Town Board Meeting January 5, 2012 7:00 p.m. Town Hall

7:00 p.m. Philipstown Depot Theatre Development Corporation Annual Meeting

7:15 p.m. Reorganization Meeting

Immediately Following:

Monthly Town Board Meeting

Salute to the Flag

REVIEW OF MINUTES

Monthly Town Board Meeting of December 6, 2012

COMMITTEE REPORTS

1) CAC

2) Recreation

3) Recycling

4) Planning Board

5) Zoning

6) Highway

7) Building & Land Acquisition

8) GVFD

AGENDA

- 1. Resolution authorizing Supervisor Shea to sign the contract between the Town and the Putnam County Humane Society for fiscal year 2013.
- 2. Resolution referring six (6) proposed Local Law to the Putnam County Division of Planning and the Philipstown Planning Board.
- A Law Amending the Town Code of the Town of Philipstown to Revise Chapter 93. (Wetlands)
- A Law Amending the Town Code of the Town of Philipstown to implement the revised Zoning Law and designation of the Conservation Board.
- A Law Amending Chapter 159 of the Town Code of the Town of Philipstown. (to implement the Natural Resource and Open Space Plan)
- A Law Amending Chapter 112 of the Town Code of the Town of Philipstown with respect to Open Development Area subdivisions.
- A Law Amending the Town Code of the Town of Philipstown to make clarifications and technical corrections to Chapter 175.
- A Law Amending the Town Code of the Town of Philipstown to prohibit hydraulic fracturing.

- 3. Resolution authorizing Supervisor Shea to sign the lease agreement between the Town and the Garrison Landing Association Inc. for use of the Depot Theatre.
- 4. Code Enforcement Monthly Report.
- 5. Schedule Workshops/Meetings
- 6. Any other business that may come before the Town Board.

AUDIENCE

VACANCIES

Recreation Commission (1) CV Park District Advisory Committee (3) CV Water District Advisory Committee (2)

APPROVAL OF VOUCHERS

General Highway CVPD CVWD

ADJOURNMENT

MEMORANDUM TO THE PHILIPSTOWN TOWN BOARD Re: PHILIPSTOWN DEPOT THEATRE DEVELOPMENT CORPORATION ("PDT)

January 3, 2013

Under PDT's By-laws, at their annual meeting the Members of the corporation, the Town Board plus one member of the Recreation Commission (currently Claudio Marzollo) and one appointee from the PDT Directors (currently Steve Ives), elect one-third of PDT's Board of Directors each year for a three-year term. This takes place annually at the time of the Town Board's reorganization meeting. The PDT Board has nominated the following directors for reappointment in the class of 2016:

Emily Dupree

420 Indian Brook Road, Garrison NY

10524

Stephen G. Ives

John R. Lane

Terry Turner

51 Chapman Road, Garrison NY 10524

5 Mountain Ave., Cold Spring NY 10516

4 Circle Drive, Cold Spring NY 10516

AGENDA

(Supervisor Shea Presiding):

- 1. Call to Order
- 2. <u>Ascertain presence of a quorum</u> (at least 4 of the 7 Members)
- 3. Nominations for directors
- 4. Resolution:

RESOLVED, that the following persons are elected directors of the corporation each to serve for a term of three years: Emily Dupree, Steven G. Ives, John R. Lane and Terry Turner

VOTE

- 5. Other Business
- 6. Adjourn

The Town Board of the Town of Philipstown held their Reorganization Meeting on the above date at 7:30 p.m. at the Town Hall, 238 Main Street, Cold Spring, New York 10516.

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or use \$0.36

Supervisor Shea, Councilwomen Montgomery, Budney and, Councilmen Van Tassel and Merandy, Assessor Kenney, Town Clerk Merando, Code Administrators, Kevin Donohue and Robert Emerick and Supervisor's Office personnel, Susan Kenney and

Dottie Turner, Recreation personnel Amber Stickle, Karen Virgadamo, Walter Guzman, Richard Stuart, Margaret Parr and Susan Richardson and other persons authorized by the Town Board.

	RESOLUTON #-2013
	The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED, that the following shall be compensated for use of their automobiles in the performance of official duties at the rate of \$0.36 per mile.
	Supervisor Shea, Councilwomen Montgomery and Budney, Councilmen Van Tassel and Merandy, Assessor Kenney, Town Clerk Merando, Code Administrators, Tom Monroe and Robert Emerick and Supervisor's Office personnel, Susan Kenney and Dottie Turner, Recreation personnel Amber Stickle, Karen Virgadamo, Walter Guzman, Richard Stuart, Margaret Parr and Susan Richardson and other persons authorized by the Town Board.
4.	Resolution needed scheduling the Town Board Monthly Meeting be held at 7:30 p.m., at the Town Hall, 238 Main Street, Cold Spring, NY, on the first Thursday of each month, except when the same falls upon a legal Holiday, or due to extenuating circumstances, in which case the Regular Monthly Meeting shall be held upon the following Thursday or such day as shall be determined by the Town Board at the regular meeting preceding such legal Holiday.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED , that Town Board Monthly Meeting be held at 7:300 p.m., on the first Thursday of each month, except when the same falls upon a legal Holiday, or due to extenuating circumstances, in which case the Regular Monthly Meeting shall be held upon the following Thursday or such day as shall be determined by the Town Board at the regular meeting preceding such legal Holiday.
5.	Resolution needed declaring that items for the regular Town Board Agenda must be submitted no later than the Friday preceding the first Thursday of the month.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by, seconded by, and unanimously carried;
	RESOLVED , that the Town Board hereby declares that items for the regular Town Board Agenda must be submitted no later than the Friday preceding the first Thursday of the month.

6.	Resolution authorizing the Town Board to hold monthly meetings at various locations in the Town.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED , that the Town Board can hold monthly meetings at various locations in the Town.
7.	Resolution needed that the Town Board may meet every Wednesday evening at 7:30 p.m., at the Town Hall, 238 Main Street, Cold Spring, New York, to discuss and act upon such business as may come before the Board.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by, and unanimously carried;
	RESOLVED , that the Town Board may meet every Wednesday evening at 7:30 p.m., at the Town Hall, 238 Main Street, Cold Spring, New York, to discuss and act upon such business as may come before the Board.
8.	Resolution needed designating the Putnam County News & Recorder as the official Town newspaper.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED, that the Town Board hereby designates the Putnam County News & Recorder as the official Town newspaper.
9.	Resolution appointing Bennet, Kielson, Storch and DeSantis and Company as the Town Auditors at an amount not to exceed the 2013 budget.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by, and unanimously carried;
	RESOLVED , that the Town Board hereby appoints Bennet, Kielson, Storch and DeSantis and Company as the Town Auditors at an amount not to exceed the 2013 budget.

	Town of Philipstown at a salary not to exceed that set forth in the 2013 budget.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by, seconded by, and unanimously carried;
	RESOLVED , that the Town Board hereby names Supervisor Shea as Budget Officer for the Town of Philipstown at a salary not to exceed that set forth in the 2013 budget
11.	Resolution appointing Susan Kenney as the Assistant Budget Officer at a salary not to exceed the 2013 budget.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED, that the Town Board hereby appoints Susan Kenney as the Assistant Budget Officer at a salary not to exceed the 2013 budget.
12.	Resolution authorizing Supervisor Shea to appoint Susan Kenney as Comptroller at a salary not to exceed that set forth in the 2013 budget.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by, and unanimously carried;
	RESOLVED, that the Town Board hereby appoints Susan Kenney as Comptroller at a salary not to exceed that set forth in the 2013 budget.
	Resolution authorizing Supervisor Shea to appoint Dorothy Turner as Confidential Secretary to the Supervisor at a salary not to exceed that set forth in the 2013 budget.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED, that Supervisor Shea hereby appoints Dorothy Turner as Confidential Secretary to the Supervisor at a salary not to exceed that set forth in the 2013 budget.
	Resolution authorizing Supervisor Shea to appoint Maureen Etta as Safety Coordinator at a salary not to exceed that set forth in the 2013 budget.

