

PERINTON TOWN BOARD MEETING
1350 Turk Hill Road, Fairport, NY 14450
Wednesday, April 9, 2008

PRESENT:	James E. Smith	Supervisor
	Patricia S. Knapp	Councilperson
	David C. Glossner	Councilperson
	Carolyn H. Saum	Councilperson
	Joseph H. LaFay	Councilperson

ALSO PRESENT: Robert Place, Esq., Town Attorney; W. Scott Copp, Director, Building Department; Susan C. Roberts, Town Clerk; Karen L. Heim, Deputy Town Clerk; Kenneth Rainis, Conservation Board; T. C. Lewis, Planning Board; Robert Salmon, ZBA.

Supervisor Smith called the meeting to order at 8:00 pm and introduced the Board and staff present.

Councilperson Knapp made a motion, seconded by Councilperson Saum, that the minutes of the Town Board meeting of March 26, 2008 be approved as submitted by the Town Clerk.

Ayes: Smith, Knapp, Glossner, Saum, LaFay
Nays: None
Unanimously approved.

PUBLIC HEARING
UNSAFE BUILDING
1710 AYRAULT ROAD

Supervisor Smith opened the Public Hearing and asked the Clerk for proof of publication and affidavit of posting. Proof of publication was given in the Fairport ER Post on March 26, 2008; affidavit of posting was also March 26, 2008.

Building Director Copp stated that a vacant barn at 1710 Ayrault Road, tax account # 167.09-2-22, has been determined to be unsafe and has been secured. The roof has failed, which has allowed the roof structural members to deteriorate and fall. The roof collapse has pulled the structural members and portions of the north and south walls into the center of the barn. The entry to the barn is unsafe; the west wing is also in a state of collapse.

With the owner's concurrence, the building was surveyed by Carmen Torchia, a structural engineer, who provided the owner with a temporary stabilization plan which would support the east wall, which is still vertical, while allowing the owner to clear debris from the interior of the barn. The owner was directed to complete the stabilization plan by December 31, 2007, with a final removal or reconstruction plan due by January 15, 2008. The work has not been done; the plans have not been submitted.

On March 12, 2008, as per Chapter 95 of the Code of the Town of Perinton, Unsafe Buildings, Mr. Copp submitted an Unsafe Building Report to the Town Board. Notice of Determination of an Unsafe Building was delivered to the owner of record. Conditions at the site have deteriorated since that report was issued. The roof is almost completely gone; the collapse of the barn appears imminent.

Timothy Bayer, owner of the barn, said that he has been trying to demolish the barn and clear away the debris, but the process is moving slowly. He has received demolition estimates from two contractors and is working on obtaining financing. He estimates that he can have demolition completed in 30 to 60 days.

Supervisor Smith said that time was of the essence, that 60 days was too long to wait. He asked Mr. Bayer if the work could be accomplished in 30 days. Mr. Bayer said it would take longer than that to secure the financing for the demolition and find a contractor to do the work.

Supervisor Smith asked Attorney Place if the Town could give the owner 30 days to complete the work, then step in and demolish the barn if it was still standing after that time. Attorney Place said that it could. Supervisor Smith then asked Mr. Copp if he could solicit bids to have the work done so that the Town would be able to demolish the barn if it was still standing when the 30 day period ended. Mr. Copp said he could.

Councilperson Saum asked if the barn was secured. Mr. Copp said the ground level openings have been secured and the north side of the barn fenced off.

Councilperson Knapp remarked on the strong winds that have blown through the area during the month of March and asked if the wind was affecting the stability of the barn. Mr. Copp said that not everything has fallen inside the barn walls; there were still some roof materials which could blow off the building and onto neighboring properties.

Mr. Bayer said that the east wall has been partially demolished; only the wall and beams remain standing.

Councilperson Glossner asked about loose materials. Mr. Bayer said that, so far, the barn has withstood the windstorms. He said that he does not believe any of the loose materials will blow off his property.

Lisa Valenza, 7 Lupine Court, presented the Board with pictures of the barn as it currently exists. The pictures showed the deterioration of the barn over several months, the proximity of the barn to her property and its proximity to her neighbor's yard. She said that, while the barn was originally imploding, it is now falling outside the building's footprint, with building materials falling toward her house and her neighbor's house.

Paul Valenza, 7 Lupine Court, said that they have talked to Mr. Bayer and are sympathetic to his situation. However, the barn's continuing deterioration causes concern for the safety of the children in the neighborhood.

There being no further questions or comments from the Board or the audience, and all those wishing to be heard having been heard, the Public Hearing was closed.

A motion was made by Councilperson LaFay, seconded by Councilperson Glossner, that, according to Section 95 of the Code of the Town of Perinton, and after duly considering the written report and recommendations of the Building Inspector regarding the condition of the barn at 1710 Ayrault Road, Fairport, NY, tax account # 167.09-2-22, the Town Board determine that the building is unsafe and dangerous and should be demolished as recommended by the Director of the Building Department. The owner will be given 30 days, until May 9, 2008, to demolish the barn and remove the debris. Mr. Copp will begin to solicit bids to demolish the barn so that, should the owner be unable to accomplish demolition by May 9, the Town will be able to do so in a timely manner. If the work is accomplished by the owner by May 9, 2008 the Town's action will be held in abeyance.

Ayes: Smith, Knapp, Glossner, Saum, LaFay

Nays: None

Unanimously approved

DECISION
SPECIAL USE PERMIT
LDD MITIGATION
WASTE MANAGEMENT OF NEW YORK
PHASE II & PHASE III

Supervisor Smith began by explaining that the Public Hearing on this request for wetlands mitigation was held on April 25, 2007. Because of the length of time between that Public Hearing and this meeting he has asked Waste Management to again summarize their mitigation request, allowing members of the Town Board to question the applicant on any issues which the Board feels need clarification. The Supervisor will then open the floor for comments relative to the application for wetlands mitigation. Following those comments the Board will receive staff input and consider action on the requested Special Use Permit.

Supervisor Smith said that, on March 24, 2008, the Zoning Board of Appeals (ZBA) approved the special use permit for the lateral expansion of the landfill with a lengthy list of conditions. The issue of the use had been decided.

On April 2, 2008, the Planning Board granted the application for preliminary and final site plan. The Planning Board also recommended additional conditions in conjunction with the specific recommendations of the Conservation Board which the ZBA had made part of its approval. Preliminary and final site plan has been approved.

In moving ahead and actually constructing what has been approved to date, Waste Management must infringe on existing wetlands. Doing that requires a Special Use Permit from the Town Board. That is the purpose of tonight's meeting.

Jeffrey Richardson, Waste Management of New York (WMNY), addressed the Board. He briefly reviewed the current application. Waste Management is seeking mitigation for the destruction of 2.5 acres of wetland in the Town of Perinton: 1.1 acres in Phase II and 1.4 acres in Phase III. The proposal is to recreate or relocate 5.02 acres of wetland north of Perinton Parkway, replacing the 2.5 acres at a 2:1 ratio.

The land north of Perinton Parkway is a wild life management area with developed hiking trails. It consists of wooded wetland, marsh, wooded upland, cow pasture, previously surface-mined areas, active agricultural fields and baseball diamonds and parking. The area that has been previously surface-mined will be used for the wetland mitigation. The new area, created at the former mining site, will consist of shallow open water, marsh lands and wet meadow.

Mr. Richardson said that WMNY has worked with the Army Corps of Engineers, the NYSDEC and the Perinton Conservation Board (PCB) on obtaining the necessary wetland permits.

Councilperson Knapp asked how many acres of mitigation would be created in the Town of Perinton. Mr. Richardson said that a total of 14 new acres of wetland would be created in the Town of Perinton as mitigation for work done both in the Town of Perinton and the Town of Macedon.

Councilperson LaFay asked if the wetland affected was natural or man-made. Mr. Richardson said that the incursion would be in wetlands created by the gravel mining business which once operated on the site.

Councilperson Glossner asked where WMNY was in the process of obtaining wetland approvals. Mr. Richardson said that WMNY had received approvals from NYSDEC, on March 14, 2008, and from the Perinton Conservation Board. The Army Corps of Engineers was finalizing approvals for the mitigation.

Councilperson Saum asked how the Board could be sure that the wetlands created would be successful. Mr. Richardson said that the mitigation project

would be done in phases. It would take time to be sure the newly created wetland was sustainable. WMNY would maintain the wetland for five years after construction was completed. During those five years they would submit annual sustainability reports to the Town.

