policy and procedures for project approval that are in place, to see where improvements can be made. The Economic Development Committee has been asked to act as a facilitator to bring together developers, the engineering department, planning department and have a round table discussion to the system that developers need to go through to get approval.

Councilman Dietrick referred to a memo from the Supervisor's attorney advisory group who reviewed the Town Attorney's responsibilities and duties for the Town. They made some recommendations regarding outside council and the Deputy Attorney. They also made the observation that considering the duties of the Town Attorney and the time put into those duties, that compensation is significantly less than retaining attorneys to do those services on an hourly or other retained basis. Councilman Dietrick stated he will not be attending the Town Hall meeting tonight, as when you have three or more members of the Town Board gathered together to discuss issues, it is considered a Public Meeting and that would require a Public Notice. Councilman Dietrick stated that the Board members fully support any efforts to study and streamline government. He said that a little over 5 years ago the Gorski administration financed a similar study, that included the merging of the Village and Town, which was conducted by a professional outside consultant. The study was beneficial and allowed the Town and Village to incorporate many cost saving measures. He further stated that there have been studies that stated consolidation of government entities is complex, time consuming, messy with the beneficial returns way down the road. Councilman Dietrick said that Town Board feels that they should have been consulted, as well as the Village, about the structure and representation of this committee. Therefore, the Board's majority is electing not to appoint a representative to the committee until such time that the Village Board is given proper representation.

Schedule a Public Hearing for Amendments to Subdivision Regulations

32) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby schedule a Public Hearing for Wednesday, July 18, 2007 at 7:00 PM (local time) at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park New York, regarding a Proposed Amendment to the Town Code of Ordinance; Subdivision Regulations, which amendment provides as follows: Article XII, §121-71; and be it further

RESOLVED, that the Planning Board shall require the applicant to create a drainage district to service the proposed subdivision, and be it further

RESOLVED, that the Town Clerk shall publish due notice in the official newspaper of the Town.

The resolution was unanimously adopted.

Chief of Police Attending a Seminar

33) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby authorize the Chief of Police, Sam McCune, to attend the New York State Association of Chief's of Police 2007 Annual Training Conference, July 15 – 18, 2007, at the Edgewood Resort, Alexandria Bay, New York, at Town expense.

The resolution was unanimously adopted.

Receive & File the Highway Superintendents Report

34) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

RESOLVED, that the Town Board does hereby receive and file the following *Report*: Town of Orchard Park Highway Department Quarterly Fuel Analysis Report – Second Quarter 2007.

The resolution was unanimously adopted.

Fred Piasecki, Highway Superintendent, said the project, which includes new road construction, drainage and concrete gutters for Fay, Glen & Pilger has been started. He stated that the Highway workers are helping out with the brush pickup, as there is still brush left over from the October storm.

Legislator John Mills thanked the Towns in the 13th Legislator District's for letting the County Legislatures know the deplorable conditions of their roads. The County has dedicated 60% of the DPW Departments Budget for the 13th District, and has recently paved 300 tons of blacktop there as well. He stated that work has begun in Chestnut Ridge Park to repair and rebuild the structures and the infrastructure. The next meeting of the Legislature will hold the mid-budget hearings, and Legislator Mills stated that he is going to again put forth a resolution to eliminate 300 jobs in Erie County.

35) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #12 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$73,342.43
Part Town Fund	\$837.58
Risk Retention	0
Cemetery Fund	0
Highway Fund	\$115,566.86
Special Districts	\$110,550.01
Trust & Agency	\$2,538.30
Capital Fund	\$39,964.18

The resolution was unanimously adopted.

Receive & File Communications

36) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN YEOMANS, TO WIT:

RESOLVED, that the Town Board does hereby receive and file the following Communications: Town of East Aurora Zoning Board of Appeals: A Public Hearing will be held, July 21, 2007, in the Town Hall, 5 S. Grove Street, East Aurora, NY 14052, for the purpose of an application that has been submitted for a height variance and a variance for internal illumination for a sign at 280 Ellicott Road in the Town of West Falls.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Carol Tralla – Ms. Tralla had the following concerns: the boards & committees appointments this evening and the situation on S. Benzing Road and the proposed Fisher Bus Project.

One point the Town Board did state was that Councilwoman Yeomans is going to set up a system for appointments to the different boards and committees in the Town.

John Sawicz – Mr. Sawicz spoke at the last Town Board meeting. At that time he claimed he would start getting involved. This evening he stated he has attended a Zoning Board meeting since, and believe there is no professionalism on that board. He has concerns of the residents getting notified when they are involved with any kind of rezoning next/near their properties. His last comment was about the Fisher Bus Project and stated that the Town Board members would not want this project behind their homes.

The Town Board did state that since 1985 the ordinance of the Town has been changed so that all individuals involved with a rezoning next/near their property do get mail notification from the Town. The Town Attorney stated that this is up and above what the State of New York presently does.

Henry Dinder – Mr. Dinder talked about the “surprise” 2006 October storm and the clean-up efforts.

Councilwoman Ackerman stated that the clean up would be ongoing until all brush is picked up.

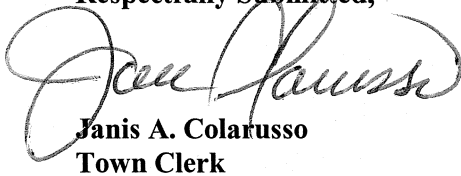
Mark Flynn – Mr. Flynn spoke this evening in opposition for the proposed Fisher Bus Project. He stated he just recently move into the area with his wife and three children. He also stated he has a set of twins that have asthma and a third child who will probably have asthma some day too. He believes once the project is completed, the air quality will not be good for his children.

Tom Casey – Mr. Casey stated late last year he brought his concerns to the Town Board regarding the rezoning of Quaker Crossing South, and just after that meeting he was accused of being a liar a number of times. Since then, he has document his claims and will present them to the Town Board Members next week.

Louis Boehm – Mr. Bahm spoke this evening in opposition for the proposed Fisher Bus Project.

There being no further business from the floor, on motion by Councilwoman Ackerman, seconded by Councilman Kaczor, to wit: the meeting was adjourned at 9:04 PM (local time), with a moment of silence for Roy Reukauf, the Former Town Clerk's husband, Betty Reukauf.

Respectfully Submitted,



Janis A. Colarusso
Town Clerk