10. Resolution needed naming Supervisor Shea to act as Budget Officer for the

	RESOLUTION #-2013 The following Resolution was pre-	esented	by	,
	seconded by		and unanimo	usly carried;
	RESOLVED, that Supervisor She Coordinator at a salary not to exc			
15	.Resolution needed setting Pet	ty Cash	Funds:	
	Town Clerk/Tax Collector Superintendent of Highways Board of Assessors Recreation Department Code Administration	not to o	exceed \$450.00 at exceed \$100.00 at exceed \$ 65.00 at exceed \$100.00 at exceed \$ 50.00 at	a time a time a time
	RESOLUTION #-2013 The following Resolution was pre		-	Budney, seconded by
	RESOLVED, that the following P	etty Cas	sh Funds are appro	ved:
	Town Clerk/Tax Collector Superintendent of Highwa Board of Assessors Recreation Department Code Administration	ys	not to exceed \$ 45 not to exceed \$ 10 not to exceed \$ 6 not to exceed \$ 10 not to exceed \$ 5	0.00 at a time 5.00 at a time 0.00 at a time
16	Resolution appointing Supervi Association of Town's Meeting delegate in the event Supervise	and na	ıming Town Clerk	Merando an alternate
	RESOLUTION #-2013 The following Resolution was preseconded by	esented _ and ur	by nanimously carried;	,
	RESOLVED, that the Town Board delegate to the Annual Association Merando an alternate delegate in	on of To	wn's Meeting and i	narning Town Clerk
17	Resolution appointing Tina M. Town of Philipstown and that h			
	RESOLUTION #-2013 The following Resolution was preseconded by	esented	by	-d:

budget.

RESOLVED, that the Town Board hereby appoints Tina M. Merando as Registrar of Vital Statistics for the Town of Philipstown and that her compensation is the fee allowed by law.

18. Resolution appointing Kevin Donohue as Code Administrator, Zoning Administrator, Local Flood Plain Administrator, and Fire Marshall, at a salary not to exceed that set forth in the 2013 budget.

	RESOLUTION #-2013 The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED , that the Town Board hereby appoints Kevin Donohue as Code Administrator, Zoning Administrator, Local Flood Plain Administrator, and Fire Marshall, at a salary not to exceed that set forth in the 2013 budget.
19	Resolution appointing Robert Emerick as Deputy Code Administrator at a salary not to exceed the amount set forth in the 2013 budget.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED, that the Town Board hereby appoints Robert Emerick as Deputy Code Administrator at a salary not to exceed the amount set forth in the 2013 budget.
20	Resolution appointing Mariann Landolfi as Clerk to the Code Administrator at a salary not to exceed the amount set forth in the 2013 budget.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by, and unanimously carried;
	RESOLVED, that the Town Board hereby appoints Mariann Landolfi as Clerk to the Code Administrator at a salary not to exceed the amount set forth in the 2013 budget.
21.	Resolution appointing Susan DiStefano as Clerk to the Board of Assessors at a salary not to exceed the amount set forth in the 2013 budget.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by, seconded by and unanimously carried;
	RESOLVED , that the Town Board hereby appoints Susan DiStefano as Clerk to the Board of Assessors at a salary not to exceed the amount set forth in the 2013

22	Resolution appointing Frank Weise as Deputy Highway Superintendent at a salary not to exceed that set forth in the 2013 budget.
	RESOLUTION #-2013 The following Resolution was presented by .
	The following Resolution was presented by, seconded by, and unanimously carried;
	RESOLVED , that the Town Board hereby appoints Frank Weise as Deputy Highway Superintendent at a salary not to exceed that set forth in the 2013 budget.
23	Resolution appointing Maureen Etta as Clerk supporting the Highway. Department at a salary not to exceed that set forth in the 2013 budget.
	RESOLUTION #-2013
	The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED , that the Town Board hereby appoints Maureen Etta as Clerk to the Highway Department at a salary not to exceed that set forth in the 2013 budget.
24	Resolution appointing Susan Downey as Clerk to the Highway Superintendent at a salary not to exceed that set forth in the 2013 budget.
	RESOLUTION #-2013
	The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED , that the Town Board hereby appoints Susan Downey as Deputy Clerk to the Highway Department at a salary not to exceed that set forth in the 2013 budget.
25	. Resolution appointing Rosemary Bernasconi as Clerk to the Town Justices at a salary not to exceed the amount set forth in the 2013 budget.
	RESOLUTION #-2013
	The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED , that Rosemary Bernasconi is hereby appointed Clerk to the Town Justices at a salary not to exceed the amount set forth in the 2013 budget.
26	. Resolution appointing Annette Flaherty as Clerk to the Town Justices at a salary not to exceed the amount set forth in the 2013 budget.
	RESOLUTION #-2013
	The following Resolution was presented by, seconded by and unanimously carried;
	seconded by and unanimously carried;

RESOLVED, that Annette Flaherty is hereby appointed Clerk to the Town Justices at a salary not to exceed the amount set forth in the 2013 budget.

27. Resolution appointing Donald MacDonald as Town Historian.

	RESOLUTION #-2013
	The following Resolution was presented by, seconded by
	and unanimously carried;
	RESOLVED , that the Town Board hereby appoints Donald MacDonald as Town Historian.
28	Resolution appointing James Loeb, Adam L. Rodd and Stephen J. Gaba of Drake, Loeb, Heller, Kennedy, Fogerty, Gaba & Rodd, PLLC, as Counsel to the Town Attorney to serve at the pleasure of the Town Board, to advise the Planning Board, Zoning Board and handle Special Land Use issues; said attorney to be compensated at the rate of \$14,400.00 per year (\$1,200.00 per month) to represent the Zoning Board of Appeals, \$7,200.00 per year (\$600.00 per month) to represent the Planning Board for general services, advice and attendance at meetings, and at the rate of \$185.00 per hour for time to be charged to applicant's matters.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED, that the Town Board hereby appoints James Loeb, Adam L. Rodd and Stephen J. Gaba of Drake, Loeb, Heller, Kennedy, Fogerty, Gaba & Rodd, PLLC, as Counsel to the Town Attorney to serve at the pleasure of the Town Board, to advise the Planning Board, Zoning Board and handle Special Land Use issues; said attorney to be compensated at the rate of \$14,400 per year (\$1,200.00 per month) to represent the Zoning Board of Appeals, \$7,200.00 per year (\$600.00 per month) to represent the Planning Board for general services, advice and attendance at meetings, and at the rate of \$185.00 per hour for time to be charged to applicant's matters.
29	Resolution appointing Robert Cinque as Counsel to handle various litigation matters, including Tax Certiorari Litigation and shall be compensated at a rate of \$125.00 per hour.
	RESOLUTION #-2013 The following Resolution was presented by, seconded by and unanimously carried;
	RESOLVED , that the Town Board hereby appoints Robert Cinque as Counsel to handle various litigation matters, including Tax Certiorari Litigation and shall be

compensated at a rate of \$125.00 per hour.

30. Resolution appointing Robert Cinque as Counsel to the Town Attorney to handle Code Prosecutions and advise Code Administrator Officer at the rate of pay not to exceed that set forth in the 2012 budget.

RESOLUTION #-2013

The following Resolution was presented by Councilman Van Tassel, seconded by Councilwoman Budney and unanimously carried;

RESOLVED, that the Town Board hereby appoints Robert Cinque as Counsel to the Town Attorney to handle Code Prosecutions and advise Code Administrator Officer at the rate of pay not to exceed that set forth in the 2012 budget.

