



**TOWN OF LEWISBORO  
TOWN BOARD WORK SESSION  
AGENDA  
TOWN HOUSE  
DECEMBER 19, 2016  
7:30 P.M.**

**PUBLIC COMMENT**

**COMMUNICATIONS**

- Acknowledgement of Receipt of Conversation Advisory Council Report for 2016
- Announcement of Old Field Parking Lot Opening for Horse Trailers

**CONSENT AGENDA**

- Approval of Minutes of December 5, 2016
- Monthly Reports December 2016
  - Building Report

**NEW BUSINESS**

- Resolution to Approve Application for Reading Dream Fundraiser at Cyrus Russell Community House on January 14, 2017
- Resolution Approving Request by Camerata d'Amici to Use Town House Parking for Overflow Parking During Events on February 26 and December 10, 2017
- Resolution to Set a Date for a Public Hearing to Consider Changes to Cell Tower Town Law to Accommodate Federal Requirements
- Discussion Regarding Application of Lewisboro to Participate in Sustainable Westchester's Municipal Solar Buyers Group and Potential Sites
- Discussion of Draft Requirements for MS-4 Recertification
- Discussion of Town Speed Limit

**OLD BUSINESS**

- Discussion of Supervisor's Draft Letter to County Legislature Concerning Recertification of Westchester Agricultural District

**APPROVAL OF CLAIMS**

## **POLLING OF THE BOARD**

## **ANNOUNCEMENTS**

- Town Board Meeting January 9, 2017 at 7:30 p.m. at the Town House, 11 Main Street, South Salem

## **MOTION TO GO INTO EXECUTIVE SESSION**

**Town Board Meetings Accessibility:** The Town of Lewisboro is committed to providing equal access to all its facilities, services and activities to the fullest extent possible. The Town House, Cyrus Russell Community House, Onatru Farmhouse, and the Town Offices at Orchard Square are accessible to persons with physical handicaps. If anyone who wishes to attend any meeting of the Town Board has special needs, please contact the Supervisor's Office (763-3151) at least one week before any scheduled meeting, and we will try to accommodate whenever possible.

**TO:** Town of Lewisboro Town Board  
Town of Lewisboro Planning Board

**FROM:** Lewisboro Conservation Advisory Council

**SUBJECT:** CAC Annual Report for 2016

**DATE:** December 6, 2016

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The Conservation Advisory Council (CAC) presents its annual report for 2016 to the Town of Lewisboro, as required by state law.

The CAC is comprised of volunteers appointed by the Town Board to work on conservation issues that are important to the Town and its residents. Since Town residents get their water from local wells and lakes, and about one third of the residents of Lewisboro are members of lake communities, the CAC recognizes the importance that Town residents put on protecting water resources. As our role demands, we work together on the committee to preserve and protect Lewisboro's environment including its watercourses and wetlands.

The CAC meets monthly, generally on the first Monday of each month. Meetings are open to the public, and agendas are posted to the Town website prior to each meeting. Minutes for all of the meetings are available through the Town Clerk and posted on the Town website. Preparation of the draft CAC memos is shared among the members, and review, comments, and revisions of memos and minutes takes place by email.

During 2016, we operated with eight members. We welcome additional members to our committee. Some CAC member terms expire at the end of 2016, and we are dependent upon the appointment or reappointment of capable, knowledgeable, committed members with environmental interests and adequate time to support CAC activities.

#### Advisory Role to Planning Board

During 2016 through November, the CAC issued 31 letters to the Planning Board concerning applications or issues before that board. A CAC representative, generally the Chair, attends and participates in Planning Board meetings. This participation at Planning Board meetings enables the CAC to express our views on applications and environmental issues, and to stay informed on the activities in front of that board. At least one member usually joins the Planning Board at their site walks. Attendance at the walks enables more insightful comments by the CAC.

While the number of letters is one indicator of activity, a more important parameter may be our ability to provide informed advice. We believe that the CAC has continued to build a trusted and respected advisory relationship to the Planning Board regarding conservation and environmental issues. We are gratified that the members of the Planning Board solicit and

thoughtfully consider our input. As a result, many of our recommendations have been incorporated into applicants' plans and into the approved resolutions.

#### Committee Participation with other Town committees and boards

The CAC also reaches out to other boards and committees in addition to the Planning Board. The CAC will offer environmental views to the Town Board. The CAC chair remains an active member of the Stormwater and Lakes Committees. A CAC member chairs the Sustainability Committee. One CAC member is on the Open Space and Preserve Advisory Committee. In addition, a member regularly attends the monthly ZBA meetings as the CAC interface, and the ZBA solicits CAC input. The CAC has contacts with the PRAC committee to share information and discuss items of mutual interest.

The CAC continues to publicize the Town's septic system law that requires inspection every 5 years. Information is available on the CAC page of the Lewisboro website. In conjunction with the Stormwater Committee, a poster describing the requirements and enforcement dates, together with a map of septic systems that have been pumped recently, has been displayed at the Lewisboro Library Fair for the past three years. It is also displayed at the office of the Building Inspector.

#### Intermunicipal Cooperation

Lewisboro CAC members have participated in ELLA, the Environmental Leaders Learning Alliance, which has participants from many towns in Westchester and Putnam Counties. ELLA also serves as a sharing vehicle and sounding board on common problems. In addition, we continue to work with individual municipalities in comparing municipal codes and approaches to common concerns.

#### Appreciation

The CAC members contribute their valuable time, varied perspectives, and interest in serving the Town on this volunteer committee. While we don't always agree, each member remains committed to considering what is best for Lewisboro, and we are fortunate and more effective because of that participation and intent.

A meeting of the Town Board of the Town of Lewisboro, Westchester County, New York, was held on Monday, December 5, 2016, at 7:30 p.m. at the Town House, 11 Main Street, South Salem, New York

PRESENT: Supervisor - Peter H. Parsons  
Councilmen - Frank Kelly, John Pappalardo, Daniel Welsh  
Town Clerk - Janet Donohue  
Absent - Peter DeLucia

Also attending was the Attorney for the Town Anthony Mole', Facilities Maintenance Manager Joel Smith and Chief of Police Charles Beckett.

And approximately 9 residents/observers.

Mr. Parsons called the meeting to order at 7:34 p.m.

PLEDGE OF ALLEGIANCE

Supervisor Parsons led the Pledge of Allegiance to the flag.

VETERAN HALL OF FAME – New York Senate

Mr. Parsons stated that New York State Senator Terrence Murphy inducted our local resident, Harry Soderlund, into the Veteran's Hall of Fame. Unfortunately Mr. Soderlund was ill and could not attend so he and his wife attended tonight's Town Board meeting. Mr. Parson's read the following:

*Harry Soderlund grew up in Cross River as the eldest of six boys and one girl. His father had served as an Army Engineer in World War II, landing at Omaha Beach before fighting his way across Europe. Harry worked in his father's contracting business while he was still at John Jay High School and then was encouraged by his father to enlist in the US Navy as a Seabee in 1969.*

*He was trained as an equipment operator in Gulfport, Mississippi, becoming an EO3, Petty Officer Third Class. His first assignment was three weeks doing Search and Recovery after Hurricane Camille for which he received a Commendation. After a short stint building lighthouses and roads in Puerto Rico, he was sent to California for combat and weapons training before embarking for Cam Ranh Bay in Vietnam. During his twelve months there he worked with the Marines and Navy Seals doing underwater demolition. For this he was awarded the National Defense Medal, the Vietnam Service Medal and the Vietnam Campaign Medal. In May 1971, he was separated from the Navy ninety days early because of his service in Vietnam.*

*Harry proudly recites the Seabees motto: "Construimus, batuimus" – "We build, we fight".*

*We should be proud of Harry and all our Vietnam Veterans and at the same time vow that we will never again treat our veterans with the lack of respect which he and other Vietnam Veterans had to endure on their return to their country.*

PUBLIC COMMENT PERIOD

FALUN GONG – Resolution Requested

Ted L'Estrange, on behalf of Falun Gong practitioners in the Hudson Valley, presented the Town Board with an information packet and sample resolutions regarding the persecution of the Falun Gong practitioners in China. Mr. L'Estrange urged the Board to pass a resolution that would call on the President of the United States and members of Congress to condemn the Chinese persecution against members of Falun Gong. The Board thanked Mr. L'Estrange.

KATONAH ART CENTER – Traffic on Bedford Road

Steve Rogers, of Old Bedford Road, read the following letter at the meeting.

Good evening. My name is Steve Rogers of 69 Old Bedford Road. Tonight, I rise to speak on behalf of myself and my neighbors in Old Goldens Bridge.

Since the Spring of this year, myself and fellow residents have shared with the Town Board either through these public sessions or individual discussions and correspondence our concerns about the Katonah Art Centers' tenancy in the Goldens Bridge Community House and its negative and unsafe impact on our hamlet. We have brought before you issues of traffic volume, traffic speed, inadequate parking, ambient light and noise, long hours of operations, stress on the septic, concerns about our shared aquifer, etc. We have appreciated the recent efforts of Councilman Pappalardo to hear us out but this situation goes beyond symptomatic solutions to the broader issue of state law and our town zoning code.

