

Town of Caroline Town Board Minutes

November 13, 2007

The regular meeting of the Town Board of the Town of Caroline held on November 13, 2007 at the Town Hall was called to order by Supervisor Don Barber at 7:04 p.m.

Present: Don Barber, Supervisor
Ed Cope, Councilman
Dominic Frongillo, Councilman
Tim Seely, Councilman

Recording Secretary: Debra DeAugustine, Town Clerk

Privilege of the floor

Len Pogorzala: thanked citizens for the great turn out at the recent election.

Monthly Reports

Department, Committee, & Liaison Reports

Cindy Whittaker, Highway Superintendent

Roadwork

- Yapple Road 1.17 miles – Placed shoulders with millings from Route 79
- Drainage work on Ridgeway Road
- Replaced pipe header on Grove School Road
- Did extensive work on inlet and outlet end of large culvert
- Centerlines have been repainted

Misc.

- Stock piling de-icing sand
- Working on plow equipment

Supervisor's Report

Correspondence of Note:

1. Letter from Assessment notifying that NYS has increased income levels for property tax exemption of seniors and disabled and new option for Veteran's of Cold war. Need to make decision by 2/1/08
2. Letter from planning consultant, LaBerge, about direction of further work
3. Notice to Order from DOT for 40 MPH on Buffalo Road – Cindy will post
4. Copy of Aurora Truck Study
5. Town of Enfield and Village of Cayuga Heights have signed Highway Shared Service Agreement
6. Worker's Comp and Liability Audit: No recommendations
7. Letter from Assemblywoman Lifton in response to Article X reauthorization resolution
8. BAN commitment letter from Tompkins Trust Co.

Report:

1. GOSC- \$345K committed (20 projects) of \$345K total, \$247K spent;
2. Council of Gov'ts – Health Care Consortium, Dog Control
3. Met with FEMA and SEMO on Barrile II and Valley Road. Gathering info they requested. No commitment, but they were encouraged by what they saw.
4. Discussion with LaBerge about Planning Consultant Contract. Their proposal in correspondence. Need a meeting between Ed Cope and Erick Smith to discuss this proposal and provide feedback on how we will complete our part of the Contract with Quality Communities

Dominic Frongillo, TB member

Received funding to distribute compact fluorescent light bulbs in the community; will happen some time in the spring

Ed Cope, TB member

Met with Erick Smith; they plan to bring up how to proceed with Quality Communities at the next PB meeting

Action Topics**Transfers**

A motion was made by Supervisor Barber and seconded by Councilman Cope to authorize the following transfers:

- \$ 140.00 from General Fund Account A 1990.4 Contingency to General Fund Account A 1920.4 Municipal Dues CE
- \$ 1,000.00 from Highway Fund Account DA 5112.1 Capital Improvement PS to Highway Fund Account DA5110.11 Repairs PS (OT)
- \$ 4,000.00 from Highway Fund Account DA 5130.1 Machinery PS to Highway Fund Account DA5130.4 Machinery CE
- \$ 11,050.00 from Highway Fund Account DA 5130.2 Equipment EQ to Highway Fund Account DA5130.4 Equipment CE
- \$ 416.00 from Highway Fund Account DA 9010.8 Retirement to Highway Fund Account DA5142.4 Snow and Ice CE
- \$ 430.00 from Highway Fund Account DA 9040.8 Workers Comp to Highway Fund Account DA5142.4 Snow and Ice CE
- \$ 1,000.00 from Highway Fund Account DA 9030.8 FICA to Highway Fund Account DA5142.4 Snow and Ice CE
- \$ 483.00 from Highway Fund Account DA 5130.2 Machinery EQ to Highway Fund Account DA5142.4 Snow and Ice CE
- \$ 3,000.00 from Highway Fund Account DA 5112.1 Capital Improvement PS to Highway Fund Account DA5142.4 Snow and Ice CE

Adopted Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Approval of Abstracts**Approval of General Fund Abstract**

A motion was made by Councilman Cope and seconded by Councilman Seely to approve payment for the General Fund voucher numbers 344 through xxx in the amount of \$42,425.17.

Adopted Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Approval of Highway Fund Abstract

A motion was made by Councilman Seely and seconded by Councilman Frongillo to approve payment for the Highway Fund voucher numbers 198 through 217 in the amount of \$24,594.13.

Adopted Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Approval of Streetlight Fund Abstract

A motion was made by Councilman Frongillo and seconded by Supervisor Barber to approve payment for the Streetlight Fund voucher numbers 20 and 21 in the amount of \$896.01.