31. Resolution appointing Carl D'Ambrosio as Property Records Manager. **RESOLUTION #-2013** The following Resolution was presented by ______, seconded by _____ and unanimously carried; **RESOLVED**, that the Town Board hereby appoints Carl D'Ambrosio as Property Records Manager. 32. Resolution appointing Tina M. Merando and Joan Clauss as Marriage Officers. **RESOLUTION #-2013** The following Resolution was presented by _____, seconded by and unanimously carried: **RESOLVED**, that the Town Board hereby appoints Tina M. Merando and Joan Clauss as Marriage Officers. 33. Resolution appointing Nancy Montgomery as Deputy Supervisor. **RESOLUTION #-2013** The following Resolution was presented by ______, seconded by _____ and unanimously carried; **RESOLVED**, that the Town Board hereby appoints as Deputy Supervisor.

34. Town Clerk Merando to appoint Joan Clauss as Deputy Town Clerk, Deputy Tax Collector, Deputy Registrar at a salary not to exceed that set forth in the 2013 budget.

Town Clerk Merando hereby appoints Joan Clauss as Deputy Town Clerk, Deputy Tax Collector, Deputy Registrar at a salary not to exceed that set forth in the 2013 budget.

Edward Barticiotto

35. Town Clerk Merando to appoint Theresa Crawley as Deputy Town Clerk, Deputy Tax Collector and Sub-Registrar at a salary not to exceed that set forth in the 2013 budget.

Town Clerk Merando hereby appoints Theresa Crawley as Deputy Town Clerk, Deputy Tax Collector and Sub-Registrar at a salary not to exceed that set forth in the

	2013 budget.	J	,	
36	Resolution appointing E Advisory Council.	ric Lind Interim Cha	irman of the Con	servation
	RESOLUTION #-2013 The following Resolution of Councilman Montgomery	was presented by and unanimously cari	ied;	_, seconded by
	RESOLVED, that the Tow Conservation Advisory Co		ints Eric Lind Inte	rim Chairman of the
37	Resolution authorizing on as per budget allocation	•		
	RESOLUTION #-2013 The following Resolution visconded by	was presented by and ι	nanimously carrie	, ed;
	RESOLVED, that the Tow School Crossing Guard as 2013 budget.	n Board hereby autho	orizes compensati	on for the Garrison
38	.Resolution appointing tl	ne following to the C	ontinental Villag	e Water District:
	Ralph Bassignani Diane Barton Edward Barticiotto Ken Gonsalves Steve LeClaire Stan Houghton	Superintendent Water Tax Collector Assistant Water Trea Assistant Water Trea Assistant Water Trea	atment Plant Oper atment Plant Oper	rator rator
	RESOLUTION #-2013 The following Resolution v	vas presented by and unanimous		_, seconded by
	RESOLVED , that the Tow Village Water District.	n Board hereby appo	ints the following t	to the Continental
	Ralph Bassignani Diane Barton	Superintendent Water Tax Collector		

Assistant Water Treatment Plant Operator

Water Tax Collector

Ken Gonsalves	Assistant Water Treatment Plant Operator
Steve LeClaire	Assistant Water Treatment Plant Operator
Stan Houghton	Assistant Water Treatment Plant Operator

39. Resolution appointing th	e following to	the Continental	l Village Wat	er District
Advisory Committee:				

	•
	Michael Phelan
	Robert Sesselberg
	(Vacant Positions - 2)
	,
	RESOLUTION #-2013
	The following Resolution was presented by, seconded by
	and unanimously carried;
	RESOLVED , that the Town Board hereby appoints the following to the Continental Village Water District Advisory Committee:
	Michael Phelan
	Robert Sesselberg
	(Vacant Positions - 2)
	Resolution appointing Michael Phelan as Superintendent of the Continental Village Park District. RESOLUTION #-2013 The following Resolution was presented by
	seconded by and unanimously carried;
	RESOLVED, that the Town Board hereby appoints Michael Phelan as Superintendent of the Continental Village Park District.
41.	Resolution appointing the following to the Continental Village Park District Advisory Council:
	Frederick Romer
	Ken Gonsalves
	Tony Galfano
	(Vacant Positions 3)
	RESOLUTION #-2013
	RESOLUTION #-2013 The following Resolution was presented by , seconded by
	(Vacant Positions 3)

RESOLVED, that the Town Board hereby appoints the following to the Continental Village Park District Advisory Council:

Frederick Romer Ken Gonsalves Tony Galfano (Vacant Positions 3)

42. Resolution setting the Recreation pay scale for 2013 as follows:

SEASONAL EMPLOYEES		RANGE
Sports Director's & Managers	Season	\$800 -\$1,800
Youth Assistants	Hour	\$ 7.50-\$15.00
Adult Referees/Umpires	Hour	\$15.00-\$30.00
Youth Referees/Umpires	Hour	\$ 7.50-\$15.00
Scorer/Timer	Hour	\$ 7.50-\$15.00
Equipment Handlers	Hour	\$ 7.00-\$12.00
Pre-school & After School Directors	Hour	\$12.00-\$30.00
Assistants	Hour	\$ 8.00-\$20.00
Custodial	Hour	\$ 7.00-\$12.00

DIRECTORS/INSTRUCTORS

Camps/Clinics/Theatre	Hour	\$10.00-\$30.00
Certified Teachers	Hour	\$10.00-\$30.00
Youth Assistants	Hour	\$ 7.00-\$15.00
Specialists	Hour	\$20.00-\$60.00
Park/Facilities Maintenance	Hour	\$ 7.00-\$15.00

RESOLUTION #-2013

The following Resolution was presented by	, seconded by
and unanimously carried;	

RESOLVED, that the Town Board hereby sets the Recreation pay scale for 2013 as indicated above.

43. Resolution setting the 2013 hourly rate for part-time stenographers and part-time clerks as follows:

Tina Landolfi, Conservation Board	\$15.00/hr.
Tina Landolfi, Building Department	\$15.00/hr.
Ann Gallagher, Planning Board Secretary	\$22.00/hr.
Tina Landolfi, Zoning Board Secretary	\$16.00/hr.
Carl D'Ambrosio, Property Records p/t	\$12.00/hr.
Stan Houghton, Maintenance Worker, CVPD, p/t	\$17.00/hr.
Anne DiStefano, Assessor's p/t	\$12.00/hr.
Ryan Allen, Recycling Center p/t	\$15.00/hr.
Linda Lomanaco, School Crossing Guard	\$20.00/hr.

	RESOLUTION #-2013 The following Resolution was preseconded by	sented by,and unanimously carried;
	RESOLVED, that the Town Boar stenographers and part-time cler	d sets the 2013 hourly rate for part-time ks as indicated above.
44.	Resolution appointing Michael Board.	Leonard as Chairman of the Planning
	RESOLUTION #-2013 The following Resolution was preseconded by	sented by,and unanimous carried;
	RESOLVED, that the Town Boar the Planning Board.	d hereby appoints Michael Leonard as Chairman of
45.	Resolution appointing Vincent of Appeals.	Cestone as Chairman of the Zoning Board
	RESOLUTION #-2013 The following Resolution was preseconded by	sented by, and unanimously carried;
	RESOLVED , that the Town Boar the Zoning Board of Appeals.	d hereby appoints Vincent Cestone as Chairman of
46.		Cinque as Counsel to the Town Attorney to I advise Code Administrator Officer at the set forth in the 2013 budget.
	RESOLUTION #-2013 The following Resolution was preseconded by	sented by, and unanimously carried;
		d hereby appoints Robert Cinque as Counsel to the rosecutions and advise Code Administrator Officer nat set forth in the 2013 budget.
47.	Supervisor Shea appoints the the following:	following Council members as liaisons to
	Highway Committee	Betty Budney
	Planning Board	Nancy Montgomery