We want to believe that the Town Board entered into its relationship with Katonah Art Center (KAC) with good intentions, however, we've come to believe it was not with good judgement.

After months of seeking solutions with the KAC director, the Highway department and members of this Board, we've come to realize that KAC's for-profit motives are in direct conflict with the interests of its residential neighbors.

As a for-profit limited liability company, the Katonah Art Center operates seven days a week from 9:30am to 9:30pm in the heart of our residentially zoned district. It currently offers 130 visual arts classes and 32 specialty workshops. Additional events occur regularly and frequently throughout the year such as summer camp programs, holiday camp programs and large gallery openings. That does not include the fact that customers can also rent the space out for birthday parties, wine and art parties, etc.

We understand that a for-profit business must market itself and grow to be successful but it's precisely KAC's for-profit activity that puts them in direct conflict with their neighbors' rights to quiet enjoyment of our homes as conveyed to us in the deeds to our properties.

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For example, next Sunday afternoon from 2pm to 5pm my wife and I will be hosting a holiday party. You're all cordially invited to stop by. As a courtesy, we notified the KAC director that there will be increased activity at our house. She subsequently informed us that there will be 3 birthday parties at KAC during that time window. As a result we and our guests will be inconvenienced for the sake of KAC's for-profit activities. Parking will be difficult, if not, impossible to find. Despite the suggestion that KAC's customers park at the train station, I assure you that they do not and am I not convinced they've ever been instructed to do so by KAC.

But this situation goes beyond mere inconvenience. There are some serious safety, health and economic concerns as well.

For example, KAC's after school programs mean traffic volumes pick up right as our neighborhood children get dropped off the bus. A child has been nearly hit more than once. Dog walkers have complained of the same. Traffic volumes have increased dramatically. I can't let my kids ride their bikes most days on what use to be a quiet dead end street. We have submitted our traffic report to the Town Board but I am resubmitting a copy to the Town Clerk now for the official record.

Beyond traffic, there's a collective concern over the shared aquifer. It's not safe to blindly assume that KAC's increased activity will not pollute or adversely affect wells and stress the Community House's septic. Moreover, what guarantees does the Town Board have that volatile organic compounds and heavy metals from paints and pottery glazes won't make it into the ground water?

To illustrate the nature of our shared aquifer, when the Town drilled the new well for the Community House approximately 24 months ago, my well failed the same day, the very same minute. Newly relocated from the City with two little kids, I received a panicked call from wife

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who wanted a solution that day. Since the guy drilling the Town well was literally 5 feet or so beyond our shared fence, she shouted across to him and asked for help. \$3,300 later we had a new pump and water that day. When the issue was raised to the Town Supervisor, he dismissed the connection between the two events but I've subsequently been educated by well experts about the hydraulic cones created by drilling new wells and their impact on existing wells. Therefore, my wife and I have experienced the impact on our shared aquifer with the Community House and, it's not without cause, that we are concerned about what makes its way into the drains at KAC. According to FOIA requests neither the new well, the change of use for the septic or KAC's summer camps are registered with the county's health department as required.

If I were on the Board, I'd be asking, "what's the Town's liability if our tenant pollutes its neighbors' drinking water?"

And, while we appreciate that the Town's investment in upgrades to the Community Center, neither the Town nor KAC has as much invested in this neighborhood as we home owners. Speaking personally, my wife and I were attracted to the neighborhood for its antique homes and potential. We took a bet on this neighborhood being like the main drag in Katonah was 20 or 30 years ago. The houses in Old Goldens Bridge are beginning to turn and people are fixing them up. Susan Nakamura, Ejil Ujal, Jayne Preiser, Michelle and Bill King, Sai and Chrissy Coangelo, and my wife and I have all recently invested in our homes and the neighborhood. We have a vision for this corner of Lewisboro but feel the Town's decisions have been counterproductive and excluded us from the process.

Antique homes in a special character district require a special kind of buyer like ourselves. As homeowners, we are not helped by KAC's presence that has changed the once bucolic and quiet nature of this neighborhood. Our property values will likely be negatively affected. You

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have already heard from Susan Nakamura that her "rent to own" tenants have backed out citing the increased traffic, parking issues and noise. I estimate living next door to KAC's activity may knock 10% to 15% off the value of my home or \$70,000 to \$110,000. Moreover, I had to put up a \$12,000 fence to regain my family's privacy. A fence, by the way, that should have been the responsibility of the private commercial business next door according to Town Code(220-15 B5 / B6, calling for adequate screening between commercial businesses and residences).

Indeed, our town's zoning code exists to address these conflicts of interest and protect the rights of all parties. We are dismayed that the Town Board gave no consideration to the interests of us neighbors or to applicable zoning and land use requirements when it entered into the lease with KAC. There are no provisions to protect our rights in the town's lease with KAC. Moreover, the lease apparently attempts convey immunity from normal zoning and site approval requirements. As our attorney, Michael Sirignano, spells out in great detail in his letter to the Town Supervisor, Town Board cannot convey that municipal indulgence to KAC and, according to state law, the Town Board may not permit property acquired or held by it for public use to be wholly or partially diverted to private use. Therefore, the lease itself is illegal.

In the lease, KAC specially agreed to "obey all rules, regulations, ordinances, health laws, sanitation requirements, or other municipal or governmental laws, rules, regulations, ordinances or requirements in the operations of its business." By its very use and operation, KAC is daily breaching this covenant, violating State law, violating county health requirements and violating at least 17 town codes.

As taxpayers, we wonder about the economic wisdom of the arrangement. Net rental income of approximately \$48,000 per year before the costs of lawn care, snow removal and daily visits from town workers are deducted seems like a relatively small sum of money to prioritize over the interests and safety of local residents. Moreover, KAC continues to use vendors from

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neighboring towns so money isn't being reinvested directly into the neighborhood. Frankly, this is not our definition of revitalization.

Because the normal variance, planning and site approval processes weren't followed by the Town Board in this situation, we haven't had the normal venues to have our voices heard. To this point, we have not turned to traditional and social media to pressure the Board or KAC. Instead, we've elected to communicate our concerns directly to the Town Board and KAC but we feel that we've gone unheard.

Therefore, we respectfully ask that the Town Board respond to the letter sent by our Attorney without further delay and that the Town Board and/or its zoning enforcement officer direct KAC to immediately cease all illegal commercial operations until zoning compliance is met or the lease is broken due to cause or invoking the six month exit clause.

I hope the Town Board appreciates the burden and risks it has placed on its own residents and thoughtfully reconsiders its decision to lease to a for-profit commercial business in the heart of a residential district that it is meant to protect.

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Mr. Parsons stated that Mr. Rogers had refused to meet with himself and Mr. Pappalardo the last time they offered to meet. Mr. Rogers feels that endless conversations at this point were not going to be productive. Mr. Rogers and neighbors are now working with attorney Michael Sirignano, who delivered a lengthy letter and exhibits to the Town Board the previous Friday.

Mr. Rogers invited Mr. Parsons to his holiday party on Sunday, December 11 from 2 – 5 p.m. Mr. Rogers also stated that as a courtesy, he informed the owner of KAC that there would be increased activity at his house. The owner informed Mr. Rogers that she was having 3 birthday parties during the same time frame. Mr. Rogers stated that he and his guests will be inconvenienced yet again.

Mr. Rogers also stated he cannot let his children ride their bikes on what used to be a quiet dead-end road. Dog walkers are afraid of being hit by cars going to KAC.

Mr. Rogers stated his property shares an aquifer with the KAC. He also mentioned that there is a collective concern with the septic system. What guarantees does the Town Board have that heavy metals from the paints and pottery won't make it into the well lines. Mr. Rogers also stated that when the new town well was drilled, Mr. Rogers well failed at the same exact time. A new pump was then installed on their property for \$3,300, which was not reimbursed to them by the Town.

Mr. Rogers stated that he and neighbors felt excluded from the process of the decision to rent to KAC. Mr. Welsh stated that he had a long series of public meetings, surveys of what should be done with the building and constant indications of concern from the neighbors as to what or wasn't going to be done with the building. Mr. Welsh stated that Mr. Rogers himself attended a few of those meetings. Mr. Rogers agreed but felt that normal processes were not followed such as Zoning or Planning procedures.

Mr. Rogers asked that the Board read in great detail what their attorney, Mr. Sirignano wrote in his letter.

Mr. Kelly asked Mr. Rogers how long he has lived in this home and Mr. Rogers responded approximately 26 months. Mr. Kelly asked if that was before or after the major heroin drug arrest and weapons arrest across the street. Mr. Rogers replied after. Mr. Rogers still believes there may be some suspicious activity going on and he has shared this with the police chief.

Respectfully Mr. Rogers would like to work with the Board to find a resolution to this conflict.

The Board thanked Mr. Rogers for his comments.