Adopted Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Approval of Community Development Fund Abstract

A motion was made by Councilman Cope and seconded by Supervisor Barber to approve payment for the Community Development Fund voucher numbers 36 through 40 in the amount of \$30,197.88.

Adopted Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Minutes

Approval of Minutes from October 2, 2007

A motion was made by Councilman Frongillo and seconded by Councilman Seely to accept the minutes of October 2, as submitted by the deputy town clerk, with the following amendment.

Adopted Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Amendments

Page 1, Privilege of the Floor, change "Tim" Baker to "Ken" Baker

Page 1, change "Community" Reports to "Committee" reports

Page 2, 2nd bullet, add "Workplace" before Violence Protection Policy

Approval of Minutes from October 9, 2007

A motion was made by Supervisor Barber and seconded by Councilman Frongillo to accept the minutes of October 9, as submitted by the town clerk.

Adopted Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Approval of Minutes from October 17, 2007

A motion was made by Supervisor Barber and seconded by Councilman Seely to accept the minutes of October 17, as submitted by the town clerk.

Adopted Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Approval of Minutes from October 25, 2007

A motion was made by Councilman Frongillo and seconded by Councilman Cope to accept the minutes of October 25, as submitted by the deputy town clerk.

Adopted Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Town Business

Appoint applicant to fill vacated Town Board seat

Linda Adams answered questions from the Town Board regarding her decision to apply for the position and her qualifications. She and her husband live in and love the community.

Background: worked with Mettler/Toledo (owners of High Speed Checkware) in purchasing function; moved into corporate position with provision that she could stay in Town of Caroline. After two years, then they wanted her to move to Ohio, but she refused. In her function for corporate, she had opportunity to go to mainland China and several European countries to negotiate multi-million dollar contracts. Lots of experience with teams and quantifying parameters around complex topics. Currently with Cornell and has more time to devote to 8-hour minimum (thought it would be twice that) council seat would require.

Role of town government: public safety and health.

Where she would like to put her energy: the town board has unfinished business, and would like to fulfill any such job. Great proponent of continuing education; has finished accounting accreditation; is studying Spanish. Comprehensive Plan: she read it, and thinks it's a wonderful document, especially from folks who are used to thinking strategically. Loved the data collection and information about community. Good jumping off point. Land use issue; how to fit in with that: She's a great proponent of market forces; monies and land values can increase without using zoning. Example is Level Green road where she lives; New Jersey company bought it, and sold it to many New Jersey citizens, who found that there was no electricity, very undeveloped. She and

her husband found the land in 1995; they actually paid more for it because of deed restrictions. Thinks that can be educational for other folks in the community.

Don said that it's great that so many people applied for the town board seat, and noted that sitting on town board is not the only way to get involved; many committees and volunteer opportunities.

Motion to appoint lower vote getter of local election to Town Board seat vacated by Nelly Farnum

By Supervisor Barber; Seconded by Councilman Frongillo

Denied Barber: Aye; Cope: Nay; Seely: Nay; Frongillo: Aye

Discussion (very briefly)

Toby McDonald: Gives the board the opportunity to show they're choosing person the voters chose – not to "heal" community.

Ed Cope: still sees this appointment as someone filling Nelly's position; should fill it with someone the voters chose then. We've asked all these candidates to come and apply. The loser of the election would most likely still have the opportunity and still have interest in running next year.

Tim Seely concurs with Ed. The motion would mix two elections. This originally started out to fill Nelly's position. Does not want to tie hands in choosing best candidate when all these people applied. Doesn't feel it's his responsibility to fix an election, but fill a position.

Dominic: Sees both points. Has heard from people that board should take the third candidate.

Bert Cooley sees this as an appointment position, like hiring someone. Wait for election, then choose a candidate as if hiring for a job, looking at all candidates equally. Possibly voter appeal is considered, given a weight.

Rich Anderson: Although still interested in the vacancy, thinks that appointing the loser of the election is reaching across the aisle. Part of the community has felt disenfranchised, and this might help them feel represented. Need a town board that can work together, and convinced that the two candidates could do that.

Linda Adams: If you wait until after the election, you'll lose the opportunity to put the olive branch across the aisle.

Pete Hoyt: Agrees that's its not your job to fix the election

Jeremy Richards: if it's the board's job to fill the position, should not use a formula that absolves you of the responsibility of choosing the person to fill it. Should consider the candidates and consider the person who you're trying to replace.

Bob Anderson: Can't saddle the person in that position with need the to consider what Nelly would do each time there's a vote. The panel of candidates are all very capable, and all could have run for town board, but did not. The primacy falls to the candidates who put themselves forward and run for office.