Land & Building John Van Tassel & Richard Shea

Zoning Board John Van Tassel

Conservation Board Nancy Montgomery

Signs & Streets Betty Budney

Village of Cold Spring Betty Budney

Village of Nelsonville Richard Shea

CVPOA David Merandy

Haldane School John Van Tassel

Garrison School David Merandy

Fire Companies Garrison – Richard Shea

North Highlands – John Van Tassel

Finance Committee Richard Shea

Betty Budney

Recreation David Merandy & John Van Tassel

Butterfield Library Betty Budney & Nancy Montgomery

Information Officer Nancy Montgomery

48. Resolution approving the 2013 Holiday Schedule:

New Year's Day	Tuesday	01-01-2013
Martin Luther's Day	Monday	01-21-2013
Presidents Day	Monday	02-18-2013
Good Friday	Friday	03-29-2013
Memorial Day	Monday	05-27-2013
Independence Day	Thursday	07-04-2013
Labor Day	Monday	09-02-2013
Columbus Day	Monday	10-14-2013

Election Day	Tuesday	11-05-2013
Veterans Day	Monday	11-11-2013
Thanksgiving	Thursday	11-28-2013 & 11-29-2013
	` •	er Thanksgiving must be omp or vacation time)
Christmas	Wednesday	12-25-2013 & 12-26-2013
	· •	istmas comp or vacation if lls on a Mon., Tues., Wed., n.)
RESOLUTION #-2013 The following Resolution was presented by and unanime		, seconded by
RESOLVED, that the Town Board hereby ap indicated above.	proves the 2013	3 Holiday Schedule as
There being no further business to discuss, _seconded by and una Meeting at p.m.		made a motion, d to close the Reorganization
	Respe	ectfully submitted by,
		3. Clauss v Town Clerk
	Debut	v TOWIT CIETK

The Town Board of the Town of Philipstown held their Monthly Meeting on the above date at 7:30 p.m., at the Town Hall, 238 Main Street, Cold Spring, New York.

PRESENT: Richard Shea Supervisor

Betty Budney Councilwoman
Nancy Montgomery Councilwoman
John Van Tassel Councilman
David Merandy Councilman

ABSENT: Edward Doyle Town Attorney

Supervisor Shea opened the meeting with a Salute to the Flag.

REVIEW OF MINUTES

The Minutes of the Weekly Town Board Meeting of September 19, 2012, were reviewed.

Councilman Van Tassel made a motion, seconded by Councilwoman Budney and unanimously carried that the Minutes of the Weekly Town Board Meeting of September 19, 2012, are hereby approved as presented.

The Minutes of the Weekly Town Board Meeting of October 31, 2012, were reviewed.

Councilman Van Tassel made a motion, seconded by Councilman Merandy and unanimously carried that the Minutes of the Weekly Town Board of October 31, 2012, are hereby approved as presented.

The Minutes of the Public Hearing of November 1, 2012, were reviewed.

Councilwoman Budney made a motion, seconded by Councilman Merandy and unanimously carried that the Minutes of the Public Hearing of November 1, 2012, are hereby approved as presented.

The Minutes of Monthly Town Board Meeting of November 1, 2012, were reviewed.

Councilman Merandy made a motion, seconded by Councilwoman Budney and unanimously carried that the Minutes of the Monthly Town Board Meeting of November 1, 2012, are hereby approved as presented.

The Minutes of the Budget Public Hearing-CVPD & CVWD of November 8, 2012, were reviewed.

Councilwoman Budney made a motion, seconded by Councilman Van Tassel and unanimously carried that the Minutes of the Budget Public Hearing-CVPD & CVWD of November 8, 2012, are hereby approved as presented.

The Minutes of the Budget Public Hearing-PVAC of November 8, 2012, were reviewed.

Councilman Merandy made a motion, seconded by Councilwoman Budney and unanimously carried that the Minutes of the Budget Public Hearing-PVAC of November 8, 2012, are hereby approved as presented.

The Minutes of the Budget Public Hearing of November 8, 2012, were reviewed.

Councilman Van Tassel made a motion, seconded by Councilwoman Budney and unanimously carried that the Minutes of the Budget Public Hearing-GVAC of November 8, 2012, are hereby approved as presented.

The Minutes of the Public Hearing of November 8, 2012, were reviewed.

Councilman Merandy made a motion, seconded by Councilwoman Montgomery and unanimously carried that the Minutes of the Budget Public Hearing-General of November 8, 2012, are hereby approved as presented.

The Minutes of the Continuation of Budget Hearings of November 14, 2012, were reviewed.

Councilman Merandy made a motion, seconded by Councilwoman Montgomery and unanimously carried that the Minutes of the Continuation of Budget Hearings of November 14, 2012, are hereby approved as presented.

The Minutes of the Weekly Town Board Meeting of November 14, 2012, were reviewed.

Councilwoman Budney made a motion, seconded by Councilman Merandy and unanimously carried that the Minutes of the Weekly Town Board Meeting of November 14, 2012, are hereby approved as presented.

The Minutes of the Public Hearing-Chapter 90 Flooding of November 20, 2012, were reviewed.

Councilwoman Budney made a motion, seconded by Councilwoman Montgomery and unanimously carried that the Minutes of the Public Hearing-Chapter 90 Flooding of November 20, 2012, are hereby approved as presented.

The Minutes of the Public Hearing-Chapter 175-Notices of November 20, 2012, were reviewed.

Councilman Merandy made a motion, seconded by Councilwoman Montgomery and unanimously carried that the Minutes of the Public Hearing-Chapter 175-Notices of November 20, 2012, are hereby approved as presented.

Councilman Van Tassel noted that the minutes say that he was absent, but in fact he was there (although he arrived late).

The Minutes of the Special Meeting of November 20, 2012, were reviewed.

Councilman Merandy made a motion, seconded by Councilwoman Montgomery and unanimously carried that the Minutes of the Special Meeting of November 20, 2012, are hereby approved as presented.

The Minutes of the Bid Opening of November 21, 2012, were reviewed.

Councilwoman Budney made a motion, seconded by Councilman Van Tassel and unanimously carried that the Minutes of the Bid Opening of November 21, 2012, are hereby approved as presented.

COMMITTEE REPORTS

CB – Councilwoman Montgomery did not have her report but could report that there was an application for a wetlands permit on Route 9D and Snake Hill Road, which was granted. They attended a workshop this past week at the Audubon Society.

RECREATION –Councilman Van Tassel and Councilman Merandy attended the commission meeting, but deferred the report to Amber Stickler. She reported that they met on the last Tuesday of November. Their upcoming family ice-skating event will be January 18, which was not in the recreation book. She encourages families to call as soon as possible as this event fills up fast and they cannot take walk-ins at the door. They had a senior luncheon at the end of November with 88 seniors present. Amber thanked the staff and volunteers. They also had a teen night in November and she said it was one of the most successful.

Amber reported that they opened the night of the hurricane and had nine (9) people come in. There was a family of four (4) and another family of two (2) who stayed overnight. The generator ran for approximately 28 hours with no problems. Overall it was fairly successful and she would like to work with the Town Board in 2013 to see how the town could better prepare the building for further emergencies. They also, in conjunction with that, housed FEMA for five days and developed a successful relationship.

The town park closed Thanksgiving weekend and is now closed for the season.

The commission voted on a new executive committee - John Masik, Chairman, Bill Mazzuca, Vice-Chairman. Finally there was a presentation given by Debbie Lynn who presented the "Friends of Philipstown Dog Park", a group of community members who want to come together to work with the Recreation to make the dog park a better experience for all. She will be meeting with them after the New Year to start the process.

Councilman Van Tassel thanked Amber on behalf of the town for coming out at midnight and opening up the center during the hurricane.

RECYCLING – Councilwoman Budney noted they may be closing the center on Saturday, December 29, 2012. The closure will be posted in the PCNR and on the website. She also wanted to remind everyone that whenever the weather is bad the center would be closed.