Sarah Hodgson, a Lake Katonah resident who about 5 years ago used to live at 161 Ridgefield Avenue, which she stated was a road with shared driveways off the road. Ms. Hodgson is a dog trainer and took the barn and rebuilt it to run her dog training business. She stated that a neighbor came to a Town Board meeting in tears stating that Ms. Hodgson's clients would be coming past her house and she was worried her children would be threatened. Mr. Hodgson states that she has very high end clients who have median incomes in the millions. Ms. Hodgson stated that what was at stake was that there was a very, very old residential law from the time it was a farming

community that would not allow people to run a small business. Ms. Hodgson stated that this was dividing the town.

In the end, Ms. Hodgson stated that the Town Board decided to uphold the Zoning laws and shut down her business. Mr. Parsons asked if she was sure that the Town Board did this and she replied yes, absolutely. She has no ill will.

Ms. Hodgson is very good friends with Mr. and Mrs. Rogers. Ms. Hodgson has informed Mr. Sirignano that she will ride as far as this train goes. If it goes to the Supreme Court she will be with them with her papers and what the town upheld in her case. Ms. Hodgson goes to KAC with her child and she sees the traffic and it shouldn't be in this neighborhood. The Board turned her down for a much smaller group. Ms. Hodgson stated that if the Board doesn't relocate KAC it will be a thorn in the town's side.

Ms. Hodgson also feels that the Town or KAC should reimburse the Rogers for the well repair and the fence that they erected.

The Board thanked Ms. Hodgson for her comments.

#### CONSENT AGENDA

On motion by Mr. Kelly, seconded by Mr. Pappalardo, the Board voted 4-0 to approve meeting minutes and to receive and file departmental reports.

#### MINUTES - Approved

On the above motion and second, the minutes of the November 21, 2016 Town Board meeting were approved.

THE VOTE:	Yes	- Kelly, Pappalardo, Parsons, Welsh	(4)
	No	- None	(0)
	Absent	- DeLucia	(1)

#### REPORT – Monthly Reports

On the above motion and second, the November, 2016 reports from the Building and Police Departments were received and filed.

THE VOTE:	Yes	- Kelly, Pappalardo, Parsons, Welsh	(4)
	No	- None	(0)
	Absent	- DeLucia	(1)

#### FUNDRAISER – Bundled Coat Drive

On motion by Mr. Parsons, seconded by Mr. Kelly, the Board voted as follows:

THE VOTE:    Yes                - Kelly, Pappalardo, Parsons, Welsh                (4)  
                  No                - None    (0)  
                  Absent            - DeLucia    (1)

RESOLVED, that the Town Board does hereby authorize the use of the Cyrus Russell Community House for a coat drive fund raiser to be held on Saturday, December 10, 2016 which is part of the New York Cares organization, and be it further

RESOLVED, that the Town Board does hereby waive the required fee for use of the building.

WESTCHESTER COUNTY AGRICULTURAL DISTRICT NO. 1 – Recertifying Process (8:09 – 8:15 p.m.)

Mr. Parsons stated that the Westchester County Board of Legislators recently adopted a resolution formally commencing the review process for recertifying the Westchester County Agricultural District. Districts must be recertified every 8 years and as part of the recertification the Westchester County Board of Legislators must decide whether to continue the district, with or without modifications. Town Attorney, Anthony Mole' stated that the proportion of Lewisboro's share of the district is small compared to that of the other municipalities involved. Mr. Mole' feels that they are looking to see if the Agricultural District is accomplishing its purpose. Town of Lewisboro is 2% of the Agricultural District.

Mr. Parsons stated that if anyone has any ideas he will convey this to the council of legislators.

ORGANIZATIONAL MEETING – Revised Format (8:16 – 8:20 p.m.)

Mr. Parsons wanted to have a brief discussion regarding the format of the Organizational meeting. He believes that it can be "bunched" and a shorter "script" can be used. Anthony Mole', Town Attorney stated that the Board could state that they move to adopt the resolution as written. The Board would like to know about any new members in advance of the meeting and as in previous years they would like to review the "script" prior to the meeting.

Mr. Parsons then stated that the Lakes Committee has not met in the last year. Mr. Parsons has spoken with David Sachs, Jan Anderson and Paul Lewis. The committee as it stands no longer has a function because the execution of the grant has concluded. Mr. Parsons would like to dissolve this committee and then ask the members to come up with any ideas as a useful purpose for a Lakes Committee in this town. Mr. Welsh stated that if they found a grant they could come to the Board. Or any of the members could come forth on behalf of their own lakes. Mr. Kelly expressed that he feels that there are enough lakes in Lewisboro that there should be some type of schedule when they meet with each other but it doesn't need to be government sponsored.

Mr. Parsons also stated that he spoke with Mr. Dean Travalino who is the Chairperson of the Cable TV Committee. Currently the 6 members have a 1 year term. Mr. Parsons suggested that this be changed to 3 year terms and stagger the existing membership.

CRISIS INTERVENTION TEAM TRAINING – Discussion (8:20 – 8:23 p.m.)

Mr. Parsons stated that a resident, Janet Heneghan, approached the board regarding Crisis Intervention Team Training in the Town of Lewisboro. Chief Beckett feels that this type of training is very important. Chief also mentioned that one of our officers, who is a Veteran, is working with someone from the Veteran's administration on how to deal with Veterans who are coming back from war.

The Board feels that there is no downside to this training and are very much in favor. Mr. Parsons and Chief Beckett will discuss this further.

CABARET LICENSE – Renew Cabaret License for Horse and Hound

On motion by Mr. Kelly, seconded by Mr. Pappalardo, the Board voted as follows:

THE VOTE:	Yes	- Kelly, Pappalardo, Parsons, Welsh	(4)
	No	- None	(0)
	Absent	- DeLucia	(1)

RESOLUTION

RESOLVED, that the Town Board does hereby authorize renewal of a cabaret license for the Horse and Hound for a period of one year, subject to the Building Reports being received.

CABARET LICENSE – Authorize Extension of Time for Horse and Hound for New Year's Eve

On motion by Mr. Kelly, seconded by Mr. Pappalardo, the Board voted as follows:

THE VOTE:	Yes	- Kelly, Pappalardo, Parsons, Welsh	(4)
	No	- None	(0)
	Absent	- DeLucia	(1)

RESOLUTION

WHEREAS, the Horse & Hound Restaurant, a local business establishment located on Spring Street in South Salem, has requested permission to permit musical entertainment at its premises after midnight on New Year's Eve 2016/17; and

WHEREAS, Section 98-7(A) provides that no musical entertainment is permitted between the hours of midnight until noon by any premises holding a cabaret license; and

WHEREAS, the Horse & Hound Restaurant is the holder of a cabaret license issued December 5, 2016; and

WHEREAS, the Town recognizes that New Year's Eve is a special event at which patrons of the restaurant are likely to desire to celebrate beyond Midnight.

NOW THEREFORE, BE IT RESOLVED, THAT the Town Board hereby exercises its discretion as set forth in Town Code Section 98-7(A) and grants permission to the Horse & Hound Restaurant to permit musical entertainment to continue for no more than one (1) hour past midnight on New Year's Eve 2016/17.

CLAIMS – Authorized for Payment

On motion by Mr. Kelly, seconded by Mr. Parsons, the Board voted 4-0 to authorize payment of the Town's bills in the amount of \$147,053.90, but holding the Sal's towing payment until a positive identification on which vehicle was towed.

POLLING OF THE BOARD

RAIL TRAIL – Update

Mr. Welsh stated that he received an email from Jan Johannsen of Kellard Sessions saying that the DEC was indicating that the Town needs to obtain a permit for the small piece of the rail trail since some fill will be needed. Mr. Welsh stated he feels the length is approximately 200 yards. Mr. Johannsen will be forwarding a quote to Mr. Welsh.

KATONAH ARTS CENTER – Discussion

Mr. Pappalardo would like to offer his time to try to resolve the issue with the Katonah Art Center. The issues he feels can be resolved if the parties can caucus and spend some time coming up with solutions. Mr. Pappalardo has offered repeatedly to mediate between the parties and that offer stands. After reading the letter for a second time from the group's counsel he feels that, in his mind, it further validates that the issues can be resolved if they can open up some dialogue.

LANDTRUST – Old Field Preserve

Mr. Pappalardo congratulated the Lewisboro Land trust. They continue to forge forward on their self-funded projects. They are on to the second phase and this is not costing the Town any money. Mr. Parsons also added particular thanks to our maintenance department Kevin Finney, Chris Curran and Joel Smith and to Pam Pooley who did a lot of work with installing the Garden of Reflection. They have also continued to keep the path open for Handicapped Accessibility.

MEETINGS – Date Set

There will be a Town Board meeting on Monday, December 19, 2016 at 7:30 p.m. at the Town House, 11 Main Street, South Salem, New York.

EXECUTIVE SESSION – To Discuss Legal Issues

On motion by Mr. Parsons, seconded by Mr. Kelly, the Board voted 4-0 to go into executive session at 8:30 p.m. to discuss legal issues.