Motion for a tally vote tonight to fill Town Board seat

By Supervisor Barber; Seconded by Councilman Seely.

Denied Barber: Aye; Cope: Nay; Seely: Aye; Frongillo: Nay

Motion to introduce Local Law for Regulation of Illicit Discharge to Stormwater System

By Councilman Frongillo; Seconded by Councilman Seely

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 Caroline through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) and to surface waters 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 and to surface waters;

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 and into surface waters.

SECTION 2. DEFINITIONS.

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

2.1 Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

2.2 Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

2.3 Construction Activity. Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

2.4 Department. The New York State Department of Environmental Conservation.

2.5 Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

2.6 Illicit Connections. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4 or a surface water, 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 or a surface water and any connections to the storm drain system or a surface water 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 or a surface water which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

2.7 Illicit Discharge. Any direct or indirect non-stormwater discharge to the MS4 or a surface water, except as exempted in Section 6 of this law.

2.8 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 groundwaters 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.

2.9 Industrial Activity. Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

2.10 MS4. Municipal Separate Storm Sewer System.

2.11 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 Caroline;
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

2.12 Municipality. The Town of Caroline.

2.13 Non-Stormwater Discharge. Any discharge to the MS4 or a surface water that is not composed entirely of stormwater.

2.14 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.

2.15 Pollutant. Any material which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards, including but not limited to: dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, detergents, automotive fluid or residue, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, industrial waste, municipal waste, agricultural waste, or ballast discharged into water.

2.16 Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

2.17 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.

2.18 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.

2.19 Stormwater. Rainwater, surface runoff, snowmelt and drainage.

2.20 Stormwater Management Officer (SMO). An employee, the municipal engineer or other public official(s) designated by the Town of Caroline to enforce this local law. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

2.21 Surface Water(s). Ponds, lakes, reservoirs, rivers, streams, creeks, intermittent streams, and wetlands. This definition includes manmade bodies of water created for the treatment of stormwater, but does not include manmade bodies of water specifically designed to treat nonstormwater discharges, according to practices approved by the relevant regulatory agencies. Wetlands are defined as "areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions"¹.

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 MS4 or surface waters generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

4.1 Wetland definition in use by the US Environmental Protection Agency and Army Corps of Engineers.

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 or surface waters 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 or a surface water is prohibited except as described as follows:

6.1.1 The following discharges are exempt from discharge prohibitions established by this local law, unless the Department or the municipality has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, 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 a 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 or to surface waters 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 to a surface water, or allows such a connection to continue.

SECTION 7. PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER

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

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

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

7.2 Such activities may include improper management of animal waste, excessive application of fertilizer or pesticides not in accordance with label directions, storage of such materials where they are exposed to stormwater, or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

7.3 Agricultural activities are exempt from consideration under this section.

7.4 Operation of a failing individual sewage treatment system may also be a source of contamination to stormwater. Individual sewage treatment systems must be properly operated and maintained. If a system shows signs of failure, the Tompkins County Health Department should be consulted for assistance.

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

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

8.1 Best Management Practices

Where the SMO has identified illicit discharges as defined in Section 2 or activities contaminating stormwater as defined in Section 7 the municipality may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.

8.1.1 The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or into surface waters through the use of structural and non-structural BMPs.

8.1.2 Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in Section 2 or an activity contaminating stormwater as defined in Section 7, 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 or to surface waters.

8.1.3 Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

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

9.1 The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

9.2 Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefore. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMO.

SECTION 10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

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

SECTION 11. ACCESS AND MONITORING OF DISCHARGES.

11.1 Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Law.

11.2 Access to Facilities.

11.2.1 The SMO shall be permitted to enter and inspect facilities subject to regulation under this law as often as may be necessary to determine compliance with this Law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.

11.2.2 Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this law.

11.2.3 The municipality shall have the right to set up on any facility subject to this law such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

11.2.4 The municipality has the right to require the facilities subject to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

11.2.5 Unreasonable delays in allowing the municipality access to a facility subject to this law are a violation of this law. A person who is the operator of a facility subject to this law commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.

11.2.6 If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 12. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4 or a surface water, 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 the relevant emergency response agencies² of the occurrence, and then notify the Stormwater Management Officer as soon as possible. In the event of a release of non-hazardous materials, said person shall notify the Stormwater Management Officer in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 13. ENFORCEMENT.

13.1 Notice of Violation.

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

13.1.1 The elimination of illicit connections or discharges;

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

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

13.1.4 The performance of monitoring, analyses, and reporting;

13.1.5 Payment of a fine; and

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

13.2 Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

SECTION 14. APPEAL OF NOTICE OF VIOLATION.