Supervisor Smith opened the floor for comments from the audience. He said that the Board had received public comment for this application at the Public Hearing held on April 25, 2007. The Public Hearing was closed after that time for public comment. Although the Public Hearing has been closed, the Board was willing to entertain any new comments as they relate to the LDD/wetland mitigation application tonight. He asked audience members to come forward, state their names and addresses, and limit comments to the wetlands application and new information which they might wish to offer.

Ken Jentzen, 18 Roscommon Crescent, representing Preserve Scenic Perinton, spoke in opposition to the landfill expansion. He asked the Town Board to overturn the decisions made by the Conservation Board, the Planning Board and the ZBA and put the expansion plans on hold.

Tom Koehler, 501 Thayer Road said that he has visited High Acres landfill and has noticed a problem with odors. He asked that, the next time the Community Host Agreement is reviewed, a clause be inserted requiring odor mitigation. He said that High Acres needs to follow good engineering practices.

Norm Gardner, 43 Country Corner Lane, spoke as a representative of Fairport Little League. He said that the Little League fields off Perinton Parkway, adjacent to High Acres, have been in use for ten years. They have had no problems with odors. He said that WMNY has been a good neighbor and good supporter of Fairport Little League.

Eric Nixon, 14 Harvest Road, spoke about the landfill expansion. He said the Board should delay its decision regarding the Phase III expansion and should only address mitigation for Phase II.

Laurie Collins, 16 Piping Rock, spoke in opposition to the expansion. She asked for a Citizens' Advisory Board and for property value protection for those who live within a mile of the landfill.

John Graham, 47 Chenin Run, Monroe County Department of Environmental Services, is the overseer for the Mill Seat landfill, also run by WMNY. He stated that WMNY was a good neighbor and would behave responsibly. He spoke in favor of the mitigation plan.

The following people spoke in opposition to the landfill expansion:

David Wolf, 18 Teal Drive
John DeSeyn, 340 Wilkinson Road
Jay Bachstein, 2 Delemere Boulevard
Linda Shaw, 425 Aldrich Road
Barbara Price, 11 Teal Drive
Michael LaBlanc, 18 Crosswinds Circle

Sue Davis, 307 Lyndon Road, spoke in favor of a property value protection plan.

Supervisor Smith read a letter from Stephanie Weissinger, Blackwatch Trail, extolling the environmental and economic benefits of the High Acres landfill.

The comment period ended when all those wishing to be heard had been heard.

Kenneth Rainis, Chair of the Perinton Conservation Board, reviewed the Conservation Board's memo to the Town Board of April 8, 2008, which states:

TOWN OF PERINTON CONSERVATION BOARD
FINDINGS AND RECOMMENDATIONS
CONCERNING THE
HIGH ACRES LANDFILL & RECYCLING CENTER
PHASE III LANDFILL EXPANSION
IN THE TOWN OF PERINTON, NEW YORK

Special Use Permit - LDD Mitigation, Waste Management, New York

The Perinton Conservation Board (PCB) has reviewed the Waste Management of New York, LLC (WMNY) proposal to impact the approximately 6.75 acre Wetland L as described in the Final *Supplemental Environmental Impact Statement (FSEIS) Appendix 23 – Wetland Impact Analysis Report* and the Response to Town of Perinton Conservation Board's June 27, 2007 Letter prepared by WMNY dated July 2007. Approximately 2.51 acres of the 6.75 acre Wetland L are located in the Town of Perinton and remaining 4.24 acres are located in the Town of Macedon. Of the 2.51 acres of Wetland L in the Town of Perinton approximately 1 acre will be disturbed as the result of the approved Phase II landfill expansion and the remaining 1.51 acres will be impacted as the result of the proposed Phase III project (see attached Figure 4.3.1).

The PCB recognized the fact that 2.51 acre area of Wetland L to be disturbed meets the definition of Limited Development District (LDD) as defined in § 208.46 of the Perinton Town Code. As such the PCB reviewed the proposed plan to mitigate the impacts to Wetland L as required by § 208.50, including:

When a project proposes a nonresidential use that requires mitigation for disturbance of the LDD, the applicant shall submit a mitigation plan to the Town for its review. When mitigation is proposed, the Town shall consider:

- The value of the LDD area proposed to be disturbed;
- The extent of disturbance;
- Alternatives to disturbance;
- The effectiveness of the mitigation plan; and
- The public value of the mitigation.

In reviewing Appendix 23 of the FSEIS and the July 2007 response document from WMNY, the PCB found that WMNY proposes to develop wetland mitigation areas in Perinton (Area#1 - 10.6 acres; Area #2 - 4.51 acres) and Macedon (Area #3 - 6.23 acres) as indicated in the attached Figure 4.3.2. The ratio of total area of the wetland mitigation and upland enhancement as compared to the total acres of wetland disturbance in Perinton and Macedon is approximately 2.2:1 (21.34 acres of mitigation versus 9.43 acres of Phase II and III disturbed wetland) which is greater than the 2:1 mitigation criterion typically requested by the Town of Perinton for similar wetland disturbances.

The following descriptions of the three mitigation areas were provided by WMNY in their July 2007 response to the PCB comments:

Wetland Mitigation Area #1: Wetland Creation/Expansion in northwest corner of the HALRC Property:

This wetland mitigation area is proposed to be comprised of the following:

- 4.16 acres of wetland transition;
- 0.63 acres of wet meadow;
- 1.13 acres of shallow marsh;
- 1 .64 acres of deep marsh;
- 1 .66 acres of shallow open water; and
- 1.38 acres of area of trees to be protected.

Wetland Mitigation Area #2: Wildlife Habitat Diversity via Wetland Enhancements:

This wetland mitigation area is proposed to be comprised of the following:

- 3.98 acres of upland enhancement area (plant with deciduous saplings); and
- 0.53 acres of pocket wetlands/vernal pools (vernal pools may require import of clay liners depending on existing soil characteristics).

Wetland Mitigation Area #3: Wetland Expansion and Enhancement of Wetland P

- Approximately 6.23 acres of wetland enhancement is proposed in this area.

The project will require a wetland permit from the USACOE and water quality certification from the NYSDEC.

Therefore it is the consensus of the PCB members that the mitigation proposed by WMNY for the impacted Wetland L is appropriate and meets the intent of the Town Code.

Supervisor Smith said that there has been a tremendous amount of discussion regarding the landfill in the past year. In reaction to public input at the Public Hearing before this Board a year ago, many good things occurred. All of these could be fairly characterized as responsive to citizen concerns. First, public open houses were held to provide information and educate the public about the proposal before the Town. Second, a public meeting was held before all the involved town boards, Zoning Board of Appeals, Planning Board, Conservation Board and Town Board. The issue certainly got a full and complete airing on all sides. He thanked all the Town's volunteer boards for their diligence and effort in reviewing these applications, but particularly the Conservation Board for its exhaustive review of all the public comments made throughout this process. Their analysis and input to all the boards, which took over six months of diligent effort, gave the boards the tools to render fair and reasoned decisions.

In moving toward a decision, the Town Board first needed to address SEQRA, New York State's environmental law. While the SEQRA review was done by the State DEC for this overall application, each of the town boards has adopted separate findings statements. The Town Board has before it a 16 page statement of findings under SEQRA. Supervisor Smith offered the following resolution, seconded by Councilperson Knapp:

Resolved, that the Perinton Town Board hereby adopts and makes the following determinations and findings as set forth in the SEQRA Findings and Determinations statement, dated April 4, 2008, and incorporates them into the record for WMNY's application for a wetlands mitigation permit under 208-50 of the Code of the Town of Perinton as shown below.

**The Town Board of the Town of Perinton
Waste Management of New York, LLC
High Acres Landfill and Recycling Center
Parkway Phase III Expansion & Phase II and Phase III Wetland Mitigation
SEQRA Findings and Determinations dated April 4, 2008**

DETERMINATION AND FINDINGS OF THE TOWN OF PERINTON TOWN BOARD PURSUANT TO THE TOWN OF PERINTON CODE AND SEQRA FOR THE WASTE MANAGEMENT OF NEW YORK, LLC HIGH ACRES LANDFILL & RECYCLING CENTER (HALRC) FACILITY APPLICATION FOR A SPECIAL USE PERMIT IN A LIMITED DEVELOPMENT DISTRICT TO EXPAND THE EXISTING LANDFILL.

