

TOWN OF MARSHFIELD  
COMMONWEALTH OF MASSACHUSETTS  
SPECIAL TOWN MEETING WARRANT

Special Town Meeting, Monday, April 23, 2007

At 7:30 o'clock in the evening at Marshfield High School

Plymouth, SS: To either of the constables in the Town of Marshfield in the County of Plymouth.

Greetings: In the name of the Commonwealth of Massachusetts you are required to notify and warn the inhabitants of the Town of Marshfield qualified to vote in Town affairs to meet in the Marshfield High School Gymnasium on Monday, the 23rd day of April 2007, at seven-thirty in the evening then and there to act on the following articles:

**ARTICLE 1** Will the Town Vote to appropriate \$108,499.02 for the purposes of paying employees amounts to which they are entitled under applicable collective bargaining agreements, personnel bylaws or individual contracts, for unused sick leave, and to fund this appropriation transfer the balances remaining in the following articles, or take any other action relative thereto:

Town Accountant

<i>Article</i>	<i>Description</i>	<i>Amount Remaining</i>
Art 22, ATM 4/1997	Land Fund Article	\$36,371.00
Art 14, STM 4/2005	Postage Meters	\$92.11
Art 19, ATM 4/2002	Engineering Surveys for Street Acceptances	\$15,000.00
Art 19, ATM 4/2001	Engineering Surveys for Street Acceptances	\$28,793.48
Art 13, STM 10/2004	Veterans Memorial Park Handicapped Access Parking & Walkway	\$4,242.43
Art 31, ATM 4/1999	Purchase of Portion of Old Colony RR Bed	\$24,000.00

**Recommendation: Advisory Board recommends approval.**

**ARTICLE 2** Will the Town vote to transfer from available funds the sum of \$2,204.28 for the following unpaid bill from last fiscal year:

<u>Department</u>	<u>Vendor</u>	<u>Amount</u>
School	Bonnie Matthews	\$2,204.28

Board of Selectmen

**Recommendation: Advisory Board recommends approval.**

**ARTICLE 3** To see if the Town will vote to exercise its option to lower, effective FY2008, the qualifying age for senior citizens applying for real estate tax exemption under M.G.L. Chapter 59, Section 5, clause 41C, from 70 years of age to 65 years of age. And further, to raise the maximum allowable gross receipts to \$20,000.00 for a single person and \$30,000 for a married couple. And, further, to raise the maximum allowable whole estate, excluding the home to \$40,000.00 for a single person and \$55,000.00 for a married couple and further to raise the amount of the exemption to \$1,000.00, or take any action relative thereto.

Board of Assessors

**Recommendation: Advisory Board recommends approval.**

**ARTICLE 4** Will the Town vote to accept the Proposed Bylaw Governing Discharges to the Municipal Storm Drain System

### **SECTION 1. PURPOSE**

Increased storm water runoff and contaminated storm water runoff are the two major causes of impairment of lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of this by-law are:

1. to help prevent pollutants from entering the Town's municipal storm drain system;
2. to prohibit illicit connections and unauthorized discharges to the Town's municipal storm drain system, a requirement of NPDES Phase II General Permit (MS4);
3. to require the removal of all such illicit connections;
4. to comply with state 314 CMR 3.0 and 314 CMR 5.0 and other state and federal statutes and regulations relating to the quantity and quality of storm water discharges;  
and
5. to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.
6. to establish the legal authority to allow connections to the Town's Municipal storm drain system through regulation adopted by the Board of Public Works.

## **SECTION 2. DEFINITIONS**

For the purposes of this by-law, the following words or Terms shall mean:

**AUTHORIZED ENFORCEMENT AGENCY:** The Board of Public Works (hereafter the Board), its employees or agents designated to enforce this by-law.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, or structural improvement that helps to reduce the quantity or improve the quality of storm water runoff.

**CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

**DISCHARGE OF POLLUTANTS:** The discharge from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters or wetlands of the United States or Commonwealth or waters of the Town from any source.

**GROUNDWATER:** Water beneath the surface of the ground.

**ILLICIT CONNECTION:** A surface or subsurface drain or conveyance, which allows an unauthorized illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, wash water or any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

**ILLCIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of storm water, except as exempted in Section 8. The term does not include a discharge in compliance with a NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) Storm Water Discharge Permit or a Surface Water Discharge Permit, or discharge resulting from fire fighting activities exempted pursuant to Section 8, subsection 17, of this by-law.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

**MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying storm water, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Marshfield.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency (EPA) or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

**NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of storm water.

**PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**POLLUTANT:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

(1) paints, varnishes, and solvents;

- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) dissolved and particulate metals;
- (8) animal wastes;
- (9) rock, sand, salt, soils;
- (10) construction wastes and residues;
- (11) Medical and Bio-wastes
- (12) noxious or offensive matter of any kind.

**PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

**RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**STORMWATER:** Storm water runoff, snow melt runoff, and surface water runoff and drainage.

**STORMWATER DISCHARGE:** A discharge of stormwater runoff by a system of conveyances (including pipes, conduits, ditches and channels) used for collecting and conveying storm water and as further defined by 314 CMR 5.04(2).

**SURFACE WATER DISCHARGE PERMIT.** A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorize the discharge of pollutants to waters of the Commonwealth of Massachusetts.

**TOXIC OR HAZARDOUS MATERIAL or WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.000.

**WATERCOURSE:** A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

**WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

**WATERS OF THE TOWN:** All waters within the Town outside the jurisdiction of the Commonwealth defined for the purpose of this Bylaw.

**WASTEWATER:** Any sanitary waste, sludge, or overflow of contents from septic tank or cesspool, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

### **SECTION 3. APPLICABILITY**

This bylaw shall apply to all flows entering the municipally owned storm drainage system.

### **SECTION 4. AUTHORITY**

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

## **SECTION 5. RESPONSIBILITY FOR ADMINISTRATION**

The Board of Public Works shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to employees or agents of the Board. Copies of all orders of enforcement and correspondence shall be given to the Board of Public Works for maintenance of records.

## **SECTION 6. REGULATIONS**

The Board of Public Works may promulgate rules and regulations to effectuate the purposes of this by-Law. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

## **SECTION 7. PROHIBITED ACTIVITIES**

7.1 Illicit Discharges: No person shall dump, discharge, cause or allow to be discharged any pollutant or non-storm water discharge into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth, or Waters of the Town.

7.2 Illicit Connections: No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

7.3 Obstruction of Municipal Storm Drain System: No person shall obstruct or interfere with the normal flow of storm water into or out of the municipal storm drain system without prior written approval from the Board of Public Works.

## **SECTION 8. EXEMPTIONS**

The following non-storm water discharges or flows are exempt from the prohibition of non-storm waters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- (1) Waterline flushing;
- (2) Flow from potable water sources;

- (3) Springs;
- (4) Natural flow from riparian habitats and wetlands;
- (5) Diverted stream flow;
- (6) Rising groundwater;
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater regulated and permitted in accordance with the Marshfield Department of Public Works Policy for Connection into the Town's Storm Drain System;
- (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation regulated and permitted in accordance with the Marshfield Department of Public Works Policy for Connection into the Town's Storm Drain System;
- (9) Discharge from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing;
- (11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (12) Discharge from street sweeping;
- (13) Dye testing, provided verbal notification is given to the Board of Public Works prior to the time of the test;
- (14) Non-storm water discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;

(15) Discharge for which advanced written approval is received from the Board of Public Works as necessary to protect public health, safety, welfare or the environment;

(16) Exemptions as defined under 314 CMR 3.05; and

(17) Discharge of flow resulting from firefighting activities.

## **SECTION 9. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS**

The Board of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

## **SECTION 10. NOTIFICATION OF SPILLS**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, or waters of the Town, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Town's fire and police departments, Conservation Agent and the Town's Health Agent and Department of Public Works. In the event of a release of non-hazardous material, the reporting person shall notify the Conservation Agent, the Town's Health Agent and Department of Public Works no later than the next business day. The reporting person shall provide to the Conservation Agent and Department of Public Works written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## **SECTION 11. ENFORCEMENT**

The Board of Public Works or an authorized agent of the Board of Public Works including the Conservation Agent and the Town's Health Agent shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

Civil Relief. If a person violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the Board of Public Works or Conservation Agent, or the Town's Health Agent may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Orders. The Board of Public Works or an authorized agent of the Board of Public Works, Conservation Agent, the Town's Health Agent may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the municipal storm drain system; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board of Public Works within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board of Public Works affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any

unpaid costs at the statutory rate provided in G.L. Ch. 59, Section 57 after the thirty-first day at which the costs first become due.

