



**FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**  
BOB MARTINEZ CENTER  
2600 BLAIRSTONE ROAD  
TALLAHASSEE, FLORIDA 32399-2400

RICK SCOTT  
GOVERNOR

CARLOS LOPEZ-CANERA  
LT. GOVERNOR

HERSCHEL T. VINYARD JR.  
SECRETARY

Sent via ePost

June 23, 2014

Robert E. Downey  
Mayor  
Town of Melbourne Village  
555 Hammock Road  
Melbourne Village, FL 32904

Subject: Town of Melbourne Village  
**Waiver of NPDES Phase II MS4 (Stormwater) Permitting Requirements**

Honorable Robert Downey:

Thank you for submitting and certifying the Town's response to the Department's request for waiver from Phase II MS4 coverage on June 17, 2014. We appreciate you taking the time to review the waiver criteria and working with the Department on this matter. The Department has reviewed your certification and determined that you have met the waiver criteria as identified in 40 CFR 122.32(d) or (e). At this time, you are not required to apply for coverage and therefore, no response to this letter is required.

This waiver, however, is limited to the automatic designation based on the results of the 2010 U.S. Census, and does not waive any future designations. Should information received by the Department suggest the Town should be designated, designation as a regulated Phase II MS4 under Rule 62-624.800, F.A.C. may be necessary.

If you have any questions, or would like additional information, please feel free to contact Ken Kuhl or me. Ken may be reached by phone at (850) 245-8667 or by email at [kenneth.kuhl@dep.state.fl.us](mailto:kenneth.kuhl@dep.state.fl.us). You may reach me at (850) 245-8568 or by email at [edward.c.smith@dep.state.fl.us](mailto:edward.c.smith@dep.state.fl.us).

Sincerely,

Edward C. Smith  
Program Administrator  
NPDES Stormwater Program

Town of Melbourne Village  
Waiver of NPDES Phase II MS4 (Stormwater) Permitting Requirements  
June 23, 2014  
Page 2

ES/kak

Enc: The Town's Phase II MS4 Waiver Criteria Certification

cc: Gail Griswold, Town of Melbourne Village  
Amber Boerner, Town of Melbourne Village

## **Applicable Rule: Waiver per 40 C.F.R. 122.32(d)**

(d) The NPDES permitting authority may waive permit coverage if your MS4 serves a population of less than 1,000 within the urbanized area and you meet the following criteria:

(1) Your system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES storm water program (see § 123.35(b)(4) of this chapter ); and

(2) If you discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which you discharge, storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established “total maximum daily load” (TMDL) that addresses the pollutant(s) of concern.

## **Town of Melbourne Village, Brevard County, Florida**

The Town of Melbourne Village has a total population of 662 according to the 2010 Census. The City consists of 0.6 sq. mi., much of it natural lands, which includes part of the Erna Nixon Hammock Park.

The Town’s stormwater system is a series of retention/detention ditches and swales, with no storm sewers. Discharge is into the L-5 and M-1 canals of the Crane Creek system, which leads into the Indian River Lagoon basin.

The Town’s 2004 Stormwater Masterplan projects the impact of the Town on the surrounding system. Town pollutant discharge rates were estimated to be less than one onethousandth of one percent (0.001%) of the total pollutant load of the surrounding system.

## **Findings**

The Town of Melbourne Village MS4 serves a population of less than 1,000 within the urbanized area of the South Brevard/Indian River Lagoon Basin.

The Town of Melbourne Village stormwater system is not contributing substantially to the pollutant loadings of a physically-interconnected regulated MS4 and storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established “total maximum daily load” (TMDL).