PLANNING BOARD - Councilwoman Montgomery reported that they met on November 15, 2012. She reported on the items on the agenda. Also discussed at the meeting; trying to use e-mail addresses, winter month's site visits will be held at noon and they are planning a two-hour training session with AKRF in January or February. Next meeting will be January 17, 2012 @7:30pm at the VFW hall. Supervisor Shea had a question about Lyons Realty. He wanted to know if there would be no further subdivision after dividing the 137 acres into two lots, or is that with the 50 acres? Councilwoman Montgomery said that she believes that the intent of no further subdivision was possibly a request by the Planning Board. Mike Leonard said that the recommendation came from the attorney and is for this particular phase and does not mean it precludes it from happening down the line.

ZONING – Councilman Van Tassel reported on the items on the agenda. He noted that the Zoning Board does not meet in December, therefore the next meeting will be held on January 13, 2013.

HIGHWAY – Councilwoman Budney read the September monthly report submitted by Highway Superintendent Roger Chirico. The report is on file in the Town Clerk's Office for anyone wishing to review.

BUILDING & LAND ACQUISITION – Supervisor Shea and Councilman Van Tassel have a meeting with a local architect to take a look at the American Legion building next door to talk about the feasibility for some additional usable space.

GVFD –The newly elected President, Betsy Calhoun, said that she had just learned that it is customary to give a monthly report. She reported that they had a very nice breakfast with Santa. Then went on to say how proud she was of the members who worked through the hurricane rescuing 6 six people from Hudson River Lane from the floodwaters.

Supervisor Shea acknowledged our County Legislator elect Barbara Scuccimarra.

Claudio Marzollo reported on the theatre expenses. He wanted to clarify some information. One item in particular was the amount of monies collected to install a sprinkler system. The amount collected was \$30,000 not \$120,000. When the word came down from the Department of State that they did not have to install a sprinkler system they stopped the work. The cost up to that point was approximately \$18,000. There were other costs involved and some monies were used to install a fire alarm system, curtains and an air conditioner. This cost more than \$40,000. They did have one request to return a portion of their donation. And this was done.

Councilman Merandy asked about a pledge from Sandy Galef. Mr. Marzollo said that that money was specifically marked for capital improvements and could not be used for this project.

TOWN OF PHILIPSTOWN MONTHLY REPORT OF TOWN SUPERVISOR MONIES RECEIVED AS OF December 6, 2012

GENERAL & PART-TOWN FUNDS

Rec. Community Recycling	\$ 81.80
Justice Fee	5,458.00
Tax Coll Bank Int.	445.27
T.C. Fee 10/12	550.80
T.C. Fee Dog 10/12	373.50
Put. Co. VFW Rental	100.00
AW Scrap Metal	1350.00
Rec. Fees 10/12	26,458.17
Bank Int.	80.23
Bldg. Fee 11/12	14,755.00
Justice Fee 11/12	8,925.00
CTV Fees	10,847.00
T.C. Fees 11/12	223.23
T.C. Fees Dogs 11/12	306.50

<u>HIGHWAY FUND</u>

	563.29
P.C. – Gas	521.76
Gen. Fund - Gas	1,797.35
P. C Gas	95.51
Bank Int.	1,905.76
P.C Gas	384.30
Gen Fund Ch Gas	

CONTINTENTAL VILLAGE WATER DISTRICT

1.82

Bank Interest

CONTINENTAL VILLAGE PARK DISTRICT

	8.52
Interest	525.00
Clubhouse Fees	

AGENDA

1. Resolution adopting the Town of Philipstown Workplace Anti-Violence Policy.

Supervisor Shea said that this is something that Dottie Turner has been working on and we need to adopt it.

RESOLUTION #-2012

The following Resolution was presented by Councilwoman Montgomery, seconded by Councilwoman Budney and unanimously carried;

RESOLVED, that the Town Board hereby adopts the Workplace Anti-Violence Policy as part of the Town's Safety Manual, effective immediately.

Supervisor Shea asked about adopting an incident report. Town Clerk Merando said that there was none in this packet. She would confirm with Ms. Turner.

2. Resolution authorizing Supervisor Shea to sign the contract between the Town of Philipstown and the Garrison Volunteer Fire Department for fire protection services for the year 2013.

RESOLUTION #-2012

The following Resolution was presented by Councilwoman Budney, seconded by Councilman Van Tassel and unanimously carried;

RESOLVED, that the Town Board authorizes Supervisor Shea to sign the contract between the Town of Philipstown and the Garrison Volunteer Fire Department for fire protection services for the year 2013.

3. Resolution authorizing Supervisor Shea to sign the contract between the Town of Philipstown and the Continental Village Volunteer Fire Department for fire protection services for the year 2013.

RESOLUTION #-2012

The following Resolution was presented by Councilman Van Tassel, seconded by Councilman Merandy and unanimously carried:

RESOLVED, that the Town Board hereby authorizes Supervisor Shea to sign the contract between the Town of Philipstown and the Continental Village Volunteer Fire Department for fire protection services for the year 2013.

4. Resolution authorizing Supervisor Shea to sign the contract between the Town of Philipstown and the Cold Spring Fire Department for fire protection services for the year 2013.

RESOLUTION #-2012

The following Resolution was presented by Councilwoman Budney, seconded by Councilman Merandy and unanimously carried;

RESOLVED, that the Town Board hereby authorizes Supervisor Shea to sign the contract between the Town of Philipstown and the Cold Spring Fire Department for fire protection services for the year 2013.

5. Resolution authorizing Supervisor Shea to sign the contract between the Town of Philipstown and the Philipstown Volunteer Ambulance Corps for furnishing emergency ambulance services for the year 2013.

RESOLUTION #-2012

The following Resolution was presented by Councilman Van Tassel, seconded by Councilwoman Montgomery and unanimously carried;

RESOLVED, that the Town Board hereby authorizes Supervisor Shea to sign the contract between the Town of Philipstown and the Philipstown Volunteer Ambulance Corps for furnishing emergency ambulance services for the year 2013.

6. Resolution authorizing Supervisor Shea to sign the contract between the Town of Philipstown and the Garrison Volunteer Ambulance Corps for furnishing emergency ambulance services for the year 2013.

RESOLUTION #-2012

The following Resolution was presented by Councilwoman Budney, seconded by Councilman Merandy and unanimously carried;

RESOLVED, that the Town Board hereby authorizes Supervisor Shea to sign the contract between the Town of Philipstown and the Garrison Volunteer Ambulance Corps for furnishing emergency ambulance services for the year 2013.

7. Resolution authorizing Supervisor Shea to sign the contract between the Town of Philipstown and David Klotzel for Wetlands Inspector for the year 2013.

RESOLUTION #-2012

The following Resolution was presented by Councilwoman Montgomery, seconded by Councilman Merandy and unanimously carried;

RESOLVED, that the Town Board hereby authorizes Supervisor Shea to sign the contract between the Town of Philipstown and David Klotzel for Wetlands Inspector for the year 2013.

8. Resolution authorizing Supervisor Shea to sign the contract between the Town of Philipstown and Thomas Rippolon for video services for the year 2013.

RESOLUTION #-2012

The following Resolution was presented by Councilman Van Tassel, seconded by Councilwoman Montgomery and unanimously carried;

RESOLVED, that the Town Board hereby authorizes Supervisor Shea to sign the contract between the Town of Philipstown and Thomas Rippolon for video services for the year 2013.

9. Resolution authorizing the installation of a secure front door to control access at the Claudio Marzollo Community Center.

Supervisor Shea said that this is an effort to make our buildings more secure. They have had meetings with Putnam County's Sheriff and consultations with security experts. They are taking small steps to guarantee everyone's safety. Amber Stickler asked about how we plan to pay for this – do we want to wait until next year? Supervisor Shea said they have various options and he recommends doing the work now and paying out of 277.

RESOLUTION #-2012

The following Resolution was presented by Councilman Van Tassel, seconded by Councilman Merandy and unanimously carried;

RESOLVED, that the Town Board hereby authorizes the installation of a secure front door to control access at the Claudio Marzollo Community Center.