On motion by Mr. Parsons, seconded by Mr. Pappalardo, the Board voted 4-0 to come out of executive session at 9:30 p.m.

On motion by Mr. Parsons, seconded by Mr. Pappalardo, the Board voted 4-0 to adjourn at 9:31 p.m.

Janet L. Donohue  
Town Clerk

**Lewisboro Building Department**  
**2016**

<b>January</b>	<b>\$19,966.25</b>
<b>February</b>	<b>\$43,768.25</b>
<b>March</b>	<b>\$33,114.30</b>
<b>April</b>	<b>\$30,172.95</b>
<b>May</b>	<b>\$40,701.63</b>
<b>June</b>	<b>\$32,074.25</b>
<b>July</b>	<b>\$28,271.25</b>
<b>August</b>	<b>\$81,741.00</b>
<b>September</b>	<b>\$100,083.49</b>
<b>October</b>	<b>\$35,825.00</b>
<b>November</b>	<b>\$43,487.00</b>
<b>December</b>	<b>\$11,312.50</b>

**2016 Total Receipts/Deposits \$500,517.87**

## MONTHLY REPORT DECEMBER 2016

Quantity	Bld Permit	Permit	CC/CO	RM	EQ
14	Res Minor Work	\$ 2,400.00	\$ 1,010.00	\$ 28.00	\$ 200.00
0	Res ADD	0.00	0.00	0.00	0.00
2	Res Acc Str	1550.00	1350.00	4.00	50.00
2	Res Alt	750.00	550.00	4.00	50.00
0	Res New	0.00	0.00	0.00	0.00
0	Res Renew	0.00	0.00	0.00	0.00
0	Comm Alt/Add	0.00	0.00	0.00	0.00
0	Comm Minor	0.00	0.00	0.00	0.00
0	ZBA	0.00	0.00	0.00	0.00
1	Other Permits	75.00	20.00	2.00	50.00
0	220-76C	0.00	0.00	0.00	0.00
6	Wetlands/EQ	950.00	0.00	0.00	50.00
1	Civil Penalty	2200.00	0.00	0.00	0.00
78	Copies	19.50	0.00	0.00	0.00
0	Misc	0.00	0.00	0.00	0.00

Total	\$ 7,944.50	\$ 2,930.00	\$ 38.00	\$ 400.00
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Total Receipts :	\$ 11,312.50
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Total Deposits:	\$ 11,312.50
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Bldg Insp: *Robert B. Bant*

Date: *12/15/16*

Total: \$11,312.50

11312.5

Difference

<u>Res. MW</u>	<u>BP</u>	<u>CC</u>	<u>RM</u>	<u>EQ</u>		<u>Residential Add</u>	<u>BP</u>	<u>CO</u>	<u>RM</u>	<u>EQ</u>
Bowes	110		20	2	0					
Conti	160		60	2	0					
Eadie	190		90	2	0					
Disesa	180		80	2	0					
Ciliberto	190		90	2	50					
Beransky	210	110	2	50						
Kelleran	170	70	2	0						
Zhai	120	20	2	0						
Maharaj	150	50	2	50						
Sullivan	130	30	2	0						
D'Agostino	190	90	2	0						
Mezan	200	100	2	50						
44 Boway RdLLC	280	180	2	0						
Telfer	120	20	2	0						
						Column Total		0	0	0
						Subtotal		0		
						Comm. MW	BP	CO	RM	EQ
						Column Total		0	0	0
						Subtotal		0		
						Res. Alt	BP	CO	RM	EQ
						Stratos		490	390	2
						Rady		260	160	2
										50
						Column Total		750	550	4
						Subtotal			1354	
						Res. New	BP	CO	RM	EQ
						Column Total		0	0	0
						Subtotal		0		
						220-76C	BP	CO	RM	EQ

Column Total	0	0	0	0
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Subtotal	0
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Res Renewal	BP	CO	RM	EQ
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Column Total	0	0	0	0
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Subtotal	0
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Wetland	W/P	S/W	EQ
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Bryan	150	0	0
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TLPOA	150	0	0
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Kelleran	0	0	50
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Massa	150	0	0
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Pottinger	500	0	0
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Column Total	2400	1010	28	200
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Subtotal	\$ 3,638.00
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Column Total	950	0	50
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Civil Penalty	CP
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Subtotal	1000
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McGuinness	2,200
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Other Permits	BP	CC	RM	EQ
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Boutkov	75	20	2	50
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Subtotal	2200
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Comm. Add/Alt	BP	CO/CC	RM	EQ
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Column Total	75	20	2	50
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Subtotal	147
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ZBA	Permit Application	RM
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Column Total	0	0	0	0
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Subtotal	0
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Misc	BP	CO/CC	RM	EQ
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Column Total	0	0	0	0	Column Total	0	0	0	0	
Subtotal	0				Subtotal	0				
Cash					Res. A/S	BP	CO	RM	EQ	
Photocopies	19.5				Fox		350	250	2	50
					McGuinness		1200	1100	2	0
					Column Total		1550	1350	4	50
Subtotal	19.5				Subtotal			2954		

TOWN OF LEWISBORO

APPLICATION FOR USE OF CYRUS RUSSELL COMMUNITY HOUSE

The undersigned requests use of the Cyrus Russell Community House and facilities and agrees to comply with the attached regulations pertaining to the use of Town properties.

A. Name and address of organization, group or individual (person in charge of group):

Andrea Kantor  
Reading Dream PO Box 181 S. Salem NY

B. Contact information of person in charge of group: (We must have telephone number!)

Telephone number

E-mail address

info@readingdream.com

Number expected in group: (49 maximum)

15

D. Date or dates and hours of use:

Sat 1/14/17 11<sup>00AM</sup> - 4:00 pm

E. Type of use (Business meeting, social function, fund-raiser\*)

Fundraiser-bake sale, crafts, student run

F. Type of entertainment (DJ, other) explain

None

G. Fee in amount of \$150.00 and security deposit of \$100.00 (for social functions) paid herewith. Security deposit to be returned upon presentation of approved claim form. No refunds unless cancelled more than seven (7) days in advance. \$5.00 will be deducted from eligible refunds for administrative costs.

I hereby agree to abide by the regulations, and to remove all refuse at the conclusion of my function. By signing this document you acknowledge that you are the person in charge of this event and will be present at such event.

Kantor  
Signature of Applicant

9 Church Tavern Rd  
Address

South Salem, ny 10590

The above application is hereby granted and receipt of fee and security deposit (if required) is hereby acknowledged/waived.

12/2/16  
Date

Joseph Canila  
Town Clerk

**\*\*REMEMBER! You must pick up a key for the community house in advance at the Town Clerk's office.**

\*No fee for business meetings of organized groups of Lewisboro residents. Profit-making organizations, and non-profit groups desiring to use the building for fund-raisers, must first obtain permission from the Town Board.

Copy to Maintenance Dept. \_\_\_\_\_ Recreation Dept. \_\_\_\_\_

## MEMORANDUM

**TO:** Lewisboro Planning Board

**FROM:** Drew Victoria Gamils

**RE:** Telecommunication Facilities

**DATE:** October 13, 2016

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On February 22, 2012 President Obama signed the Spectrum Act, codified in 47 U.S.C. § 1455. The law mandates that state and local governments approve “eligible facilities” requests for the modification of an existing wireless tower or base station when the modifications do not substantially change the physical dimensions of such tower or base station. This mandate was reiterated in FCC Order 14-153 which was released on October 21, 2014.

The Town Code of the Town of Lewisboro currently conflicts with this change in federal law, which warrants amendment to meet the requirements of the Spectrum Act.

### Federal Law

Under the federal law, local governments are required to approve an applicant’s request to make specific modifications to an eligible facility. The specific modifications are identified as an “eligible facilities request.” An eligible facility is defined as an existing wireless tower or base station that was lawfully constructed and approved through a local government land use review process, if required, prescribed for the tower or base station. The Spectrum Act only applies where State or local governments have previously approved the construction of the structure with the sole or primary purpose of supporting covered transmission equipment (i.e., a wireless tower) or, with regard to other support structures, where the State or local government has previously approved the siting of transmission equipment that is part of a base station on that structure. The Spectrum Act defines an “eligible facilities request” as any request for modification of an existing tower or base station involving (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment, this does not include replacement of the structure on which the equipment is located. A request to replace the underlying structure is not an eligible facility request.

The FCC defines “base station” to include a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of



a base station at the time the application is filed. The term “base station” does not include any structure that, at the time the application is filed, does not support or house wireless communication equipment.

The FCC Order 14-153 requires that the collocation, removal or replacement of antennas/equipment at an existing wireless facility shall not result in a “substantial change.” Collocation of a new transmission includes the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting or receiving radio frequency signals for communications purposes so that installation of a new support structure will not be required. A modification or collocation constitutes a substantial change of an eligible support structure if it meets any of the following criteria:

- for towers outside of public rights-of-way, it increases the height by more than 20 feet or 10%, whichever is greater; for those towers in the rights-of-way and for all base stations, it increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater;
- for towers outside of public rights-of-way, it protrudes from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for those towers in the rights-of-way and for all base stations, it protrudes from the edge of the structure more than six feet;
- it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
- it entails any excavation or deployment outside the current site of the tower or base station;
- it would defeat the existing concealment elements of the tower or base station; or
- it does not comply with conditions associated with the prior approval of the tower or base station unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding “substantial change” thresholds.