WHEREAS, Waste Management of New York, L.L.C. (WMNY) owns property located within the Town of Perinton (hereinafter “Perinton”) located at 425 Perinton Parkway bounded by the Monroe County/Wayne County Line, Quaker Road, Wayneport Road, and the Erie Canal/CSX railroad, on which WMNY’s High Acres Landfill and Recycling Center Facility (“HALRC”) is operated, and the WMNY property located in Perinton also includes additional property adjacent to WMNY’s current operations on which WMNY proposes to expand such operations, and WMNY also owns property in the Town of Macedon for which a permit to develop the HALRC has been granted in the Town of Macedon and the expansion in Perinton shall be collectively referred to as the “Proposed Expanded Landfill”, and

WHEREAS, WMNY has previously applied for and received various authorizations, permits and/or approvals from the NYSDEC and the Town of Macedon to expand the HALRC within the Town of Macedon and within the Town of Perinton. WMNY will not be altering in any fashion the nature of the waste stream which it accepts at the HALRC, nor does it propose to increase the amount of waste taken in, but only seeks to expand the capacity of the landfill, and

WHEREAS, WMNY applied to the Perinton Zoning Board of Appeals (“ZBA”) for a Solid Waste Facility Permit pursuant to the Perinton Town Code (the “Town Code”) pursuant to among others Section 208-21 (“Facility Permit”), which would permit the expansion of HALRC by approximately 5.8 acres of new footprint and a 7.4 acre overliner within the property described above within the Town of Perinton (hereinafter the expansion of the HALRC to the extent such expansion is located in the Town of Perinton shall be referred to as the “Project”), and

WHEREAS, the New York State Environmental Quality Review Act (“SEQRA”) process for the Proposed Expanded Landfill was formally initiated on May 26, 2005 with WMNY’s submission to the New York State Department of Environmental Conservation (“NYSDEC”) a Part 360 permit application (“Part 360 Permit”) as well as an application including an Article 24 Fresh Water Wetlands Permit (“Fresh Water Wetlands Permit”), and a Section 401 Water Quality certification application for a solid waste management facility permit, as well as submitting a Long Environmental Assessment Form and supplemental narrative, and

WHEREAS, the NYSDEC declared itself as lead agency on July 5, 2005, and in accordance with SEQRA notified other involved agencies including among others, the Town of Perinton in accordance with SEQRA procedure, none of the involved agencies objected to NYSDEC acting as lead agency or each other involved agency consented to NYSDEC acting as lead agency, and

WHEREAS, NYSDEC as lead agency issued a positive declaration on August 17, 2005 requiring the preparation of a draft supplemental environmental impact statement (“DSEIS”) for the Proposed Expanded Landfill, and NYSDEC noticed a public scoping meeting which was held on September 7, 2005, and

WHEREAS, subsequent to holding the public scoping meeting on September 7, 2005, WMNY submitted a revised application to NYSDEC dated November 16, 2005. The revised application included the expansion referenced above. As a result, the NYSDEC scheduled an additional public scoping meeting which was held on January 5, 2006, and

WHEREAS, based on the issues and concerns raised during the September 7, 2005 public scoping meeting in which various comments were received, a draft scope for the DSEIS was prepared and distributed by the NYSDEC on December 6, 2005. Following the January 5, 2006 public scoping meeting and additional comment, a final scope for the DSEIS was prepared and distributed by NYSDEC on February 16, 2006, and

WHEREAS, the DSEIS was submitted to NYSDEC as lead agency on April 24, 2006, and NYSDEC reviewed the DSEIS and deemed it complete on October 11, 2006. Following the completeness determination by the NYSDEC, the DSEIS was made available for public review and comment beginning October 11, 2006 through November

27, 2006. In addition, a public hearing was held on November 9, 2006 to receive comments on the DSEIS, and WMNY also held various public information sessions over the time period that began with the formal initiation of the SEQRA process in May of 2005, and

WHEREAS, upon closure of the public comment period, as referenced previously, a final supplemental environmental impact statement (“FSEIS”) was prepared and submitted in January 2007 to the NYSDEC which incorporated revisions to the DSEIS the comments to the DSEIS and responses to same including comments received from the public and agencies. The DEC deemed the FEIS complete on March 7, 2007.

WHEREAS, the NYSDEC as referenced previously, conducted a comprehensive and thorough SEQRA review process of the Proposed Expanded Landfill together with each of the involved agencies including Perinton for the Applicant’s request for full build out of the Proposed Expanded Landfill, including that portion of the expanded landfill which is to be located in the Town of Perinton, and

WHEREAS, the NYSDEC issued its findings pursuant to the Proposed Expanded Landfill on May 18, 2007 determining that each of the environmental impacts identified relative to the Proposed Expanded Landfill Site have been mitigated to the extent practicable, and certifying in accordance with SEQRA regulations that consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the action (the Proposed Expanded Landfill) was one which avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be minimized to the maximum extent possible by incorporating as conditions to the decision those mitigative measures which were identified as practicable, and

WHEREAS, the Project constitutes an extension of the lifespan of the existing HALRC, but it does not constitute any change in daily operations, including nature of the waste accepted, the volume accepted, hours of operation, or other operational factors, and

WHEREAS, the Perinton Town Board retained Clough Harbour & Associates LLP (“Clough Harbour”) for the purposes of conducting a third party independent engineering review of the Proposed Expanded Landfill including the Project, and

WHEREAS, parallel to the SEQRA process conducted by the Department of Environmental Conservation, WMNY submitted to the ZBA, among applications made to other involved agencies including other boards within the Town of Perinton, a request for a zoning variance seeking a 0 ft setback along the Perinton Town line by application dated June 27, 2005. On July 25, 2005, the ZBA granted WMNY’s variance request for the setback of 0 ft which is authorized under among other provisions, Code Section 208-46 (A) (pursuant to Limited Development Districts).

WHEREAS, an application was also submitted by WMNY to the Perinton Town Board (the “Town Board”) seeking a Limited Development District Special Use Permit under Section 208-50B of the Code of the Town of Perinton for the lateral and vertical expansion in March 2007, but the applicant subsequently withdrew from the Town Board’s consideration the vertical expansion portion of such application and as such, the vertical expansion portion of the application has been withdrawn. In addition, the applicant submitted a preliminary and final site plan application to the Town of Perinton Planning Board in March 2007 for the Project; and

WHEREAS, the Town of Perinton Conservation Board (“PCB”) on or about March 26, 2007, provided comments regarding the FSEIS which included comments prepared by the Conservation Board dated November 9, 2006 and the Applicant’s responses to those comments related to among other issues, the wetland resources and issues regarding same including the mitigation plan, the viewshed analysis performed, and the post-closure land use plan and the applicant on or about December 2006 provided responses to same and such comments and responses were considered by the Town Board; and

WHEREAS, that pursuant public notice, a public hearing was held at a PCB meeting on June 19, 2007, whereby the PCB received comments from the public regarding the Project, including the Findings issued by the NYDEC and at a public meeting which occurred on July 17, 2007, the PCB received responses from the WMNY and its representatives pursuant to PCB's letter dated June 27, 2007 concerning the Project; and

WHEREAS, Clough Harbour has reported back to the Town Board via a letter report dated August 15, 2007 that the Proposed Landfill Expansion has been engineered in accordance with Part 360 regulations, and should be protective of human health and the environment and also provided several recommendations to facilitate better communications of potential issues of the applicant and the Town (including various boards in the Town which are involved agencies) as well as recommending that as a condition of certain approvals/permits, the applicable boards as involved agencies require the Applicant to conduct periodic noise monitoring to demonstrate the applicant's compliance with applicable Part 360 noise standards, and

WHEREAS, the PCB provided certain analyses and findings regarding the FSEIS as well as supplemental analyses in light of additional information reviewed including supplemental information provided in response to Clough Harbour's letter-report dated August 15, 2007, regarding the Project and the PCB responded to public comments received during various public meetings, including providing written response to such comments; and

WHEREAS, the PCB considered WMNY's response dated January 11, 2008 to PCB correspondence dated August 1st and August 16th, 2007, as well as WMNY's response to Clough Harbour & Associates' August 15, 2007 letter report, including issues relating to a final cover grading plan, as well as issues regarding post-closure and end use, storm water drainage, groundwater and leachate treatment systems, noise impact issues and analyses, visual impact analyses and assessments, including consideration of additional visual simulations from the Shaw residence within the hamlet of Egypt which were completed on September 26, 2007 and December 14, 2007, as well as additional analyses regarding visual impacts to White Brook Park, 17 Piping Rock; and