10. Schedule Workshops/Meetings.

Workshops

- December 27, 2012 @7:30 pm Year end Meeting
- January 3, 2013 @7:00 pm Re-organization
- January 3, 2013 @7:30 pm Monthly Town Board Meeting
- January 9, 2013 @7:30 pm Workshop with GVFD
- January 16, 2013 @7:30 pm Workshop re: dirt roads

Mr. Terry Zaleski, resident of Old Albany Post Road, is requesting an opportunity, on behalf of a group of about 30 residents, to have a meeting/workshop to discuss dirt roads in the Town. Supervisor Shea agreed to meet with them at a workshop on January 16, 2013 @7:30pm.

11. Code Enforcement Monthly Report.

Town Clerk Merando read the Monthly Reports for October and November, which are on file in the Town Clerks office.

12. Award Highway Materials Bids

Town Clerk Merando said that they have received a letter of recommendation from Highway Superintendent; the bids are on file in the Town Clerks office for review.

Councilman Merandy questioned why some bids that were cheaper were not awarded. Town Clerk Merando explained the reason for that was the travel distance to pick up the materials.

RESOLUTION #-2012

The following Resolution was presented by Councilman Merandy, seconded by Councilwoman Montgomery and unanimously carried;

RESOLVED, that the Town Board hereby accepts the recommendation of the Highway Superintendent for the Material bids for 2013.

13. Resolution accepting the resignation of Edward W. Doyle effective December 31, 2012.

Supervisor Shea said that it would be the end of an era and it is with regret that we would accept the resignation. He said, "The Doyle's have been serving the Town for (50) fifty years". The one thing Supervisor Shea wanted to say about Mr. Doyle was that he paid great attention to detail; he was always an asset and never failed us. He noted that we would be left with a real task of finding someone to replace him. Supervisor Shea said that they are considering going with a firm we use now, for a year. His preference would be Adam Rodd, but will take recommendations from others.

RESOLUTION #-2012

The following Resolution was presented by Councilwoman Budney, seconded by Councilman Van Tassel and unanimously carried;

RESOLVED, that the Town Board hereby accepts the resignation of Edward W. Doyle as Town Attorney effective December 31, 2012.

14. Resolution authorizing the Supervisor to submit a Letter of Interest to the NYS Division of Homeland Security and Emergency Services for a Multi-Jurisdiction All-Hazards Mitigation Planning Grant.

Supervisor Shea noted that this is something Kevin Donohue has been working on. It would be long-term. This would avail the Town various grants so we can go to work on mitigation of roads in certain areas. We would like to be able to work globally and get a more comprehensive look at the town and this all-hazards mitigation plan would allow us to access funds that we currently can't.

RESOLUTION #-2012

The following Resolution was presented by Councilwoman Budney, seconded by Councilwoman Montgomery and unanimously carried;

RESOLVED, that the Town Board hereby authorizes the Supervisor to submit a Letter of Interest to the NYS Division of Homeland Security and Emergency Services for a Multi-Jurisdiction All-Hazards Mitigation Planning Grant.

Supervisor Shea noted that this would also include the Villages of Nelsonville and Cold Spring.

15. Resolution authorizing the Supervisor to sign the Youth Bureau grant for fiscal year 2012 and direct Town Clerk Merando to forward to Putnam County to secure monies allocated.

Amber Stickler said that this is something she and Tina Merando work on each year. This helps offset the costs of the work program.

RESOLUTION #-2012

The following Resolution was presented by Councilman Van Tassel, seconded by Councilwoman Montgomery and unanimously carried;

RESOLVED, that the Town Board hereby authorizes the Supervisor to sign the Youth Bureau grant for fiscal year 2012 and direct Town Clerk Merando to forward to Putnam County to secure monies allocated.

16. Resolution appointing Kathy Tomann as a member of the Board of Assessment Review to fill the vacancy of Peter Richter, whose term will expire September 30, 2017.

RESOLUTION #-2012

The following Resolution was presented by Councilman Van Tassel, seconded by Councilwoman Budney and unanimously carried;

RESOLVED, that the Town Board hereby appoints Kathy Tomann as a member of the Board of Assessment Review to fill the vacancy of Peter Richter, whose term will expire September 30, 2017.

17. Resolution endorsing the application for a grant under the New York State Conservation Partnership Program for a project known as the Building on Past Success: Putting the HHLT Land Protection Plan and Strategic Plan (2013-2017) into action.

Andy Chmar said that they are applying for a grant that will add one more job to the Town of Philipstown. They will be hiring a Land Steward for the Land Trust. This grant is from the NYS Conservation Partnership Program that is administered by the Land Trust Alliance Group through funding from the Department of Environmental Conservation and this will be our third grant for staffing position we saw over the last seven years. This is why they are asking for the Towns support. It is a two-year grant and the position will be permanent.

RESOLUTION #-2012

The following Resolution was presented by Councilwoman Montgomery, seconded by Councilwoman Budney and unanimously carried:

WHEREAS, the HUDSON HIGHLANDS LAND TRUST is applying for a two-year \$60,000 Professional Development grant through the New York State Conservation Partnership Program, a partnership between the Land Trust Alliance and the State of New York; and,

WHEREAS, through its recently adopted 5-year Strategic Plan the Land Trust has identified a critical need for a Land Steward to properly monitor and steward the lands it's preserved through conservation easement donations; and,

WHEREAS, the Land Trust has permanently protected over 1700 acres of land within its mission area through its conservation easement work with private landowners, along with at least an additional 1000 acres added to local state parks in its role as 3rd party facilitator with NYS agencies, thus furthering the conservation interests of the State of New York and the residents of Philipstown; and,

WHEREAS, the Hudson Highlands Land Trust has been a trusted partner with, and supporter of the TOWN OF PHILIPSTOWN on a variety of projects during the past decade, including: sponsoring the Philipstown 2020 forum, development of a community-wide Natural Resources and Open Space Plan, completing the first-ever Philipstown Build out Analysis, underwriting the Town-wide Cleanup in 2010 and 2011, and assisting with residents' work from 2006 to 2011, which resulted in the adoption of Town-wide zoning in 2011, a local law that will ensure the protection of our community's character and natural resources for decades to come; and,

WHEREAS, the Land Trust makes assisting local municipalities, with its unique resources, one of its primary goals for achieving its mission of protecting natural resources, rural character, and scenic beauty in the Hudson Highlands; and,

WHEREAS, the addition of a Land Steward to the staff will further ensure HUDSON HIGHLANDS LAND TRUST continues its unparalleled work on behalf of the TOWN OF PHILIPSTOWN by preserving more land, ensuring the lands it's already protected are properly managed, and providing natural resources expertise to localities;

NOW, THEREFORE, in consideration of the foregoing be it resolved that the governing board of the TOWN OF PHILIPSTOWN hereby does endorse the application for a grant under the New York State Conservation Partnership Program for a project known as the Building on Past Success: Putting the HHLT_Land Protection Plan and Strategic Plan (2013-2017) into Action

18. Resolution releasing the escrow funds in the matter of Mary Ellen Finger's Planning Board application.

Town Clerk Merando read the letter from Drake Loeb Heller Kennedy Gogerty Gaba & Rodd releasing the funds.

RESOLUTION #-2012

The following Resolution was presented by Councilman Van Tassel, seconded by Councilwoman Montgomery and unanimously carried;

RESOLVED, that the Town Board hereby authorizes releasing the escrow funds in the matter of Mary Ellen Finger's Planning Board application.

19. Resolution accepting the resignation of Seth Dinitz from the Philipstown Recreation Commission effective immediately and authorize Town Clerk Merando to advertise for the vacancy.

<u>Supervisor Shea thanked Mr. Dinitz for his service.</u> Councilwoman Montgomery also thanked Mr. Dinitz.

RESOLUTION #-2012

The following Resolution was presented by Councilman Van Tassel, seconded by Councilman Merandy and unanimously carried;

RESOLVED, that the Town Board hereby accepts the resignation of Seth Dinitz from the Philipstown Recreation Commission effective immediately and authorizes Town Clerk Merando to advertise for the vacancy.