States and localities may continue to enforce and condition approval on compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety. In addition, eligible facility requests included in Section 1455(a) must still comply with any relevant Federal requirements, including FAA, NEPA, or Section 106 requirements.

The goal of the Spectrum Act is to streamline the approval process for telecommunication collocation facilities. Local governments may require parties asserting that proposed facility modifications are covered under Section 1455(a) to file applications to be reviewed to determine whether they constitute a covered request. The law also provides and imposes a specific timeframe to ensure that local governments approve covered applications within a reasonable period of time. The law mandates that local governments may only require applicants to provide documentation that is reasonably related to determining whether the eligible facilities request meets the requirements of Section 1455(a). The local government must approve an application covered by Section 1455(a) within 60 days from the date of filing. However, this period may be extended through mutual agreement or upon notice that an application is incomplete.

### **Lewisboro Town Law**

Chapter 220-41.1 of the Lewisboro Town Code regulates communication facilities, communication towers, antenna towers or monopoles. Specifically Section 220-41.1(C)(3) states that:

“When an applicant proposes collocation of proposed antennas and communication facilities on an existing communication tower, building or structure, the applicant must demonstrate and certify that the existing communication tower, building or structure will be properly adapted to the placement of additional antennas. The applicant shall identify the capacity of the communication tower, building or structure to accommodate additional antennas and shall address necessary screening and buffering, landscaping and additional safety measures necessitated by collocation.”

In light of the Spectrum Act, it is recommended that this section be amended to state that: When an applicant proposes collocation of proposed antennas and communication facilities on an existing communication tower, building, structure or base station, the applicant must demonstrate and certify that the proposed modification constitutes an eligible facilities request that does not substantially change the physical dimensions of the existing tower or base station. The Town may also want to modify the law to define “eligible facility,” “eligible facilities request,” and “substantial change.”

The Town should amend the Town Code section 220-41.1(H) to exempt eligible facilities requests from special permit requirements. The Town may want to expand this section to exempt applications that meet the requirements of an eligible facilities request under the Spectrum Act.

### Other Town Laws

Other communities have responded to the federal law by amending their codes. The Town of New Canaan appears to be doing so, as evidenced by the proposed zoning amendments forwarded to the Town of Lewisboro. In Westchester County, the Village of Port Chester has already done so.

The Village of Port Chester amended Village Code Chapter 345 entitled "Wireless Telecommunications Facilities," to include such terms as "base station," "eligible facility request," the term "base station" and "substantial change." The Village of Port Chester requires an applicant to fill out an application form, provided by the Village Building Department, limited to the information necessary for the Village to consider whether an application is an eligible facilities request. If a request is found to be an eligible facility request, the application will undergo an Administrative Review. If the application is found to create a substantial change or does not meet the criteria of an eligible facility request, such application shall require a special exception use permit. The Port Chester Amendments are attached for additional review.

The Town of New Canaan Connecticut has also proposed amendments Section 7.8 Telecommunication Facilities. The proposed amendments includes an extensive definitions section that includes such terms as "base station," "eligible facilities request," "eligible facility," "existing," "substantial change" and "tower." If the applicant believes its co-location application is an eligible facilities request, it must submit a complete co-location application specifically requesting streamlined processing and stating the applicable permitting time frame, which is 60 days for an eligible facilities request. The applicant must also submit any documents that demonstrate that the structure proposed to be modified was previously subject to zoning approval by the Town and that such modification does not create a substantial change in the underlying support structure or tower. The application will then be reviewed and decided by the Zoning Inspector. *See* Section 7.8(4). The law requires a permit for co-location of facilities on an existing tower or base subject to conditions specified in section 7.8(I). The law also requires a permit for any replacement or modification of existing antenna and associated equipment. Any modification or replacement must comply with the height standards, sound restrictions, signage requirements, and lighting standards specified in 7.8(K). The New Canaan zoning amendments are attached hereto.

TOWN OF LEWISBORO

LOCAL LAW NUMBER \_\_-20\_\_ OF THE TOWN OF LEWISBORO

AMENDMENT TO CHAPTER 220, SECTIONS 220-41.1(C)(3) and 220-41.1(H)(1)  
OF THE LEWISBORO TOWN CODE

BE IT ENACTED by the Town Board of the Town of Lewisboro, Westchester  
County, New York, as follows:

Section 1. Chapter 220, Section 220-41.1(C)(3), entitled “Communication Facility  
siting,” is hereby amended to read as follows:

**§ 220-41.1. Communication facilities, communication towers, antenna towers or monopoles.**

C. Communication facility siting.

(3) The collocation and sharing of existing or proposed communication  
facilities and communication towers for mounting antennas or related  
equipment is encouraged and shall be preferred to the construction of new  
communication facilities and communication towers. When an applicant  
proposes collocation of proposed antennas and communication facilities on  
an existing communication tower, building, structure or base station, the  
applicant must demonstrate and certify that the proposed modification  
constitutes an eligible facilities request that does not substantially change  
the physical dimensions of the existing tower or base station. Any  
communication tower which is not collocated shall present and certify  
evidence as to why collocation is not possible, including evidence such as  
follows:

(a) That no feasible host sites or existing communication facilities,  
communication towers and buildings or structures are located

within the geographic area which meet the applicant's engineering system and service requirements.

(b) That existing communication facilities, communication towers and buildings or structures are not of sufficient height to meet the applicant's engineering system and service requirements.

(c) That existing communication facilities, communication towers and buildings or structures do not have sufficient structural strength to support the applicant's proposed communication facility equipment or antenna.

(d) That there is an inability to use existing sites in a technologically feasible manner consistent with the applicant's engineering system and service requirements.

(e) That the applicant's proposed antenna would cause electromagnetic interference with any antenna on the existing communication towers, buildings or structures, or the antenna on the existing communication towers or structures would cause interference with the applicant's antenna.

(f) That the fees, costs or contractual provisions required by the owner in order to share an existing communication tower, building or structure, or to adapt existing communication towers, buildings or structures for purposes of collocation and sharing, are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

- (g) That the applicant has demonstrated that there are other limiting factors that render existing communication towers, buildings or structures unsuitable.
- (h) That the applicant has demonstrated that alternative technology or communication facilities which do not require the use of towers are unsuitable. Costs of such alternative technology or communications facilities which exceed new tower or antenna development shall not be presumed to render the alternative technology or communication facilities unsuitable.

H. Alterations, amendments and waiver of application requirements.

- (1) Alterations. Alterations to an approved communication facility or communication tower may, at the discretion of the Planning Board, be considered exempt from the requirements for a special permit approval, provided the alteration constitutes an eligible facilities request as defined in 47 U.S.C. §1455.

**[NOTE: Retain some of the other criteria set forth in subsections (a), (b) and (c) or remove those?]**

Section 2. If any provision of this Local Law is declared illegal, unconstitutional or unenforceable by a court of competent jurisdiction, the remainder of this Local Law shall be declared to have been separately adopted and shall remain in full force and effect.

Section 3. This local law shall take effect immediately upon filing in the Office of the Secretary of State of the State of New York.

Dated:

BY THE ORDER OF THE TOWN BOARD OF  
THE TOWN OF LEWISBORO

JANET DONOHUE, TOWN CLERK

## Peter Parsons

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**From:** Jenna Amundsen <jenna@sustainablewestchester.org>  
**Sent:** Wednesday, December 07, 2016 6:04 PM  
**To:** DLevenberg@townofossining.com; Gary Zuckerman; rgreenstein@mynewcastle.org; supervisor@lewisborogov.com; supervisor@northcastlynny.com; supervisor@somersny.com  
**Subject:** Invitation to Participate in Muni Solar Buyers Group  
**Attachments:** -NextEra Energy Resource - RFI - Form (1).docx



**Sustainable Westchester, Inc.**  
**55 Maple Avenue**  
**Mount Kisco, NY 10549**  
**914-242-4725**  
**[SustainableWestchester.org](http://SustainableWestchester.org)**

**December 7, 2016**

### **INVITATION TO PARTICIPATE IN SUSTAINABLE WESTCHESTER'S MUNICIPAL SOLAR BUYERS GROUP**

#### **Summary**

Sustainable Westchester is excited to inform our Members that the Municipal Solar Buyers Group ("MSBG") is ready to help bring solar power to your municipal propert(ies), and likely save you money at the same time. The MSBG is designed to streamline the process of providing long-term, renewable energy and make it as easy and economically attractive as possible. Accordingly, we already have completed the required procurement process, selected a nationally recognized solar developer, NextEra Energy, and performed almost all required and necessary legal work.