WHEREAS, the PCB by report dated March 7, 2008, concluded among other things, that impacts from the Proposed Expanded Landfill including the Project will be similar to those already experienced from currently permitted operations, any traffic impacts from the Proposed Expanded Landfill including the Project, including the expansion will be minimal, that groundwater resources below and in the vicinity of the landfill would be minimally affected as a result of the Proposed Expanded Landfill, including the Project, including the expansion will not represent a significant change in the existing visual quality of the landscape with a minor exception that mitigation in form of various plantings and screening should adequately allow the landfill to blend with natural topography, and over time provide a mature viewscape post-closure, that the wetland mitigation as outlined in the FSEIS is adequate, that the impact on the sewer use, including volume and quality of the leachate as the result of the expansion would not be significantly different than current conditions, that during construction the landfill operations contemplated by the expansion will be screened from view by users of the Barge Canal and the bike path by vegetation and other forms of vegetation or cover, that the Proposed Expanded Landfill including the Project will not negatively impact the local and regional solid waste management plans and in fact the Project is consistent with same, that host community benefit agreement associated with the Project is appropriate, that the change in noise level due to the expansion does not exceed applicable NYSDEC Guidance and part 360 regulations, that odor impacts will be minimized by controls WMNY has in place now or have committed to having in place, as set forth in the FSEIS, that there will not be a significant impact related to vectors as they will be effectively mitigated by vector control practices in place, that current data shows that the criteria air pollutant concentrations are below applicable standards, but that future data will need to be evaluated as part of the air quality permit process, that the storm water practices proposed for the Proposed Landfill including the Project will effectively mitigate any storm water impact, that there will be no unavoidable adverse effect to rare, threatened or endangered species of the Project, that as a result of wetland mitigation, net impacts for the Project are anticipated to be positive; and

WHEREAS, the Town Board did publish a Notice of Public Hearing and hold a Public Hearing on April 25, 2007, regarding the wetlands mitigation proposed for the Project and two information sessions were subsequently convened on April 30 and May 3, 2007 regarding those issues; and

WHEREAS, the Town Board did publish a Notice of Public Hearing and held a Public Hearing attended by the Town Board, the ZBA and the Perinton Planning Board and the Conservation Board on May 22, 2007, to receive comment on the Project and various applications before the ZBA, the Perinton Town Board and the Perinton Planning Board; and

WHEREAS, the Town Board hereby adopts the SEQRA Findings made by the NYSDEC concerning the Part 360 Permit and the Fresh Water Wetlands Permit by incorporating same. Further, as an involved agency, and pursuant to its authority to issue or deny the Special Use Permit in a Limited Development District, the Town Board has made its own independent review of the Application by WMNY for a special use permit in a limited development district, as well as reviewing other applications associated with the Proposed Expanded Landfill, including the Project, and based on WMNY's application seeking a Special Use Permit in a Limited Development District and in accordance with SEQRA regulations and specifically Title 6 N.Y.C.R.R Section 617.11(c) and hereby issues its findings as required and finds: (A) that the proceedings undertaken by the NYSDEC as Lead Agency under SEQRA with respect to the Proposed Expanded Landfill including the Project satisfy the requirements of SEQRA; and (B) that such proceedings by the Lead Agency are hereby ratified; and (C) the Town Board independently finds based upon the Town Board's review of applicable documentation, including but not limited to the application submitted by WMNY for a Special Use Permit in Limited Development District under Town Code Section 208-50 for the Project, the DSEIS and the FSEIS, comments and findings provided by the Perinton Conservation Board, based upon the public comments provided, and based upon the Findings made by the ZBA including issuance of a Waste Facility Permit dated March 24, 2008, that each of the provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Application for Special Use Permit in a Limited Development District with respect to the Project have been satisfied; and including incorporating by reference the NYSDEC State Environmental Quality Review Act Findings Statement with respect to the Proposed Expanded Landfill including the Project dated May 18, 2007, pursuant to its independent findings as set forth in detail below;

Section 1. Description of Action. Based upon a review of WMNY's Application seeking a Limited Development District Special Use Permit in a Limited Development District ("the Application") for the lateral expansion of the HALRC, the DSEIS, the FSEIS, consideration of comments provided including from the Town's consultants, Clough Harbour, and including from the Town of Perinton Conservation Board, as well as after consideration of the comments received at various hearings and meetings described above, and the NYSDEC's SEQRA Findings determining that the Proposed Expanded Landfill including the Project minimizes or avoids adverse environmental effects to the maximum extent practicable, the Town Board hereby adopts the following Findings statement as part of this resolution:

Waste Management of New York LLC proposes a lateral expansion of the existing permitted western expansion landfill ("WEX") and Parkway Expansion of the landfill. The proposed lateral expansion comprises approximately 5.8 acres of new landfill operations in the Town of Perinton including a 7.4 acre overliner, as well as seeking expansion of the landfill into the Town of Macedon to be utilized by WMNY for landfilling activities as well as support operations (i.e., roadways, berms, sedimentation bases), with the portion of the Proposed Expanded Landfill Site located in the Town of Perinton being referred to herein as the Project. The proposed expansion of the landfill in the Town of Perinton and into the Town of Macedon will extend the life of the landfill an additional 43.3 years. The expansion will not involve any changes in the operations of the facility or the approved annual average of 3,500 tons per day design capacity. A double composite liner system and primary and secondary leachate collection systems

will be utilized in the design of the landfill expansion. The Proposed Expanded Landfill Site also involves mitigation for fill of approximately 2.51 acres, [including Phase II (1.07 acres) and Phase III (1.44 acres)] of federally regulated wetland in the Town of Perinton. Mitigation will include creation of additional wetland areas and enhancement to provide habitat diversity.

Section 2. Facts and Conclusions Relied Upon to Support of the Town Board's Decision. The Town Board has reviewed the application seeking a Special Use Permit in a Limited Development District, as well as considering comments received including and public comments as well as additional information from its consultants including Clough Harbour as well as additional information provided by the ZBA, the Planning Board and information and recommendations made by the Perinton Conservation Board, and the Town Board has reviewed the applicable Standards for the Issuance of a Special Use Permit in a Limited Development District as contained in Section 208-50 of the Code including carefully reviewing the location of the Proposed Expanded Landfill including the Project, including its design, configuration, and any special impacts associated with the same against prescribed standards, the desirability of establishing the expansion of the landfill in accordance with the referenced standards of the Town Code.

GENERAL ENVIRONMENTAL FINDINGS INCLUDING THOSE SUBMITTED IN FURTHER SUPPORT OF Ordinance Sections 208-54(D)(1), (2), (4), (5), (6), (7), (8), (10), (11), (12):

1. The siting of such a facility does not pose a hazard to the health, safety and general welfare of the community. The Town Board has determined that the siting of the Project will not pose a hazard to the health, safety and general welfare of the community. The Town Board's review of the Proposed Expanded Landfill including the Project's potential effect on health, safety, and the general welfare of the community included a review of the DSEIS, FSEIS and the NYSDEC Findings. The Proposed Expanded Landfill including the Project is regulated by applicable New York State regulations for such facilities, and pursuant to same, the Project has been issued a solid waste management facility permit under 6 NYCRR Part 360-1.11a(1) by letter dated March 14, 2008 (previously referred to as the "Part 360 Permit"). The applicable regulations provide that a permit issued pursuant to this part (applicable regulations under 6 NYCRR Part 360) "must assure, to the extent practicable, that the permitted activity will pose no significant adverse impact on public health, safety or welfare, the environmental or natural resources." The Proposed Expanded Landfill including the Project can only be undertaken in accordance with a Part 360 Permit, and because the Solid Waste Facility Permit is conditioned on the NYSDEC having issued its Part 360 Permit with respect to the Project (as part of the Proposed Expanded Landfill) including the conditions set forth therein, and the Planning Board has carefully reviewed the Part 360 Permit and the conditions set forth therein, and finds same to be appropriate for the Project, as such permit is protective of the Town of Perinton's interests. Based upon its review of said permit, together with its review of the other permits and authorizations required as previously set forth including the issuance of the Solid Waste Facility Permit by the ZBA on March 24, 2008 including the conditions therein, and for the reasons set forth herein including those identified below, the Town Board has determined based upon its careful review of those documents and the particular potential impacts to the Town of Perinton and based on the additional conditions imposed, that the Proposed Expanded Landfill including the Project will pose no significant adverse impact on public health, safety or welfare, the environmental or natural resources of Perinton, including for the reasons identified herein and because of the mitigative measures identified.