20. Mary Ellen Finger to address the Town Board regarding Escrow and Recreation Fees.

Mary Ellen Finger addressed the Town Board requesting two resolutions for the refund of her Planning Board Escrow Balance and her Residential Plat Recreation fees. She thanked the Town Board for the first resolution - the return of the Escrow Balance and went on to request the return of the Residential Plat Recreation fees. She is asking that the first \$5,000 be released immediately with the decision on the remaining \$5,000 after consideration of the following details; it is her belief that the fees levied to initiate phase I of her subdivision were incorrectly calculated and resulted in an overpayment of \$5,000. She referred to Town Code Chapter 71-4 (Residential Plat Recreation Fees) and 175-74. (Agriculture). Since there is only one residential lot in her subdivision she is requesting that the second \$5,000 be returned immediately. Supervisor Shea said that Town Attorney Doyle is away and he would reach out to him as soon as he returns to see if he is ready to render his opinion.

21. Any other business that may come before the Town Board.

Resolution authorizing Supervisor Shea to sign a Presidential Declaration for the public assistance program applicant certification form.

Supervisor Shea explained that this is so that people can access the public assistance portion of FEMA Funding.

RESOLUTION #-2012

The following Resolution was presented by Councilman Van Tassel, seconded by Councilwoman Budney and unanimously carried;

RESOLVED, that the Town Board hereby authorizes Supervisor Shea to sign the Presidential Declaration for the public assistance program applicant certification form.

22. Resolution authorizing Supervisor Shea to sign the change order in the matter of the Indian Brook Road East Bank Stabilization Project in the amount of \$1,720.

Supervisor Shea said that both the engineer and Highway Superintendent said that this was a justified expense.

RESOLUTION #-2012

The following Resolution was presented by Councilwoman Budney, seconded by Councilwoman Montgomery and unanimously carried;

RESOLVED, that the Town Board hereby authorizes Supervisor Shea to sign the change order in the matter of the Indian Brook Road East Bank Stabilization Project in the amount of \$1,720.

23. Resolution supporting the Town of Fishkill's application to the Greenway for funding for the Fjord Trail Master Plan.

Supervisor Shea explained that this is a continuing effort to push forward the Hudson Fjord trail connecting Cold Spring to Breakneck and eventually on to Beacon in the 9D corridor. It has been done once before and Fishkill has put up the application again and he would like to cosponsor with Fishkill.

RESOLUTION #-2012

The following Resolution was presented by Councilman Van Tassel, seconded by Councilwoman Budney and unanimously carried:

WHEREAS, the Town of Philipstown is a co-applicant to the Town of Fishkill's Hudson River Valley Greenway for a grant under the Greenway Communities Grant Program for a project entitled The Hudson Fjord Hike/Bike trail to be located in the Town of Philipstown, Village of Cold Spring, Town of Fishkill and City of Beacon.

WHEREAS, the grant application requires the co-applicant municipality to obtain the approval/endorsement of the governing body of the municipality or municipalities in which the project will be located;

NOW, THEREFORE, be it resolved that the governing board of the Town of Philipstown hereby does approve and endorse the application for a grant under the Greenway Communities Grant Program, for a project known as The Hudson Fjord Hike/Bike Trail and located within this community.

24. Resolution authorizing the Town Board to accept the proposal submitted by Boorom Facility Solutions for Engineering/Design Services for the replacement and

upgrading of the heating system at the Philipstown Recreation Center in the amount of \$16,400.

Councilman Merandy reported that Town Attorney Doyle has gone over this proposal and made corrections. This is just the first step in getting things together to get prices on what is needed there. Supervisor Shea said this is an effort to replace the boiler at Recreation and this is a design proposal. He said it would be good to get the boiler replaced down there since the one there now is an antique.

RESOLUTION #-2012

The following Resolution was presented by Councilman Merandy, seconded by Councilwoman Montgomery and unanimously carried;

RESOLVED, that the Town Board accepts the proposal submitted by Boorom Facility Solutions for Engineering/Design Services for the replacement and upgrading of the heating system at the Philipstown Recreation Center in the amount of \$16,400.

Amber Stickler asked if this was coming out of the TL Fund and then would get reimbursed by the bond? Supervisor Shea said that we would have room later when other bonds come off and then will bundle several things together when the time comes. Amber stated that she would also like to reevaluate the field issue in 2013.

Councilman Van Tassel said that while the boiler room is being renovated we should entertain the thought of putting in a sprinkler system. Amber agrees, but has gotten pressure from members of the commission in that their concern is that if we are going to do any interior remolding we are doubling the work. She feels that this is so far down the line that we are just going to be spinning, but asks for the Town Board's backing when the time comes.

AUDIENCE

Mr. Andy Merante addressed the Town Board about the highway material bids and his question was why a higher bid was accepted when there was a lower bid? Supervisor Shea explained that the bid price plus factoring in the distance from where it has to be picked up would make the actual cost higher. Councilman Merandy questioned if the specs ask for just the material price or do they ask about delivery. Supervisor Shea said that the specifics are addressed in the bid package, everything is laid out.

Mr. Andy Chmar presented a letter from the residents of Walmer Lane thanking Supervisor Shea and Roger Chirico for all their efforts in helping resolve the bridge demo after Hurricane Irene and the steps taken to make access into Walmer Lane easier.

VACANCIES

Recreation Commission (1) CV Park District Advisory Committee (3) CV Water District Advisory Committee (2)

APPROVAL OF **VOUCHERS**

Councilwoman Montgomery made a motion, seconded by Councilman Van Tassel and unanimously carried that the General Vouchers in the amount of \$124,639.63 are hereby approved as set forth in Abstracts 11A & 12

Councilwoman Budney made a motion, seconded by Councilwoman Montgomery and unanimously carried that the Highway Vouchers in the amount of \$278,167.46 are hereby approved as set forth in Abstracts 11A & 12

Councilwoman Montgomery made a motion, seconded by Councilwoman Budney and unanimously carried that the CVPD Vouchers in the amount of \$2,481.84 are hereby approved as set forth in Abstract 11A & 12.

Councilwoman Budney made a motion, seconded by Councilwoman Montgomery and unanimously carried that the CVWD Vouchers in the amount of \$5,784.84 are hereby approved as set forth in Abstracts 12.

There being no further business to discuss, Councilwoman Montgomery made a motion, seconded by Councilwoman Budney to close the Town Board Monthly Meeting at 9:10 p.m.

Respectfully submitted by,

Theresa Crawley
Deputy Town Clerk



December 19, 2012

Supervisor Richard Shea PO Box Box 155, 238 Main St. Philipstown, N.Y. 10516

Dear Supervisor Shea,

Enclosed is the contract for shelter services between the Town of Philipstown and the Putnam Humane Society for 2013. The amount, as agreed, will stay at the 2012 amount of \$10,500. Also included is the list of additional services PHS provides to residents.

We thank you for your support, and wish you all the best in 2013.

Sincerely,

Michele Dugan President, PHS

Encl.