With these tasks accomplished, our Members can have solar facilities designed and built in 2017 – at no cost to the municipality – on suitable municipal sites. A participant's only obligation would be to purchase the electricity generated on your site(s), which will provide price stability and likely significant savings.

Members interested in exploring their solar options with the MSBG should:

- **Complete the attached Site Survey Form** for each potential municipal site, indicating the site name, address and tax parcel number for sites where solar development might work, such as:
  - Rooftop – municipal buildings and storage facilities, police/fire stations, libraries, etc.
  - Carport Canopy – municipal/commuter parking lots, etc.
  - Ground Mount – landfills, compost facilities, unused open space, etc.
- **Complete the attached Utility Authorization Form** to allow NextEra to access your municipal electric bills online, – **OR** – **gather full copies of electric bills for the previous 12 months**; and
- **Gather copies of existing electric supply contracts** (if any) with NYPA or other suppliers.

Once the above information is ready, please email it to Joe Amaro, Managing Director, PNC Equipment Finance, at [joe.amaro@pnc.com](mailto:joe.amaro@pnc.com), as soon as possible (due to pending regulatory changes, time is of the essence). Then, Sustainable Westchester's MSBG team and our solar developer will analyze each site's solar viability, pricing, and potential for Member cost savings. The MSBG team will present that information to the Member and, if the Member wishes to pursue solar on any or all of its sites, MSBG's counsel will work with the Member's corporation counsel to customize an already-drafted model power purchase agreement ("Model PPA") to address site-specific issues. Eighteen Members have already expressed interest and identified 70 potential sites.

## The Details

Sustainable Westchester has been working on the MSBG program for two years. To get to this point, we have: (i) procured the services of two professional consultants, PNC Equipment Finance's Structured Finance Solutions Group and GP Energy Management; (ii) retained attorneys, Sive, Paget & Riesel ("SPR") to negotiate and draft the required legal agreements; (iii) issued a request for proposals for the selection of a solar developer; (iv) analyzed the submissions of more than a dozen solar developers and selected NextEra Energy Resources ("NextEra"), one of the largest wholesale generators of clean power in the nation; and (v) negotiated with NextEra a Model PPA that is designed to be tailored to each Member's site(s).

A word about NextEra, the solar developer that we have selected. NextEra is a public, Fortune 200 power company (NYSE:NEE) with \$70B in assets and 14,000 employees. Its regulated utility affiliate is Florida Power & Light. On the non-regulated front, NextEra is the largest generator of wind and solar power in North America with more than 12,000 megawatts of wind and nearly 1,200 megawatts of solar. In 2016, NextEra had revenues of approximately \$17B. NextEra has a strong Westchester presence, and their White Plains office develops sustainable projects throughout the Northeast. NextEra's experienced personnel will handle all aspects

of solar development, including pricing, engineering, site development and permitting, legal and environmental compliance, interconnection analysis, construction, and operation and maintenance.

Pursuant to an agreement between Sustainable Westchester and NextEra, NextEra will design, construct, finance, own, and maintain each solar facility, and each participating Member will agree – under the terms of a PPA – to purchase electricity from the facility at a set price over 25 years. Each solar facility will have a license (already drafted) to operate on a Member site.

All interested Members will be provided with a copy of the Model PPA and other required legal documents that have been drafted by Sustainable Westchester’s attorneys.

Each Member will separately decide whether it wishes to enter into a PPA with NextEra with respect to any contemplated PV System on its Site(s). Participating Members that decide to do so will only pay for the electricity generated by each system (at a fixed rate, with a specified annual increase). Members will not pay for Sustainable Westchester’s consultants or attorneys; NextEra will underwrite those fees upon successful closing of each PPA.

## **Conclusion**

Please contact us with any questions. Our consultants and attorneys can address specific questions regarding the process and the Model PPA terms.

Sustainable Westchester designed the MSBG as a service to our Members. We have undertaken the onerous program groundwork, so that Members can easily evaluate the viability of having solar facilities developed on municipal sites, while at the same making such development economically attractive. After two years of hard work, the MSBG is now ready for takeoff. We hope that Sustainable Westchester can assist you in exploring whether the MSBG is a viable option for your municipality. Thank you for your consideration and we look forward to hearing from you.

Sincerely,

Robert Elliott  
Executive Director  
Sustainable Westchester

--

Jenna Amundsen  
Community Outreach Coordinator  
Sustainable Westchester  
55 Maple Avenue  
Mt. Kisco, NY 10549  
T: 914-242-4725  
email: [Jenna@SustainableWestchester.org](mailto:Jenna@SustainableWestchester.org)

## Peter Parsons

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**From:** Peter Parsons <Supervisor@lewisborogov.com>  
**Sent:** Friday, December 16, 2016 1:05 PM  
**To:** Dan Welsh; Frank Kelly; John Pappalardo ; Peter DeLucia  
**Cc:** 'Mary Hafter'; Janet Donohue; jcermele@kelses.com  
**Subject:** FW: DRAFT MS4 Permit  
**Attachments:** Draft MS4 summary changes.docx; draftms4genpmt2016.pdf

This is on Monday's agenda. It is particularly relevant to Lewisboro because of its large percentage in the EOH watershed.

If this draft becomes final then there will be a significant and onerous increase in reporting requirements -- the permit will expand from 102 pages to 183 pages. In physical terms Lewisboro will be required to increase its frequency of road sweeping and vacuuming.

-----Original Message-----

From: Joe Cermele [mailto:jcermele@kelses.com]  
Sent: Monday, December 12, 2016 6:33 PM  
To: 'Peter Parsons (supervisor@lewisborogov.com)'  
Cc: Danielle Cinguina  
Subject: DRAFT MS4 Permit

Peter,

I tried to provide a summary of proposed changes to the MS4 Permit (attached). There is a lot to go through. I tried to catch the larger points. The summary includes a link to the DEC's Fact Sheet that describes the changes in more detail.

A link to the Draft permit is here:

[http://www.dec.ny.gov/docs/water\\_pdf/draftms4genpmt2016.pdf](http://www.dec.ny.gov/docs/water_pdf/draftms4genpmt2016.pdf)

Finally, Appendix C of the Permit (copy attached) provides a proposed compliance schedule for the imposed requirements.

Regards,

Joseph M. Cermele, P.E., CFM  
Kellard Sessions Consulting, P.C.  
500 Main Street \* Armonk, New York 10504  
T: 914.273.2323 ext. 110 \* F: 914.273.2329  
email: [jcermele@kelses.com](mailto:jcermele@kelses.com)<<mailto:jcermele@kelses.com>>

Civil Engineering | Landscape Architecture | Site & Environmental Planning

Notes taken from:

DRAFT FACT SHEET  
for NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
SPDES GENERAL PERMIT  
For  
STORMWATER DISCHARGES  
From  
MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)  
Permit No. GP-0-17-002

For a full copy of the Draft Fact Sheet see:

[http://www.dec.ny.gov/docs/water\\_pdf/draftms4factsheet.pdf](http://www.dec.ny.gov/docs/water_pdf/draftms4factsheet.pdf)

Summary of changes to the General Permit, GP 0-17-002:

**Water Quality Standards:** The draft MS4 renewal includes required control measures that will reduce the discharge of pollutants. Parts I through V and X apply to all MS4 Operators. The MCMs for traditional land use MS4s are listed in Part VI. Part IX, impaired waters with an approved TMDL, lists additional requirements for all MS4 Operators discharging to impaired waters. Part IX A is for NYCEOH.

**Storm Water Management Program SWMP Plan:**

- MS4 Operator required to develop a SWMP document that describes how they will meet the control requirements in the permit.
- Part IV of the draft MS4 renewal requires a written SWMP plan.
- The SWMP plan is a consolidation of all of the MS4 Operator's relevant ordinances or other regulatory requirements, the description of all programs and procedures (including standard forms to be used for reports and inspections) that will be implemented and enforced to comply with this permit and to document the selection, design, and installation of all stormwater control measures.

**SWMP Coordinator:**

- requires a centralized contact that manages the overall program and ties the different program elements together so that issues are communicated and adjustments can be made
- the draft MS4 renewal requires the MS4 Operator designate in writing a Stormwater Program Coordinator.

**Mapping:**

- the draft MS4 renewal requires MS4 Operators to develop and maintain a full system map

**Enforcement Response Plan:**

- The draft MS4 renewal requires MS4 Operators develop and implement an enforcement response plan (ERP) which clearly describes the action(s) to be taken for violations of the local laws for illicit discharge (Part VI.C.1), construction (Part VI.D.3) and post-construction (Part VI.E.2). The ERP must address repeat and continuing violations through progressively stricter response (escalation of enforcement) as needed to achieve compliance with the terms and

conditions of this permit.