2. Traffic: WMNY has shown in the Traffic Impact Study which is included in Appendix 20 of the FSEIS, and the NYSDEC has accepted as part of their review of the Part 360 Application which culminated in the issuance of a Part 360 Permit among other permits issued on or about March 14, 2008, that WMNY will continue to accept an average of 3,500 tons of solid waste per day based on an annual average, consistent with the current approved design capacity. Thus, under the Project including the phase III lateral expansion, the permitted rates of incoming waste Proposed Expanded Landfill including the Project will remain unchanged. Landfill associated traffic throughout is

consistent with ambient traffic growth throughout the surrounding area based on a review of the FSEIS (including Section 4.1) and NYSDEC's Findings regarding traffic impacts the Project will have minimal affect on intersections within Perinton.

3. Visual and Aesthetic Resources: Visual evaluations, which include a viewshed analysis with and without vegetation (see Figures 4.2.2 and 4.2.6, High Acres Landfill and Recycling Center Parkway Phase III Expansion Final Supplemental Environmental Impact Statement, January, 2007) and visual photo simulations were reviewed by the Planning Board to evaluate the potential visibility and visual impacts of the proposed Phase III lateral expansion. As indicated, the vertical expansion has been withdrawn by WMNY, so that any impacts associated with such expansion are no longer relevant. A total of twenty (20) viewpoints considered sensitive to visual impacts were chosen and evaluations completed in accordance with the NYSDEC Program Policy on Assessing and Mitigating Visual Impacts. Six aesthetic resources of statewide significance were found to be in the viewshed of the Phase III and vertical expansion. Two of these resources can only be seen without vegetation. All are already in the viewshed of the existing landfill; therefore any increased visual impact from the Project and the Proposed Expanded Landfill Site is minimal.

A Conceptual Post-Closure Use Plan is contained in the January 2008 submittal and has been developed to mitigate the visual impact of the expansion. Final completion mitigation measures include: rows and patches of shallow-rooted vegetation planted at selected locations on the landfill cap to break up the mass and site lines of the landfill; use of different seed mixtures to establish the final vegetative cover on the finished landfill; sequential mowing to establish a variety of vegetative growth; a buffer zone of vegetation along the Barge Canal and WMNY's southern site perimeter will remain in place to lessen the visual impact of the project to users of the Barge Canal and the adjacent bike path. Operation impacts, defined as the view of an exposed working face while cells are under construction, have been identified and adequately addressed. These operational impacts are essentially short term and occur when the landfill is at a lower elevation than the finished height.

As requested by the PCB, the applicant also supplied updated visual simulations at various locales with final "vegetative buildout" as well as under specific operational conditions, including the landfill in active operation with hauling vehicles, operating equipment and seagulls present, the landfill closed with final cap and only grass as surface vegetation. In addition, the simulations included a close distance view (.65 miles), an intermediate distance view (1.0 miles) relative to the second floor (approximately 534 (amsl) at the Shaw residence on Route 31 (1.3 miles) and simulations depicting summer and winter viewing conditions. Further, pursuant to PCB's request for additional simulations (including those undertaken in December 2007) additional views were depicted as requested. The Town Board finds that based upon its own review and the PCB input including its response to the January 2008 report prepared by Waste Management as well as based upon the Waste Facility Permit issued by the ZBA, including the conditions thereof, that visual impacts will be mitigated by WMNY utilizing the various measures identified.

4. Wetland resources:

A. Direct Wetland Impacts: The proposed expansion included pursuant to the Project will result in the excavation and subsequent filling of approximately 2.51 acres [including Phase II (1.07 acres) and Phase III (1.44 acres)] of federal jurisdictional wetlands in the Town of Perinton. WMNY has proposed a compensatory mitigation plan to replace the total acreage of disturbed wetlands at a ratio of 2:1 in the Town of Perinton for a total compensation of 5.02 acres. The Town Board has considered PCB's comments and notes, including PCB's comment that the timing of mitigation will allow for the evaluation and additional efforts if necessary as to the construction of additional wetlands if they do not function as planned before the original wetlands are filled in. Further, the mitigative wetlands proposed in an area north of Perinton Parkway, which WMNY has made available for public and recreational use thereby provide Perinton residents access to wetland areas that is not possible at present. In addition, the Planning Board has reviewed the Freshwater Wetland Permit issued by

NYSDEC by letter dated March 14, 2008 for the Project including the conditions imposed therein (the “NYSDEC Wetlands Permit”) and finds that such permit is appropriate and protective of the Town’s interests, including based on the conditions and other requirements imposed therein, including based on the mitigation and other measures required. Thus, the Town Board finds that the compensatory wetland mitigation proposed under the circumstances including as recited above will offset the impacts to the wetland resources in the expansion area and that the water quality of adjacent resources will be protected.

B. Indirect Wetland Impacts: WMNY has agreed that specific mitigation measures will be used to minimize indirect impacts which include: phasing of construction activities so that the amount of bare soil exposed at one time will be minimized to the extent practicable; work should be done after the spring wet season, but early enough in the growing season so that the vegetation can become well established before winter; fill and spoil areas will be selected to avoid excessive siltation, soils will be stockpiled in upland areas outside any wetland and its buffer area and away from other surface waters, and erosion control measures will be utilized to prevent erosion of the stockpiled soil; earthworks will be periodically inspected to detect evidence of erosion and sedimentation with corrective measures implemented as necessary; installation of silt fencing, straw bales, stone check dams and other sediment traps; installation of temporary sediment basins; diversion of off-site runoff around the work zone with a stabilized ditch or berm; seeding and mulching exposed soils immediately following final grading; and stabilization of construction entrances. Each of these activities shall be undertaken in accordance with the State Pollutant Discharge Elimination System (SPDES) General Permit for Storm Water Discharges from Construction Activities (GP-02-01) and the SPDES Multi-Sector General Permit for Storm Water Discharges from Industrial Activities (GP-0-06-002). Also WMNY maintains and implements a Storm Water Pollution Prevention Plan (SWPPP). The existing SWPPP is dated May 10, 2004 and is located in Appendix 19 of the FSEIS and in accordance with the provisions set forth in the SWPPP, WMNY will continue to follow and implement same to mitigate same to the extent storm water is produced, and thus, the Planning Board finds that any Wetland impacts, including those set forth herein, will be adequately mitigated. (High Acres Landfill & Recycling Center Parkway Phase III Expansion Final Supplemental Environmental Impact Statement, Stantec, January 2007, Wetland Impact Analysis Report for High Acres Landfill & Recycling Center, April 2006, Addendum to the Wetland Impact Analysis Report and Joint Application for Permit for High Acres Landfill & Recycling Center, March 2007, Response to the PCB, July 2007, Response to the PCB and Clough Harbour, January 2008).

5. Impacts on Sewer Use: WMNY currently discharges the primary and secondary leachate collection systems of the existing landfill to a Monroe County plant using WMNY's existing sanitary sewer connection. It is proposed to continue discharging the leachate generated in the Town of Perinton in this manner. WMNY intends to tie into the Macedon municipal sewer system in the future and discharge the leachate from the primary and secondary leachate collection systems in the portion of the landfill located in the Town of Macedon to the Macedon sewer system. Based upon PCB’s comments and review of the NYSDEC’s Findings, including NYSDEC’s review of FSEIS Section 4.4, the Town Board finds that any additional leachate to be generated and discharged pursuant to the Project is not expected to be an issue, as the rate of discharge should not be significantly greater than the current discharge rate. Adequate facilities exist or can be integrated into the Project to address any potential issues that might exist with capacity or otherwise regarding sewer use. Based on its review of the FSEIS, (§4.4) NYSDEC found that it is proposed to continue discharging leachate generated in the Town of Perinton to the Town of Perinton/Monroe County sewer system, which eventually discharges to the Van Lare Sewage Treatment Facility. This discharge will continue to be monitored under WMNY’s sewer use permit No. 559. There are no changes in the volume or quality of leachate discharged to the Town of Perinton sewer system anticipated as a result of this expansion. The Town Board does not concur with the NYSDEC statement. The fact that areas of the landfill (i.e. Phase III Cells 11 and 11OF) that were originally scheduled to receive final cap will continue to receive waste which means that additional leachate will be generated and discharged to the area sewer system. The Town Board does not expect the additional leachate to be an issue as the rate of discharge should not be

significantly greater than the current discharge rate and as such, believes that any potential impacts to the sewer system have been and will be mitigated.