## **Waiver Decision**

The Town of Melbourne Village qualifies for a waiver pursuant to 40 C.F.R. 122.32(d)

## Confirmation and Certification

I certify under penalty of law that the information in this document is, to the best of my knowledge and belief, true, accurate and complete correct. Accordingly, the Town of Melbourne Village qualifies for the waiver from NPDES Phase II Municipal Stormwater Permitting. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name of Responsible Authority: Robert E. Downey, Mayor, Town of Melbourne Village

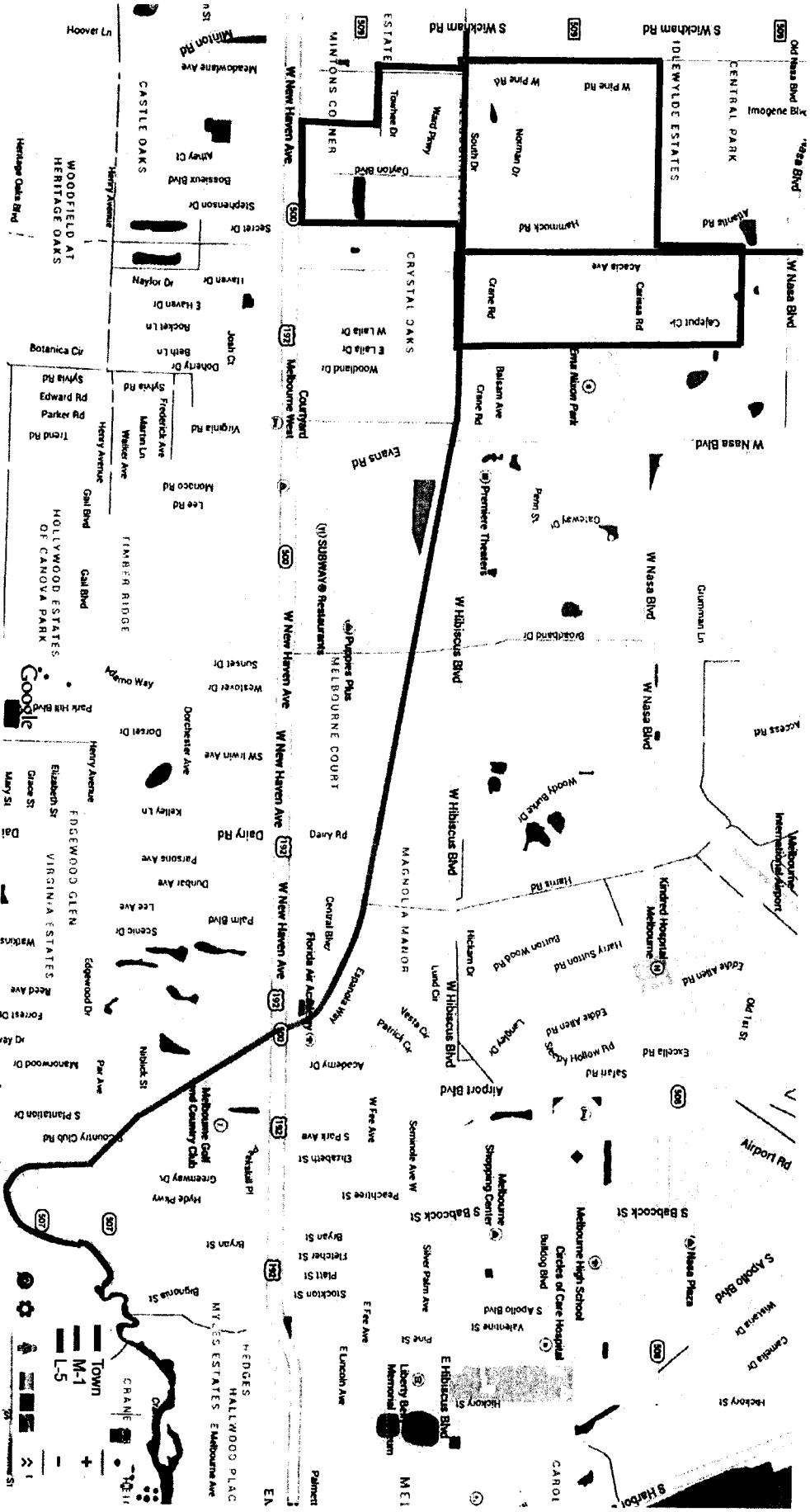
Signature: 