Adequate Legal Authority:

- Adequate legal authority is required to implement and enforce most parts of the SWMP. Part IV.F of the draft MS4 renewal provides the details for the legal authority for MS4 Operators

Minimum Control Measures (MCMs)

MCM 1 – Public education and Outreach Program

- the draft MS4 renewal requires implementation of a public education program to distribute educational materials to their community about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

MCM 2 – Public Participation Program

- the draft MS4 renewal requires MS4 Operators develop and implement a formal program to involve the public in activities and decisions that relate to the issues of stormwater pollution.
- MS4 Operators must provide opportunities for public participation, including public notice and opportunity for comment on the annual report, and inform them of those opportunities and how they can become more involved.

MCM 3 – Illicit Discharge Detection and Elimination Program

- the draft MS4 renewal requires MS4 Operators develop and maintain adequate legal authority to control how the MS4 is used and prohibit non-stormwater discharges by adopting the New York State Department of Environmental Conservation Model Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer Systems, April 2005 (NYS Model IDDE Law), or equivalent.
- The draft MS4 renewal permit also requires the development of a comprehensive, proactive Illicit Discharge Detection Elimination (IDDE) program consisting of the following elements: MS4 system mapping, identification of priority areas, a hotline for reporting of illicit discharges, outfall inspections, field screening and action levels for certain dry weather discharges, IDDE source identification (track down) and IDDE elimination.
- the MS4 Operator must identify priority areas within the MS4 service area most likely to have illicit discharges and focus detection efforts in areas with the highest potential for illicit discharge.
- the MS4 Operator must annually analyze data collected to identify trends, patterns, areas of concern and time frames to track down and eliminate illicit discharges to revise priorities and improve program efficiencies.
- draft MS4 renewal also includes more specific requirements for outfall inspections with the proposed frequency based on the illicit discharge potential and receiving water.
- draft MS4 renewal proposes to increase the inspection requirements from once every 5 years to annual for high priority outfalls while keeping the inspection frequency for low priority outfalls on a 5 year cycle.

MCM4 – Construction Site Storm Water Runoff Control Program

- the draft MS4 renewal requires the MS4 Operator to develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre.
- MS4 Operators must review all SWPPPs for conformance with the New York State Standards & Specifications for Erosion & Sediment Controls and the SPDES General Permit for Stormwater from Construction Activities (or equivalent) and inspect all construction sites.
- The following changes are proposed:
  - Legal authority - requires permits to include provisions to enact, to the extent allowed by State, Tribal or local law, an ordinance or other regulatory mechanism as part of the construction program. There are two versions of the Draft Sample Local Law available for review.
  - the MS4 renewal will require MS4 Operators to adopt the basic version that includes, among other changes, green infrastructure practices as specified in the New York State Stormwater Management Design Manual. Although not required, MS4 Operators are encouraged to consider the second version which provides additional resiliency provisions that allow communities to require a more detailed green infrastructure site planning process and consider riparian buffers and other sensitive natural resources.
  - Construction Site inventory: The draft MS4 renewal requires a construction site inventory that tracks information such as project size, disturbed area, distance to any waterbody or flow channel, when the erosion and sediment control/stormwater plan was approved by the MS4 Operator, and whether the project is covered by the CGP.
  - Construction Site Inspections: The draft MS4 renewal permit requires inspections of construction sites based on a prioritized ranking of sites. The MS4 Operator must assess potential risks to water quality impacts and identify high priority sites for inspection. The draft renewal includes criteria (Table 4 of draft MS4 renewal) for high priority construction sites based on the nature of the construction activity, topography, the characteristics of soils and receiving water quality.
  - High priority construction sites must be inspected more frequently (monthly) based on risk to water quality.
  - The draft MS4 renewal also includes provisions that allow MS4 Operators to reprioritize projects and reduce MS4 compliance oversight inspections as risk is diminished. Low priority sites must be inspected at least once during active construction in addition to the preconstruction inspections and inspection at project completion. If the project duration extends for more than one year, at least one inspection must be conducted per year.
  - Other changes made to the draft MS4 renewal to provide clear, specific and measurable limits include requirements for:
    - Documentation and data elements to be recorded for all construction site inspections;
    - Pre- construction inspections;
    - Project close out inspections;
    - Documentation and data elements for all SWPPP review;
    - Documentation and follow up of construction related complaints;
    - Minimum training requirements for SWPPP reviewers and construction site inspectors.

## MCM 5 Post Construction SMPs

- Legal Authority: requires an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects Adoption of this updated local law under MCM 4 will satisfy the requirements
- SWPPP Review: requires MS4 Operators incorporate into the SWPPP review procedures, additional elements to ensure all post-construction SMPs meet the sizing criteria contained in the New York State Stormwater Management Design Manual (2015).
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  - Post Construction SMP Inspections & Maintenance: the draft MS4 renewal includes provisions for training individuals responsible for inspection and maintenance of post construction SMPs.

## MCM 6 Pollution Prevention & Good Housekeeping for Municipal Operations & Facilities

- the draft MS4 renewal requires the MS4 Operator develop and implement a pollution prevention/good housekeeping program for municipal operations and municipal facilities
- The good housekeeping/pollution prevention program must address all municipal operations and municipal facilities that contribute or potentially contribute POCs to the MS4 and to surface waters of the State through direct drainage within the regulated area
- Inventory: The draft MS4 renewal requires a comprehensive inventory and map of municipal facilities
- Assessment Schedule: The draft MS4 renewal would require MS4 Operators to continue on this schedule and perform an assessment of all municipal facilities and operations for compliance with the terms and conditions of the final renewal. Within 3 years of the effective date of the final permit, the MS4 Operator will be expected to certify compliance for all facilities and operations.
- Best Management Practices:
  - High Priority Facilities: DEC has identified certain facilities (highway garages, facilities with vehicle or equipment maintenance and salt storage facilities) to be high priority based on the typical pollutant sources and activities present and their potential for water quality impacts. Facility-specific SWPPPs must be developed for these facilities. The draft MS4 renewal includes specific requirements for the SWPPP including quarterly visual monitoring of stormwater discharges, annual dry weather inspection of outfalls and annual assessment of BMPs.
  - Low Priority Facilities: Low priority facilities must document and implement the above listed BMPs but a facility-specific SWPPP is not required. Rather MS4 Operators must have written procedures/protocols that instruct management and staff on the prescribed BMPs that must be followed for the activities or operations conducted at the facility. Such procedures must provide sufficient instruction on the BMPs to be implemented and be available to the management and staff that will be called upon to use them. Low priority facilities must be inspected/assessed at least one every 5 years.
  - Facilities Subject to MSGP: GP-0-15-003 requires municipal operations and facilities that would otherwise be subject to the NYS Multi-sector General Permit (MSGP, GP-0-12-001) for industrial stormwater discharges to prepare and implement provisions

in the SWMP that comply with MSGP provisions for SWPPPs, inspections, monitoring and corrective actions.

- Infrastructure Maintenance: The draft MS4 renewal permit requires routine maintenance of MS4 infrastructure (i.e. storm sewer system components, roadways, bridges and associated rights of way) and specifies BMPs to reduce the discharge of pollutants from the MS4.
- The MS4 Operator must document and implement a plan to optimize catch basin inspection and cleaning so that catch basins are cleaned before exceeding 50% of sump capacity and regular sweeping of municipal streets, parking lots or other paved areas at municipal facilities.
- The draft MS4 renewal specifies a tiered maintenance schedule for the storm sewer infrastructure components, with the highest priority areas being maintained at the greatest frequency.
- The draft renewal specifies priorities based on the land use within the MS4 area, the condition of the receiving water and the amount and type of material that typically accumulates in an area



## APPENDIX C - Compliance Schedule

			Full Implementation Date after Effective Date of Permit	
Concept	Part	Deliverable	Continuing Coverage	Newly Designated
Administration	Part II	Submit NOI to Continue Coverage	30 days	180 days
Administration	Part IV.B	Designate a SWMP Coordinator	30 days	180 days
Administration	Part IV.B	Develop staffing plan/organizational chart	6 months	3.5 years
MCM 2	Part VI.B.1	Identify at least one opportunity for public participation on development and implementation of the SWMP.	6 months	3.5 years
MCM 2	Part VI.B.1	Inform public of the opportunities (update website, publish in newsletter, announcements, advertisement, etc...)	6 months	3.5 years
MCM 2	Part VI.B.1	Identify a Point of Contact to receive and respond to public concerns regarding stormwater management or compliance	6 months	3.5 years
MCM 3	Part VI.C.3	Establish a hotline & system to track complaints on illicit discharges	6 months	3.5 years
MCM 3	Part VI.C.4	Identify areas with high discharge potential using Table 14 of IDDE Guidance Manual	6 months	3.5 years
MCM 4	Part VI.D.11	Update tracking system for inspections and complaints	6 months	3.5 years
MCM 4	Part VI.D.8	Establish procedures for pre-construction inspection/meeting	6 months	3.5 years
WIS Area	Part IX.D	Implement Post-Construction requirements for on-site retention of the 1-year storm	6 months	3.5 years