6. Cultural Resources: According to the NYS Archeological Site Map maintained by the NYS Office of Parks, Recreation and Historic Preservation, the proposed expansion is not in an archeologically sensitive area and there are no national or state register sites or state historic sites adjacent to or in the vicinity of the proposed expansion including the Project. Appropriate mitigation has been proposed for among other areas potentially effected, the Erie Canal and the Canal Bike Path within the vicinity of the landfill site. Further, the Town Board is satisfied with the mitigation proposed based upon the review of the FSEIS including Section 4.2.2 and PCB's comments that the buffer proposed, including the zone of vegetation and the existing berm along the canal and the southern site perimeter of the landfill, which will remain in place in order to lessen visual impact of the Project to users of the canal and adjacent bike path. Further, as noted by the PCB, as NYDEC's analysis included the 100 foot proposed vertical expansion which has now been withdrawn by the applicant, the impacts on cultural resources from such vertical expansion are no longer relevant to the analysis. The Town Board finds that the mitigation measures required as part of the conditions inserted into the ZBA's approval of the Waste Facility Permit for the Project are appropriate. As such, the Town Board finds that cultural resources in the area of the Proposed Expanded Landfill including the Project will not be adversely be affected as any impacts or potential impacts will be mitigated.

7. Noise: Noise impacts were evaluated in accordance with NYSDEC Assessing and Mitigating Noise Impacts Policy and 6 NYCRR 360. The Proposed Expanded Landfill including the Project will not change the current operating or construction procedures at the facility. Two noise studies conducted in 1999 demonstrate that the hourly sound levels associated with operations at this facility fall within the requirements set forth in 6 NYCRR 360-1.14(p). These noise studies demonstrate that the ambient background noise is greater than the Phase III expansion and within limits consistent with the NYSDEC Assessing and Mitigating Noise Impacts Policy. In addition, WMNY has agreed that mitigative measures will be used to minimize the impact of noise levels related to the landfill. These include WMNY's commitment to using appropriate mufflers on vehicles, limiting construction activities to the appropriate daytime operational hours, properly maintaining machinery, controlling the speed at which delivery vehicles travel around the landfill, and prohibiting the use of jake brakes on site. Additionally, WMNY has retrofitted the landfill operating equipment with "smart" back up alarms that automatically sense the surrounding noise levels and adjust the output sound level of the warning device to 10 decibels above the background conditions. WMNY has conducted and will continue to conduct periodic noise monitoring at the facility. See FSEIS, January 2007.

In response to letters from PCB, WMNY has supplied further information, including historic noise notification logs and additional noise level measurements for various locations around the landfill site. The additional noise levels measured were all below the Part 360 threshold criteria referenced earlier, with the exception of one measurement taken from the Erie Canal Path while a train was passing. Each of the other noise levels measured was below maximum levels allowed under Part 360. Further, WMNY performed a first level noise impact analysis in accordance with applicable guidance, including at the nearest residential receptor in Perinton and found that the noise produced does not appreciably increase the sound pressure level. Further, the Planning Board notes that as part of its issuance of the Waste Facility Permit, the ZBA has required that as a condition that additional information be provided on a periodic basis regarding noise analysis regarding the Project. PCB has determined that, to the extent that the Project includes an eastward expansion at the currently permitted height only, that such expansion might result in decreased noise impacts as operations move farther to the east and away from most Perinton residents. Therefore, the Town Board concludes that adequate facilities exist or can be integrated into the site development to properly deal with noise which may go beyond property boundaries as part of the Proposed Expanded Landfill including the Project, and therefore, such noise will not have an adverse impact.

8. Odor Impacts: The FSEIS demonstrates that the Project may have some odor impact on the surrounding community; however, these impacts will be minimized by the WMNY's use of specified controls. WMNY maintains a "3 strikes" policy for transfer trucks delivering sludge or wastes with noticeable odors. See Operations and Maintenance Manual, Blasland, Bouck & Lee, January, 2006). Odors will also be controlled through daily cover applications over exposed solid waste prior to the end of the work day. This will be augmented by the subsequent phased application of intermediate cover and construction of the final cover system. There is a gas collection system to collect gases resulting from the decomposition of waste. Leachate will discharge into municipal sewer systems. There will be a vacuum on the leachate lines prior to discharge to the public sewer because this leachate collection system is influenced by the landfill gas collection system resulting in no anticipated odors in the transmission manholes. WMNY routinely patrols the perimeter of the site to evaluate the presence and level of noticeable odors. WMNY Operations and Maintenance Manual were submitted as part of the Part 360 Solid Waste Management Facility Permit. Further in response to the June 27, 2007 letter from the PCB, WMNY has supplied further information, including recent odor notification logs. Further, the information provided was acceptable to the PCB in analyzing potential odor impacts. Because the waste acceptance rate will not increase with this expansion and several mitigative practices are already in place, as well as practices that are required pursuant to the Waste Facility Permit issued by the ZBA on or about March 24, 2008, the Town Board finds that no significant change in odor impacts from the current operations is anticipated and that no such adverse impacts exist that will not be mitigated under the circumstances.

9. Vector Control: To minimize the likelihood of nuisance wildlife problems, WMNY has developed a comprehensive vector control plan (FSEIS appendix 27). Because the waste acceptance rate will not increase with this expansion and several mitigative practices are already in place, no significant change in vector control impacts from the current operations are anticipated and WMNY will continue to follow and implement the Vector control plan in place.

10. Air Quality: The current operation has been identified as a major source for emissions of carbon monoxide (CO) and nitrogen oxides (NO_x) and is considered a major source under Prevention of Significant Deterioration (PSD) and New Source Review (NSR). A PSD permit application will be applied for along with the Title V permit modification required for this expansion and must be obtained prior to construction of the landfill expansion. NYSDEC has allowed the Title V Permit modification and federal PSD permit to be applied for after the solid waste and wetland permit applications to allow time for emissions data collection from the recently installed combustion engines which will be used to combust gas from the existing landfill. The engines are collecting emissions data from them prior to making applications for federal and state air permits will allow for more accurate modeling of the emissions related to the expansion. Since construction of the expansion is planned for some years out, it would be difficult to create models now that would accurately reflect conditions at the time. Supplemental Information, likely in the form of a supplemental EIS will be required to be submitted with the Air Title V permit modification because the PSD will be triggered by the expansion. No landfill construction related to the expansion will be commenced prior to issuance of all required federal PSD and State Title V permits for air emissions, with the exception of allowing the implementation of the wetland mitigation program. Planned measures for mitigating the potential impacts on air quality are shown in the engineering drawings for the Project. Supplemental information regarding air emissions and air quality will be provided during the review of the Title V permit modification. The PCB will review additional data submitted pursuant to upcoming permit applications for the Title V permits as part of the process and to evaluate and continue to monitor potential impacts and to ensure same are mitigated in accordance with the NYSDEC May 2007 Findings. Based on the foregoing, the Town Board determines that air quality will not be adversely affected by the Expanded Proposed Landfill and the Project for the surrounding neighbors.

11. Stormwater Management: The current operation at the landfill working faces is conducted in a manner which limits stormwater runoff and will continue through the expansion. These includes maintaining the working face so as to control waste placement

and limit stormwater runoff, sloping working faces inward, swales, and the leachate collection system. Stormwater controls outside the working face will consist of perimeter drainage ditches, culverts, and sedimentation basins. Both temporary and permanent drainage features have been designed in accordance with the procedures outlined in "New York Guidelines for Urban Erosion and Sediment Control". Drainage calculations associated with the Phase III and vertical expansions are provided in Appendix E of the January 2006 Blasland Bouck & Lee, Inc. Engineering Report that was submitted in further support of the DSEIS and FSEIS. WMNY is required to comply with the State Pollutant Discharge Elimination System (SPDES) Multi-Sector General Permit for Storm Water Discharges from Industrial Activities (GP-02-01) and maintains and implements a Storm Water Pollution Prevention Plan (SWPPP). The existing SWPPP is dated May 10, 2004 and is located in Appendix 19 of the FSEIS. As a result, stormwater impacts are effectively mitigated by the stormwater management practices proposed for the Phase III expansion.