Date: 5-30-14

**Note:** Per Rule 62-620.305, F.A.C., a **Responsible Authority** means:

- For a corporation, a responsible corporate officer as described in Rule 62-620.305, F.A.C.
- For a partnership or sole proprietorship, a general partner or the proprietor, respectively.
- **For a municipality, state, federal or other public facility, a principal executive officer or elected official.**

North



## Supplemental Information

The Town of Melbourne Village, 0.6 sq. mi. in area and with a population of 662, is 90% residential, with most of the approx. 300 lots ranging from 1/3 acre to 1 acre. We have seven commercial (retail) properties along US 192, and no industrial or agricultural zoned land. 45 acres (approx. 12%) of the Town is dedicated undeveloped parkland. The Town's stormwater system is a series of retention/detention ditches and swales, with no storm sewers containing or conveying stormwater without providing for detention, percolation, and/or filtering and settling of sediment and pollutants prior to discharge into the larger system around us. Discharge is into the L-5 and M-1 canals of the Crane Creek system, which leads into the Indian River Lagoon. At times of heavy rainfall several park areas of 2 to 8 acres each (Nutting Wood Green, Dearhead Hammock, Wildflower Meadow, Erna Nixon Hammock, etc) serve as unofficial recharge areas, providing opportunity for additional short term retention and percolation.

In 2004 the Town adopted a Stormwater Masterplan, which describes our stormwater management system and provides information about several areas in which improvement was needed. The Town has been working on these as time and resources allow, while also re-assessing the system and identifying other areas of concern. The Masterplan provides best practices for maintenance activities, and projects the impact of the Town on the surrounding system. Town pollutant discharge rates were estimated to be less than one onethousandth of one percent (0.001%) of the total pollutant load of the surrounding system.

The Town developed requirements, as part of our comprehensive plan process, for on-site retention/detention of stormwater, and has enforced these, requiring retro-fit on existing housing as remodeling is undertaken. The development code requirement is:

**DRAINAGE.** The Town of Melbourne Village is currently handling stormwater runoff and does not plan to increase this capacity. The current drainage system and commercial zone retention requirements of the Town of Melbourne Village are sufficient to handle stormwater runoff and drainage for the projected needs at buildout. To meet concurrency in drainage and stormwater management, a local project shall maintain stormwater runoff at the present current level or lower and shall equal or exceed the current level of water runoff quality to avoid pollution of the Town of Melbourne Village and the Indian River Lagoon.

The following guidelines shall be used to demonstrate compliance with the concurrency drainage section. Minimum guidelines:

(a) Stormwater retention of the first one (1) inch of rainfall in a thirty-six (36) hour period: This retention includes both pervious and impervious areas of the property or project.

(b) Stormwater detention of the next one and one-half (1-1/2) inches of rainfall in the same thirty-six (36) hour period: This detention will allow slow release of stormwater through percolation or ground filtration in accordance with the current Department of Environmental Regulation Stormwater Management Practice Manual.

(c) Attention must be given to direct or divert stormwater runoff including septic drainage and to use other sound water management techniques to avoid pollution of the Town of Melbourne Village and the Indian River Lagoon by all other contaminants.

(d) Reference, attention and accordance shall be given to the Florida Development Manual: A Guide to Sound Land and Water Management (DER, State of Florida), to Appendix B3, "Model Stormwater Management Ordinance for the Indian River Lagoon Basin" by the Marine Resources Council for the St. Johns River Water Management District and Brevard County Drainage System requirements.

The Town has, after consultation with the Town engineer, determined that, as a substitute method of calculation of retention, a six (6) inch high berm around the entire subject property except at the overflow point may be used to meet the requirements of the code for single family residential properties.

The Town has adopted a stormwater utility fee and allows a discount of 25% of the fee to any property which has been certified by the Town engineer to meet these requirements. Continued compliance is required.

In 2007 the Town adopted the Responsible Residential Growth ordinance for single family residential zones, limiting the structural and non-structural impervious surfaces to a percentage of the property based on size of lot and mitigating design elements. The maximum percentage of impervious surface permitted ranges from 19% to 25%, with most lots falling between 21% and 23%. These are maximum allowable percentages – many lots are currently developed at  $\frac{1}{4}$  to  $\frac{1}{2}$  of the maximum permitted. This code was challenged by a petition drive, and was upheld by a  $\frac{2}{3}$  to  $\frac{1}{3}$  vote of the electorate with a large turnout, making it unlikely that it will be changed in any substantive way in the near future.