**Criminal Penalty.** Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$ 300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**Non-Criminal Disposition.** As an alternative to criminal prosecution or civil action, the Towns enforcing officer may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, 21D and adopted by the Town and set forth in Article 2 of the Town of Marshfield General Bylaws. The penalty for the 1st violation shall be \$100. The penalty for the 2nd violation shall be \$200. The penalty for the 3rd and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**Entry to Perform Duties Under this By-Law.** To the extent permitted by state law, or if authorized by the owner or other party in control of the property, employees authorized by the Board of Public Works, Conservation Agent or Board of Health Agent may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as the Board of Public Works or Conservation Agent, or Town Health Agent deems reasonably necessary.

**Appeals.** The decisions or orders of the Board of Public Works or it's agents, the Conservation Agent, or the Town's Health Agent shall be final. Further relief shall be to a court of competent jurisdiction.

**Remedies Not Exclusive.** The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

## **SECTION 12. SEVERABILITY**

The provisions of this by-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this by-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 by-law.

**SECTION 13. TRANSITIONAL PROVISIONS**

Existing Connections: Property owners with existing connections shall notify the DPW and provide detail of the connection to the town’s municipal storm drainage system to obtain license or permit. Modifications may be required due to concern with water quality, water quantity or health and safety issues.

Residential property owners shall have 365 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

Commercial property owners shall have 180 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

**SECTION 14. INDEMNIFICATION**

Permit or license holders allowed to connect to the system shall hold the Town harmless and the Town of Marshfield shall not be held liable for Illicit Discharges to the stormwater system and receiving areas and receiving waters caused by others.

Board of Public Works

**Recommendation: Advisory Board recommends approval.**

**ARTICLE 5** Will the Town vote to abandon as a public way Peggy Lane which was previously laid out and accepted as a public way in the Town of Marshfield in accordance with a plan of land entitled “Acceptance Plan, Layout Plan of Peggy Lane, Marshfield, Massachusetts (Plymouth County) Coler & Colantonio, Inc. of Norwell, MA, Engineers and Scientists, dated April 10, 2001 and recorded at the Registry of Deeds, Plymouth, MA, and further authorizes the Board of Selectmen to execute and record any instruments deemed necessary to revest title to the land previously taken in the owners from whom it was taken, or take any other action relative thereto.

Board of Public Works

**Recommendation: Advisory Board recommends approval.**

**ARTICLE 6** Will the Town vote to transfer \$145,000 from Article 4, ATM 4/2002, Commercial Meter Replacement, to continue the Residential Change-out program to convert the old ARB-style reading boxes to Radio-read or take any other action relative thereto.

Board of Public Works

**Recommendation: Advisory Board recommends approval.**

**ARTICLE 7** Will the Town vote to act upon the recommendation of the Community Preservation Committee to expend, or set aside for later expenditure a sum of money from the Community Preservation fund established pursuant to Massachusetts General Laws Chapter 44B as follows:

Community Preservation Committee

CPA Purpose	Project	Amount	Department/Applicant
Recreation	Demolition on new Recreation Department site - Coast Guard Hill.	\$76,500	Recreation Department

It is further stipulated that:

*The department named in each specified project shall assume the responsibility to fully execute the project*

*Any un-used funds will be returned to the appropriating Community Preservation Act Fund.*

The Town Accountant is instructed to defray the aforesaid expenditures in the following manner:

**Item – Recreation Department site Demolition**

**Phase 2:** \$76,500 appropriated from undesignated Community Preservation Fund Balance to execute Phase 2 of the Coast Guard Building Committee’s plan to raze 2 vacant buildings at the bottom of Coast Guard Hill. These funds would be put towards the demolition of 2 vacant buildings determined to be too costly to safely convert for recreation use.

**Recommendation: Advisory Board recommends approval.**

**ARTICLE 8** Will the Town vote to raise and appropriate or transfer from available funds \$16,765.00 to upgrade all seven voting machines before the Presidential election year or take any other action relative thereto.

Town Clerk

**Recommendation: Advisory Board recommends approval.**

You are directed to serve this warrant by posting attested copies thereof at ten public places in different parts of the Town not less than fourteen days before the holding of said meeting. Hereof fail not to make the due return of this Warrant with our doings thereon to the Town Clerk at the time and place of the meeting aforesaid:

Given under our hands this 5th day of March 2007.

BOARD OF SELECTMEN

Michael A. Maresco, Chairman

Patricia M. Epstein

Katharine N. O'Donnell

A true copy, ATTEST:  
Constable