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

SECTION 15. CORRECTIVE MEASURES AFTER APPEAL.

15.1 If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

15.2 If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

SECTION 16. INJUNCTIVE RELIEF.

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

SECTION 17. ALTERNATIVE REMEDIES.

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

- 17.1.1 The violation was unintentional
- 17.1.2 The violator has no history of previous violations of this Law.
- 17.1.3 Environmental damage was minimal.
- 17.1.4 Violator acted quickly to remedy violation.
- 17.1.5 Violator cooperated in investigation and resolution.
- 17.2 Alternative remedies may consist of one or more of the following:
 - 17.2.1 Attendance at compliance workshops
 - 17.2.2 Storm drain stenciling or storm drain marking
 - 17.2.3 River, stream or creek cleanup activities

SECTION 18. VIOLATIONS DEEMED A PUBLIC NUISANCE.

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

SECTION 19. REMEDIES NOT EXCLUSIVE.

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

SECTION 20. ADOPTION OF LAW.

This law shall be in full force and effect ___ days after its final passage and adoption. All prior laws and parts of law in conflict with this law are hereby repealed.

Discussion: Next step is to initiate SEQR.

Resolutions**Resolution 11-2****Approve 2008 Preliminary Budget for General and Highway**

By Supervisor Barber; Seconded by Councilman Cope

RESOLVED, the Caroline Town Board approves the General and Highway budgets.

Passed Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Resolution 11-3**Budget for Streetlight**

By Supervisor Barber; Seconded by Councilman Seely

RESOLVED, the Caroline Town Board approves the Streetlight budget.

Passed Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Resolution 11-4**Fire Protection District**

By Supervisor Barber; Seconded by Councilman Seely

RESOLVED, the Caroline Town Board approves the Fire District budget.

Passed Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Resolution 11-5**Appoint Town Board Member**

By Councilman Frongillo; Seconded by Councilman Cope

RESOLVED, the town board will hold a special meeting on November 27 at 6:30 to appoint a town board member to fill Nelly Farnum's vacated seat.

Passed Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Resolution 11-6**Support County-wide Public Water and Sewer Study**

By Supervisor Barber; Seconded by Councilman Seely

WHEREAS, the Tompkins County Economic Development Strategy's goals include increasing and diversifying the county's housing supply and revitalizing the county's unique commercial districts and town centers; and

WHEREAS, the Economic Development Collaborative was organized to formalize, strengthen, and deepen the cooperation among the many local agencies and municipal bodies addressing economic development issues in the county to make the process more effective through common goals and approach; and

WHEREAS, the Tompkins County Council of Governments (TCCOG) is a member of the Economic Development Collaborative, which is currently working to address the goals of the County's Economic Development Strategy; and

WHEREAS, the TCCOG supports the development of a county-wide evaluation of water and sewer infrastructure and the development of a conceptual plan of water and sewer infrastructure needs to support future planned growth to meet county housing and economic development goals; and

WHEREAS, the Economic Development Collaborative has suggested the creation of an updated, county-wide evaluation of existing water and sewer infrastructure and the development of a conceptual plan of water and sewer infrastructure needs to support future planned growth to meet county housing and economic development goals; and

WHEREAS, the Town of Caroline is a member of the TCCOG; and

WHEREAS, the last county-wide evaluation of water and sewer infrastructure was completed in 1994; and

WHEREAS, an updated evaluation would facilitate the development of housing within town and village centers, commercial revitalization of those centers, and growth in the tax base, with the most efficient use of public dollars for infrastructure; now therefore be it

RESOLVED, that the Town of Caroline supports the development of a county-wide evaluation of water and sewer infrastructure and the development of a conceptual plan of water and sewer infrastructure needs to support future planned growth to meet county housing and economic development goals by an engineering consultant.

Passed Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

**Resolution 11-7
Continue Caroline's participation in Drug and Alcohol Consortium**

By Supervisor Barber; Seconded by Councilman Seely

RESOLVED, the Town will continue to participate in the Drug and Alcohol Consortium.

Passed Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

**Resolution 11-8
SPCA Contract, 2008**

By Supervisor Barber; Seconded by Councilman Frongillo

RESOLVED, the Town Board authorizes the supervisor to sign the contract.

Passed Barber: Aye; Cope: Aye; Seely: Aye; Frongillo: Aye

Note: 5 people from towns around the county are working on an RFP for a provider of dog control services to be shared among municipalities of Tompkins County.

Adjourn

On a motion, the town board adjourned to an adjourned meeting at 9:43.

Respectfully Submitted,

Debra DeAugustine, Town Clerk