12. Impact on Rare, Threatened or Endangered Species: The U.S. Fish and Wildlife Service and NY Natural Heritage Program information indicated that no threatened or endangered species of wildlife permanently reside within the proposed expanded Landfill and the Project. Additionally, the outside engineering review conducted by Clough Harbour indicated the need for additional information regarding a threatened vascular plant. The New York Heritage Program indicated that a threatened vascular plant was last reported in the Town of Macedon in 1897. Additional reconnaissance for the plant was conducted on two occasions (in November of 2005 and in the middle to end of December 2007) as well as a review of habitat types, and the results of these surveys indicated that the threatened vascular plant was not observed and that the habitat area boundaries have essentially remained unchanged. Further, PCB noted that information concerning a threatened bird species was not included in the FSEIS pursuant to conditions imposed by the New York Heritage Program letter to the applicant (the identity of the species was not provided in order to protect same), but the PCB anticipates that the planned wetland expansion will enhance the habitat of the species, and that there will also be a concomitant requirement for the alteration of construction activities. Appropriate construction industry practices will be implemented to minimize impacts to such bird species during wetland mitigation, including that any construction measures for implementation of the wetland mitigation do not take place during the active breeding season for the threatened species identified. There will be no unavoidable adverse effects to rare, threatened or endangered species as a result of the expansion.

13. Irreversible and Irretrievable Commitment of Resources: The DSEIS and the FSEIS demonstrate that the expansion will have minor impacts and the proposed compensatory mitigation plan will adequately mitigate any significant irreversible and irretrievable commitment of resources. Although the expansion area will be converted to use as a landfill, the area is already used by WMNY for wood chipping and composting operations and by a local farmer for growing crops. Conceptual use plans have been included in the FSEIS. Ten years prior to the closure of the facility, WMNY will encourage public input from the community for end use of the site discussed in the FSEIS.

14. Pursuant to the Waste Facility Permit application to the ZBA, WMNY provided the ZBA with a landscaping plan to minimize visual impacts and to screen the landfill operations. The ZBA in issuing the Waste Facility Permit found that the landscaping plan provided as well as the other mitigation measures to be implemented by WMNY adequately address any concerns regarding impacts to view sheds and aesthetic resources. The ZBA, as conditions of approval, required WMNY to provide a final landscaping plan with the understanding that such plan may be modified with the consent of the Planning Board, as it is implemented; the landscaping plan to be provided within two years, and prior to development of Phase III of the landfill expansion; WMNY to provide biennial updated landscaping plans, a projected filling sequence, and a projected schedule for applying both interim and final cover and a schedule for implementation of the updated landscaping plans; and WMNY to meet with the Conservation Board on an annual basis to discuss implementation of the approved updated landscaping plans and provide aerial photographs showing the progress of the ongoing landscaping. Based upon the foregoing, and its own review, the Town Board finds that the landscaping plan

is adequate to protect adjoining properties from adverse impacts related to visual impacts and other potential impacts as set forth in the Ordinance.

15. WMNY will continue to conduct groundwater and surface water monitoring and continue to submit monitoring results to the NYSDEC on a quarterly basis. The Proposed Expanded Landfill including the Project, according to NYSDEC Findings which were issued pursuant to the Part 360 and other permits issued on March 14, 2008, the Proposed Expanded Landfill including the Project is designed to protect groundwater quality by utilizing a double composite liner system, leachate collection and storage systems, surface water drainage and landfill gas collection, environmental monitoring, leading the NYSDEC to conclude in its findings that no adverse impacts to groundwater quality or quantity are expected to result from the Project. Thus, based on the foregoing documents as well as in consideration of the NYSDEC Findings and the Planning Board's own review of the application materials and the DSEIS and FSEIS, the Planning Board finds that the previously referenced facilities are adequately designed to protect impacts to ground water. From the perspective of the Town of Perinton, including PCB comments, impacts to groundwater resources below and in the vicinity of the landfill will actually be reduced, given that a large section of the new, double lined landfill will be constructed over and on top of the old unlined section of the existing facility with the new liner serving a dual role as a synthetic cover which will reduce leachate infiltration thereby reducing the risk of groundwater impacts. As a result, the Town Board finds that adverse impacts to ground water quality or quantity are not expected to result from the Proposed Expanded Landfill including the Project based upon any mitigative measures identified and the Planning Board takes into consideration in this regard the Findings made by the NYSDEC concerning such impacts.

16. WMNY has modified and improved its landfill gas collection system as described in the FSEIS and DSEIS and WMNY will continue to utilize its odor notification program. As described in the NYSDEC Findings issued pursuant to the Part 360 and other permits issued by DEC on March 14, 2008 and as set forth in the FSEIS, state of the art landfill design features, utilization of landfill gas collection and control systems and monitoring program minimizes the potential for off-site gas migration. The NYSDEC Findings determine that continued operation of the landfill gas control system will minimize odor impacts, along with application of daily cover materials. The Town Board finds that based on its evaluation of the FSEIS and DSEIS and based on its view of the NYSDEC Findings that the landfill gas control system will minimize or mitigate such odor impacts together with the application of the materials.

17. The landfill facility is on a site of sufficient size so that adequate buffers can be established to protect nearby lands. Drawings associated with the Project including those showing the current property boundary indicate that any requirement for buffering from adjacent properties has been met. The Project consists of an addition of approximately 5.8 acres of new landfilling operations and a 7.4 acre overliner. Based on the amount of property owned by WMNY and the proximity of nearby lands to the Proposed Expanded Landfill including the Project, the Town Board finds that there is sufficient acreage to incorporate adequate buffers to protect such nearby lands.

18. Alternatives. In accordance with SEQRA regulations, the DSEIS and FSEIS contain a discussion of alternatives including alternative landfill size and layout, alternative landfill size and height, sighting a new landfill, and the no action alternative. Alternatives considered including those identified as alternatives 1, 2, 3 and 4 were dismissed for among other reasons that such alternatives would result in greater impact to wetlands, or would not meet Project needs and goals. The Planning Board is satisfied that based on the alternatives considered, and the alternative analyses undertaken that the preferred alternative is the most appropriate for the Proposed Expanded Landfill including the Project site and meet other requirements under the Town Code's criteria including those appropriate for the issuance of a special use permit under the circumstances in a limited use district.

19. Visual impacts associated with the proposed facility will be evaluated by a visual impact assessment utilizing visual simulations and proposed mitigation measures including but not limited to the planting of vegetated screens on the premises, as well as

vegetative line of site interferences off the premises (with permission of land owners) are provided. Such vegetative screens shall be maintained as required by the landscaping sections of this chapter. The FSEIS thoroughly evaluates potential visual resource impacts. The DSEIS contains results of a visual impact analysis including visual simulations. In its NYSDEC Findings, the NYSDEC concluded that while the Project will permanently alter the topography of the site, the Proposed Expanded Landfill including the Project would result in an incremental increase in aesthetic impact when compared to the currently permitted landfill facilities. As described in the DSEIS, FSEIS, and NYSDEC Findings, landscaping plans have been developed that involve use of trees, shrubs and various plant screening vegetation techniques. Public comments contained in the FSEIS focused on the Project's effect on the viewshed. Based on a review of the DSEIS, FSEIS, and NYSDEC Findings, as well as information provided by others including Town consultants and other town boards, and based upon the fact that the application seeking vertical expansion has been withdrawn, the Town Board finds that no significant negative visual impacts will result from the Project as mitigation measures will address any such impacts or potential impacts.

Ayes: Smith, Knapp, Glossner, Saum, LaFay

Nays: None

Unanimously approved

Supervisor Smith then offered the following resolution, seconded by Councilperson Glossner, to approve the wetlands mitigation plan as presented:

BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF PERINTON AS FOLLOWS:

Based upon a review of the Application for a wetlands mitigation permit under Section 208-50B of the Code of the Town of Perinton, the DSEIS, the FSEIS, consideration of comments provided at the various hearings and meetings described in the SEQRA Findings and Determination, dated April 4, 2008 and the NYSDEC's SEQRA Findings determining that the Project minimizes or avoids adverse environmental effects to the maximum extent practicable, and the memo from the Conservation Board, dated April 8, 2008, which deals specifically with the proposed wetland mitigation and finds that said mitigation "is appropriate and meets the intent of Town code", the Town Board hereby adopts the following Findings statement as part of this resolution:

Description of Action.