The Town has established maximum lot coverages for impervious surfaces for multi-family of 35% and commercial of 70% (which includes wet retention systems).

In 2014 the Town adopted a fertilizer ordinance restricting the application of fertilizer containing nitrogen to the dry months, requiring 50% slow release nitrogen, and prohibiting the application of fertilizer containing phosphorous unless a deficiency is demonstrated, among other provisions.

## Town

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**From:** Kuhl, Kenneth <Kenneth.Kuhl@dep.state.fl.us>  
**Sent:** Thursday, May 29, 2014 2:36 PM  
**To:** Town  
**Subject:** RE: Request for Waiver from the Phase II MS4 Permit

Gail - Please go forward with this. Looks very good.

Kenneth Kuhl  
Florida Department of Environmental Protection  
NPDES Stormwater Program  
2600 Blair Stone Road MS 3585  
Tallahassee, FL 32399  
(850) 245-8667  
<http://www.dep.state.fl.us/water/stormwater/npdes/>

**From:** Town [<mailto:Town@MelbourneVillage.org>]  
**Sent:** Thursday, May 29, 2014 1:43 PM  
**To:** Kuhl, Kenneth  
**Subject:** RE: Request for Waiver from the Phase II MS4 Permit

Hi Ken – Does this look like it fits the bill? I can get the Mayor to sign it tonight and email the signed copy to you Friday if it looks good. Thanks – gail

Gail E. Griswold  
Town Clerk/Treasurer  
Town of Melbourne Village  
[Town@melbournevillage.org](mailto:Town@melbournevillage.org)

**From:** Kuhl, Kenneth [<mailto:Kenneth.Kuhl@dep.state.fl.us>]  
**Sent:** Tuesday, May 27, 2014 4:37 PM  
**To:** [town@melbournevillage.org](mailto:town@melbournevillage.org)  
**Cc:** Smith, Edward C.  
**Subject:** Request for Waiver from the Phase II MS4 Permit

Good afternoon, Gale Griswold –

Please see above example from Weeki Wachee. You are welcome to tailor the attached form to the Town's situation, pass it by us, and then use the certification block to execute the document.

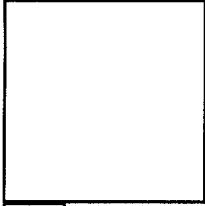
Thank you for checking in with us on this issue.

Ken Kuhl

Kenneth Kuhl  
Florida Department of Environmental Protection



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2600 Blair Stone Road MS 3585  
Tallahassee, FL 32399  
(850) 245-8667  
<http://www.dep.state.fl.us/water/stormwater/npdes/>



## Town

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**From:** David&Brigitte Sinton <dfsinton@aol.com>  
**Sent:** Thursday, May 29, 2014 11:22 AM  
**To:** Town@MelbourneVillage.org  
**Subject:** Re: Request for Waiver from the Phase II MS4 Permit

Hi -- What an amazing event! Sanity from Tallahassee! Only two pages of paper required!!!

Looks good to me. I would advise the Mayor to sign this

Dave Sinton  
Commissioner

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

**From:** Town <Town@MelbourneVillage.org>  
**To:** David Sinton <dfsinton@aol.com>  
**Sent:** Wed, May 28, 2014 3:32 pm  
**Subject:** FW: Request for Waiver from the Phase II MS4 Permit

Hi – this is the sample they sent us. I've attached my draft to it – let me know what you think? Thanks - gail

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**From:** Kuhl, Kenneth [<mailto:Kenneth.Kuhl@dep.state.fl.us>]  
**Sent:** Tuesday, May 27, 2014 4:37 PM  
**To:** [town@melbournevillage.org](mailto:town@melbournevillage.org)  
**Cc:** Smith, Edward C.  
**Subject:** Request for Waiver from the Phase II MS4 Permit

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Thank you for checking in with us on this issue.

Ken Kuhl

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