			Full Implementation Date after Effective Date of Permit	
Concept	Part	Deliverable	Continuing Coverage	Newly Designated
Administration	Part IV.B	SWMP Coordinator receives 4 hours stormwater management training of Department endorsed training in stormwater management and the requirements of this permit	1 year	4 years
Administration	Part IV.B	Update agreements with 3 <sup>rd</sup> party contractors, coalitions or other entities where resources are shared.	1 year	4 years
Administration	Part IV.F	Develop system to track enforcement	1 year	4 years
MCM 1	Part VI.A	Program Development and Implementation	1 year	4 years
MCM 4	Part VI.D.7	Update SWPPP review procedures (utilize form for new projects) for erosion sediment control and post construction review (MCM 5)	1 year	4 years
MCM 4	Part VI.D.9	Update construction inspection procedures (identify individual(s) responsible for inspections, inspection frequencies, documentation, close out, sign NOT)	1 year	4 years
MCM 6	Part VI.F.3	Develop inventory of municipal facilities	1 year	4 years
MCM 6	Part VI.F.3	Develop procedures for Low Priority Facilities (identify individual(s) responsible, identify activities occurring, identify applicable BMPs for activities conducted, assessment)	1 year	4 years
MCM 6	Part VI.F.4	Train individual(s) responsible for catch basin clean out	1 year	4 years
MCM 3	Part VI.C.2	Update education and outreach to address most common behaviors identified through implementation of program.	1 year	4 years
MCM 3	Part VI.C.4	Train individual(s) assigned to trackdown of illicit discharges	1 year	4 years
MCM 4	Part VIII.D.6	Prioritize construction sites	1 year	4 years
MCM 6	Part VIII.A.5 Part VII.C.5 Part IX.D	Provide procedures for repair of outfall protection and bank stability to ensure repairs are completed within 30 days of discovery	1 year	4 years
MCM 4	Part IX Part VIII.A.4 Part VIII.C.4	Prioritize construction sites as High Priority in sewersheds discharging to impaired waters	1 year	4 years
Administration	Part IV.E	Update or develop adequate legal authority to control pollutants into and from the small MS4	1.5 years	4.5 years
MCM 4	Part VI.D.3	Update the local law and certify that it is equivalent to the new model law	1.5 years	4.5 years
MCM 4	Part VI.D.7	Train individuals in four (4) hours of Department endorsed training in proper erosion and sediment control principles from a Soil & Water Conservation District or other endorsed entity	1.5 years	4.5 years
MCM 4	Part VI.D.7	Train SWPPP reviewers	1.5 years	4.5 years
MCM 4	Part VI.D.9	Train Construction site inspectors	1.5 years	4.5 years
MCM 5	Part VI.E.2	Update the local law and certify that it is equivalent to the new model law	1.5 years	4.5 years
MCM 5	Part VI.E.5	Train individuals responsible for inspection and maintenance	1.5 years	4.5 years
MCM 6	Part VI.F.2	Update employee training program on proper procedures, specific control measures and documentation requirements.	1.5 years	4.5 years
MCM 3	Part VI.C.4	Develop system for tracking outfall inspections and analyzing data.	1.5 years	4.5 years
MCM 3	Part VI.C.4	Train individual(s) assigned to outfall inspections and sampling	1.5 years	4.5 years
MCM 6	Part VIII.B.4	Provide a wildlife control component to the MCM 6 program	1.5 years	4.5 years

			Full Implementation Date after Effective Date of Permit	
Concept	Part	Deliverable	Continuing Coverage	Newly Designated
MCM 3	Part VI.C.3	Develop track down procedures (identify individuals responsible for track down, procedures to meet Chapter 13 of IDDE Guidance, time frames to act, referral for elimination)	2 years	5 years
MCM 3	Part VI.C.6	Update procedures for elimination (identify individuals responsible for contacting responsible party, time frames to act, escalating enforcement, confirm corrective actions, tracking progress)	2 years	5 years
MCM 6	Part VI.F.3	Develop and implement facility assessments	2 years	5 years
MCM 6	Part VI.F.4	Develop procedures for catch basin inspection/maintenance (identify priority areas, establish frequency, log, disposal practices, evaluation of results)	2 years	5 years
MCM 6	Part VI.F.4	Update street/road maintenance procedures (sweep at required intervals, update BMPs for roadway maintenance, winter maintenance and bridge maintenance)	2 years	5 years
MCM 5	Part VI.E.5	Update procedures to inspect and maintain post construction SMPs (identify individuals, utilize inspection form, conduct follow up inspections, referral to higher level inspection)	2 years	5 years
MCM 1	Part VIII.A.1 Part VIII.C.1	Provide additional timely educational messages to specified audiences; add supplementary education for commercial users	2 years	5 years
MCM 1	Part VIII.B.1	Provide additional supplementary information on the specific impaired waters for the pollutant of concern	2 years	5 years
Mapping	Part VIII.A.2 Part VIII.B.2 Part VIII.C.2	Update map to show impaired waters/system components; areas generating POC (i.e. hotspots); location of SMP inventory and prioritized municipal facilities	2 years	5 years
MCM 6	Part IX.D Part VIII.A.5 Part VIII.C.5	Provide street sweeping monthly in sewersheds to impaired segments	2 years	5 years
MCM 1	Part IX.A Part IX.B	Update education program to include specified audiences and activities with potential to contribute POC	2 years	5 years
MCM 4	Part IX.A Part IX.B	Include the Enhanced phosphorus removal design standards as part of the Post construction program. Use the Departments 'plug-in' language in Part IX.A.5 and IX.B.5 to create the adequate legal authority.	2 years	5 years
MCM 1	Part IX.D	Provide additional timely educational messages on nitrogen as a pollutant to specified audiences; add supplementary education for commercial users	2 years	5 years
Mapping	Part IX.A	Update map to show TMDL waters, areas generating Phosphorus (i.e. hotspots); and location and attributes of Post-Construction SMP inventory, municipal facilities and sanitary sewer system map	2 years	5 years
MCM 3	Part IX.A Part IX.B	Update, implement and enforce a program that ensures residential Onsite-wastewater systems do not contribute pollutants of concern to the MS4.	2 years	5 years

			Full Implementation Date after Effective Date of Permit	
Concept	Part	Deliverable	Continuing Coverage	Newly Designated
Administration	Part IV.F	Develop Enforcement Response Plan	3 years	6 years
MCM 3	Part VI.C.4	Identify High Priority Outfalls	3 years	6 years
MCM 3	Part VI.C.4	Develop outfall inspection procedures (identify individuals responsible for inspections, procedures for recording information as part of outfall inspections, procedures for sampling flowing outfalls, re-inspection of outfalls)	3 years	6 years
MCM 4	Part VI.D.5	Update construction site inventory to track new data elements (i.e. elements not explicitly required by GP-0-15-003)	3 years	6 years
MCM 5	Part VI.E.3	Update Post Construction SMP inventory to track all required elements (identify frequency for inspection based on the O&M manual or DEC design manual)	3 years	6 years
MCM 6	Part VI.F.1	Assess all municipal facilities and operations for compliance with new requirements on current schedule	3 years	6 years
MCM 6	Part VI.F.3	Develop facility specific SWPPP for high priority facilities	3 years	6 years
MCM 6	Part VI.F.3	Develop facility specific SWPPP for facilities not covered by MSGP or No Exposure	3 years	6 years
MCM 6	Part VI.F.4	Conduct initial inspection of all catch basins and clean out.	3 years	6 years
Mapping	Part IX.B	Greenwood Lake Only – Map required components	3 years	6 years
MCM 3	Part IX.A Part IX.B	Develop procedures for conducting system inspections including hot spot inspections	3 years	6 years
MCM 3	Part IX.A Part IX.B Part IX.D Part VIII.A.3 Part VIII.B.3 Part VIII.C.3	Prioritize outfalls to impaired waters as High Priority and perform inspections in accordance with schedule in Part VI.C.4 or Part VII.C.4 (whichever is applicable)	3 years	6 years
MCM 3	Part VIII.A.3 Part VIII.B.3 Part VIII.C.3	Provide additional illicit discharge inspections in Pollutant of Concern potential generating sites	3 years	6 years
MCM 6	Part VIII.A.5 Part VIII.B.4 Part VIII.C.5 Part IX.B Part IX.D	Provide additional time-of-year inspections of catch basins	3 years	6 years
Mapping	Part IV.C	Update map to show location of the entire small MS4 system (i.e. catchbasins, type conveyance, outfalls); surface waters; impaired waters; areas of concern; post construction SMPs; municipal facilities; location of confirmed or suspected illicit discharges.	5 years	8 years
Mapping	Part IX.B	Update map to show TMDL waters, areas generating Phosphorus (i.e. hotspots); and location and attributes of Post-Construction SMP inventory, municipal facilities and sanitary sewer system map	5 years	8 years
WIS Area	Part IX.B	Greenwood Lake Only – submit inventory of proposed retrofit projects	Schedule per the Implementation Plan	Schedule per the Implementation Plan
WIS Area	Part IX	Implement retrofits according to schedule (EOH and Greenwood Lake only)	Permit lists time to commence	Permit lists time to commence