Section 1. Waste Management of New York LLC proposes the lateral expansion of the landfill in the Town of Perinton comprising approximately 5.8 acres of new footprint and a 7.4 acre overliner within the Town of Perinton. A double composite liner system and primary and secondary leachate collection systems will be utilized in the design of the landfill expansion. The Proposed Expanded Landfill Site also involves mitigation for fill of approximately 2.51 acres (including Phase II) of federally regulated wetland in the Town of Perinton. Mitigation will include creation of additional wetland areas and enhancement of existing wetlands to provide habitat diversity.

Section 2. Findings Based Upon Applicable Law Including the Town of Perinton's Ordinance Provisions For Issuance of a Wetlands Mitigation Permit

GENERAL FINDING: The Perinton Town Board participated as an involved agency in the review of the Project (for purposes of the issuance of various New York State permits including the Part-360 permit previously issued by NYSDEC by letter dated March 14, 2008 and other necessary permits to be issued by the State, as it was encompassed in the Proposed Landfill Site. As such the Project has been determined by the NYSDEC and the Town of Perinton Town Board to be a Type 1 action and such action was subject to the referenced environmental review which included the participation of the Town of Perinton Town Board and was subject to the Town of Perinton Planning Board's review pursuant to the issuance of these Findings.

The Town Board has reviewed WMNY's Application for a wetlands mitigation permit, and the DSEIS and the FSEIS, comments provided by the public at various hearings and public meetings, comments and other information provided by the Perinton Conservation Board ("PCB"), the NYSDEC's Findings concerning WMNY's application for a Part 360 permit and the permits issued thereby including the Part 360 and Wetlands permits issued by letter dated March 14, 2008, and based upon that review:

The Town Board makes the following findings as required by Section 208-50(B) of the Code of the Town of Perinton:

Ordinance Section 208-50(B)(1): THE VALUE OF THE LDD PROPOSED TO BE DISTURBED.

FINDING: 2.51 acres of wetland will be disturbed in Perinton and replaced by adding more than five acres of wetlands north of Perinton Parkway adjacent to an existing State regulated wetland. The existing wetlands which are being replaced are isolated parcels surrounded by the landfill. As set forth more fully in the environmental findings and SEQRA Findings, WMNY has agreed to implement specific mitigation measures associated with federal jurisdictional wetlands that will be effected by the Proposed Expanded Landfill and the Project including a mitigation plan to replace total acreage of disturbed wetlands at a ratio of 2:1 for a total compensation of 5.02 acres. Based upon the measures proposed pursuant to Army Corps of Engineers requirements and pursuant to the NYSDEC Wetlands Permit, any value associated with those wetlands as part of the LDD has been determined jurisdictionally by the referenced permits, etc. In fact, as stated more fully below, the wetlands to be created by WMNY (as opposed to those that are disturbed) will be of substantial value and will allow the public to access the newly created wetland in a manner that the public is currently not able to do.

Ordinance Section 208-50(B)(2): THE EXTENT OF THE DISTURBANCE.

FINDING: See above, as it relates to the wetlands to be disturbed, those wetlands requiring disturbance constitute approximately 2.51 acres (including both Phase II and Phase III) of federal jurisdictional wetlands. As indicated, the permits in place and the requirements from the Army Corps of Engineers require replacement of same at a ratio of 2:1 for a total of approximately 5.02 acres of new wetland for the wetlands disturbed in Perinton.

Ordinance Section 208-50(B)(3): ALTERNATIVES TO DISTURBANCE.

FINDINGS: Based upon the condition of the wetlands to be disturbed and based upon the proposed mitigation, including the construction of a compensatory mitigation plan and to replace the wetlands acreage disturbed at a 2:1 basis, the Town Board finds that this is the most beneficial alternative under the circumstances, as any other alternative to disturbance of the wetlands and creation of new wetlands on a 2:1 basis would not meet the needs and goals of the Project including the Expanded Landfill, and moreover, the other alternatives examined would result in more disturbance to the wetlands. The replacement of isolated pockets of wetlands with wetlands double the size of the ones being disturbed adjacent to an accessible State regulated wetland will provide a net benefit to the Town of Perinton.

Ordinance Section 208-50(B)(4): THE EFFECTIVENESS OF THE MITIGATION PLAN.

FINDINGS: The Town Board finds that the mitigation plan as described previously, including the replacement of any wetlands disturbed or filled in by the Project including the Expanded Landfill is effective, as it requires the replacement of any wetlands lost on a 2:1 basis for a total replacement acreage of approximately 5.02 acres. Furthermore, the newly created wetlands add acreage to an existing wetland which is accessible to the public. As such, the Town Board finds that the mitigation plan is effective.

Ordinance Section 208-50(B)(5): THE PUBLIC VALUE OF THE MITIGATION.

FINDINGS: As discussed in more detail above regarding the nature of the wetlands to be disturbed and the mitigation plan, the compensatory plan to replace the wetlands in Perinton will replace such wetlands on a 2:1 basis for a total compensation of over 5 acres of new wetlands. There is ample public benefit to the mitigation in that in addition to providing additional wetlands, it will also provide for public and recreational use, providing public access to wetland areas that is not possible at the present. For the foregoing reason, the Town Board finds that the public value of the mitigation demonstrates that it is appropriate.

Based on the aforementioned findings, I move that the Town Board grant WMNY's application for a wetlands mitigation permit, subject to the following conditions:

CONDITIONS OF APPROVAL FOR WASTE MANAGEMENT

1. WMNY is to prepare & submit annual reports to the Town of Perinton, summarizing the progress made in implementing the landscaping plan and the wetland mitigation plans.
2. WMNY is to meet with the Conservation Board, acting as the Town Board's agent, on an annual basis to review and discuss the above reports, as well as related conditions made by the Zoning Board of Appeals and Planning Board, after which the Conservation Board will prepare a summary report for the Town Board.
3. Permit is subject to WMNY maintaining a closure/post-closure bond in the amount determined by NYSDEC per the Part 360 Regulations.
4. WMNY is to provide a separate bond to the Town of Perinton for landscaping plan to be updated as necessary, prior to the development of the Phase 3 landfill expansion, in an amount to be determined by the Town Engineer (initial bond for \$225,000.00)

Ayes: Smith, Knapp, Glossner, Saum, LaFay

Nays: None

Unanimously approved

Attorney Place reported to the Board that, at present, Waste Management has provided a closure bond in the amount of \$12,310,000.00 and a post-closure bond of \$6,567,000.00.

END ESTOPPEL PERIOD

Supervisor Smith announced that the estoppel period for bonding for construction of the Garnsey Road sewer had ended.

AUTHORIZATION TO BID
ALDRICH GLEN GENERATOR

Supervisor Smith reported that, in a memo dated April 7, 2008, DPW Commissioner Tom Beck, reported that the Aldrich Glen development had received final approval from the Planning Board. The development will add 32 new sewer units to the Perinton Consolidated Sewer District.

The effluent generated in Aldrich Glen will be directed to the Avian Landing pump station, which has the capacity to handle the additional sewer units. However, the station lacks the appropriate amount of emergency storage required.

The upgrade required for the station includes the installation of an emergency backup electric generator. The developer was required to pay the Consolidated Sewer District \$15,000 for the acquisition and installation of the generator,

which has been done. Mr. Beck asked the Board for authorization to solicit bids for a new emergency generator.

A motion was made by Councilperson Saum, seconded by Councilperson Glossner, that the Commissioner of Public Works be authorized to advertise for bids for an electric generator for the Avian Landing pump station.

Ayes: Smith, Knapp, Glossner, Saum, LaFay
Nays: None
Unanimously approved

APPROVE CHANGES TO THE MEMBERSHIP
OF THE BUSHNELL'S BASIN FIRE ASSOCIATION

Councilperson Glossner made a motion, seconded by Councilperson Knapp, that the following change in the membership of the Bushnell's Basin Fire Association be approved:

Resident Active to Exempt	Justin Diehl
	28 Blackwatch Trail Apt. 8
	Fairport, NY 14450

Ayes: Smith, Knapp, Glossner, Saum, LaFay
Nays: None
Unanimously approved

END PERMISSIVE REFERENDUM

Supervisor Smith announced that the time of Permissive Referendum for the transfer of funds from various capital reserve funds to general funds has passed.

A motion was made by Councilperson Saum, seconded by Councilperson LaFay, that the reports from the Finance Director, Town Clerk and the Building Department for the month of March be approved.

Ayes: Smith, Knapp, Glossner, Saum, LaFay
Nays: None
Unanimously approved

There being no further business before the Board and no further questions from the audience, the meeting was adjourned at 10:40 pm.

Respectfully submitted,

Susan C. Roberts
Town Clerk