AGREEMENT BETWEEN THE TOWN OF PHILIPSTOWN AND THE PUTNAM COUNTY HUMANE SOCIETY FOR THE PROVISION OF DOG SHELTER SERVICES FOR THE YEAR OF 2013

AGREEMENT made and entered into this day of December, 2012 by and between the TOWN OF PHILIPSTOWN, a municipal corporation of the State of New York, having its principal office and place of business at 238 Main Street, Cold Spring, New York, 10516 (the "TOWN"), and the PUTNAM COUNTY HUMANE SOCIETY, a New York not-for-profit corporation, having as its principal mailing address at P.O. Box 297, Philipstown, New York 10512 (the "Society")

WITNESSETH

IN CONSIDERATION OF the mutual promises, covenants and conditions contained herein, the parties hereby agree as follows:

- 1. This agreement is for a term of one (1) year, commencing on January 1st, 2013, and terminating on December 31st, 2013. Said commencement is subject to the provisions of paragraph 4 below.
- 2. The Society shall provide dog shelter services in accordance with the provisions set forth in Article 7 of the Agriculture and markets law of the State of New York. It is expressly understood that the Town will provide its own Dog Control Officer and be responsible for such services and matters related thereto.
- 3. In consideration of the foregoing, the Town agrees to pay to the Society the sum of \$10,500.
- 4. The foregoing consideration shall be made as a single payment on or before March 1, 2013. It is understood that the duties, obligations and responsibilities of the Society hereunder shall all immediately terminate in the event that the said single payment shall not have been made by March 1, 2013.
- 5. The Society shall be open to the public from 10:00 AM until 4:00 PM, seven (7) days a week except legal holidays. The Town's Dog Control Officer shall nevertheless have access to the facility 24 hours per day, seven days per week.
- 6. Subject to limitations of capacity, the Society will accept privately owned dogs to be surrendered by Town residents provided they are 'adoptable". "Adoptable" means the dogs are not aggressive, do not bite and are not of poor health or old age. PHS does make exceptions for older dogs that are adoptable. We have placed many senior dogs, and also offer a foster program for senior dogs with special needs. Residents may bring the dogs to the shelter by appointment during the hours that the shelter is open. The shelter will require such pets are spayed/neutered, vaccinated, and tested for heartworm disease. If they are not, the owner will be asked to donate towards having these services done if they are able.

- 7. The Society will not assume any liability, responsibility or costs associated with the Town providing its own Dog Control Officer services. This includes such services in connection with dogs that require emergency medical attention prior to being brought to the Society. The Town will provide the Society the name of the dog Control Officer and a means by which to contact said Dog Control Officer.
- 8. This agreement is and shall be exclusively for shelter services and shall not include any veterinary, training or other services associated with or customarily utilized by or for dogs.
- 9. Except as may be otherwise provide herein, the parties agree to comply with all of the provisions of the law of the state of New York applicable to the Agreement and the subject matter thereof.
- 10. Neither party may assign or transfer this Agreement or any rights hereunder without the prior express written consent of the other party.
- 11. In the event of any breach of this Agreement or any default hereunder without the prior express written consent of the other party, at is sole option, the non breaching party shall have the right to terminate this Agreement upon thirty (30) days written notice, sent by certified mail, return receipt requested, to the breaching party. In such event, an amount equal to the unused portion of the single payment provided for in paragraph 3 above shall be refunded to the Town.
- 12. The Society makes no representation that this Agreement fulfills the obligations of the Town under the Agriculture and Market Law, except that the Society is a duly incorporated humane society authorized to provide shelter services in accordance with Section 115 of the New York Agriculture and Markets Law.
- 13. All representations made by the Society to the Town are contained in this Agreement and any representations made outside of this Agreement, whether written, verbal or otherwise, are deemed merged into and superseded by this Agreement.
- 14. This Agreement constitutes the entire agreement between the parties and any amendments thereto or modifications thereof shall be in writing signed by both parties. Subject to the provisions of paragraphs 10 and 12, this Agreement shall ensure to and be binding upon the heirs, successors and assigns of the parties hereto. This Agreement shall be construed in accordance with the laws of the State of New York. In the event any part of this Agreement be held invalid or unenforceable by any Court, the remaining parts of this Agreement shall nevertheless remain in full force and effect.
- 15. The Society will turn over to the Town by the 7th day of each month all Town seizure records and related fees.
- 16. The Society shall comply with the Town of Philipstown's Insurance Requirements as listed in the attached Schedule "A" Certificates of Insurance as required by said Insurance Requirements shall be furnished with the signed counterparts of this contract.

17. The Society shall comply with all applicable Federal and State laws, statues, rules and regulations in regard to the preparation and submission of an independent financial audit and, if required to prepare same, shall submit said independent financial report with ninety (90) days to the close of their fiscal year.

IN WITNESS WHEREOF the parties have caused this Agreement to be duly executed as of the day and year first above written.

TOWN OF PHILIPSTOWN
BY:

Richard Shea, Supervisor

PUTNAM COUNTY HUMANE SOCIETY BY:

Michele Dugan, President

RESOLUTION

The following Resolution was presented by ____ , seconded by ____ :

RESOLUTION of the Town Board of the Town of Philipstown introducing six Local Laws including the following:

- A Law Amending the Town Code of the Town of Philipstown to Revise Chapter 93. (*Wetlands*)
- A Law Amending the Town Code of the Town of Philipstown to implement the revised Zoning Law and designation of the Conservation Board.
- A Law Amending Chapter 159 of the Town Code of the Town of Philipstown. (to implement the Natural Resource and Open Space Plan)
- A Law Amending Chapter 112 of the Town Code of the Town of Philipstown with respect to Open Development Area subdivisions.
- A Law Amending the Town Code of the Town of Philipstown to make clarifications and technical corrections to Chapter 175.
- A Law Amending the Town Code of the Town of Philipstown to prohibit hydraulic fracturing.

WHEREAS, on March 9, 2006 the Town Board adopted a new Comprehensive Plan for the Town of Philipstown; and

WHEREAS, on May 5, 2011 the Town Board adopted Local Law Number 1 of the Year 2011, a comprehensive revision of its Zoning Law, to make the Zoning Law consistent with the Town's Comprehensive Plan; and

WHEREAS, the Town Board wishes to more fully implement the recommendations of the Town's Comprehensive Plan by re-designating the Conservation Advisory Council as a Conservation Board, with enhanced powers as provided in Section 239-y of the General Municipal Law, and to make changes to other chapters of the Town Code necessary to implement the new Zoning Law and other recommendations in the Comprehensive Plan as set forth in these local laws: and

WHEREAS, the Town Board intends to act as Lead Agency for purposes of the State Environmental Quality Review Act ("SEQRA") in connection with these six local laws, has determined that there are no other involved agencies, and has determined that the enactment of each of these local laws is an unlisted action under SEQRA; and

WHEREAS, the Town Board has received a Short Environmental Assessment Form for the proposed local laws, as required for SEQRA review.

NOW, THEREFORE, AFTER DUE CONSIDERATION, IT IS HEREBY RESOLVED, that the Town Board introduces the aforementioned six local laws, and it is further,

RESOLVED, that a copy of this Resolution and the local laws introduced by this Resolution, together with the Environmental Assessment Form, shall be immediately referred to the Town Planning Board and the Putnam County Division of Planning for their review and comment; and it is further,

ROLL CALL VOTE

Supervisor Shea Councilwoman Budney Councilman Van Tassel Councilwoman Montgomery Councilman Merandy

The Resolution was thereupon adopted.

CERTIFICATION

I, **Tina M. Merando**, the duly qualified and acting Town Clerk of the Town of Philipstown, Putnam County, New York, do hereby certify that attached hereto is a true and correct copy of an extract from the minutes of the Monthly Meeting of the Town Board of the Town of Philipstown, held on January 3, 2013, and that the Resolution set forth herein is a true and correct copy of the Resolution of the Town Board of said Town adopted at said meeting.

I FURTHER CERTIFY that pursuant to section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

 ${\bf IN~WITNESS~WHEREOF},~I$ have hereunto set my hand and the seal of the said Town, this 3rd day of January, 2013.

rown, this ord day of bandary, 2010.	
	Tina M. Merando TOWN CLERK
(seal)	
A true copy of this Resolution was filed in the O	ffice of the Town Clerk on January 3, 2013.
Tina M. Merando	
TOWN CLERK	

Town of Philipstown

Local Law No. of the Year 2012

A Local Law to amend Chapter 93, "Freshwater Wetlands and Watercourses" of the Code of the Town of Philipstown in order to fully implement changes in Chapter 175, "Zoning," to implement the redesignation of the Town's Conservation Advisory Council as a Conservation Board, and to bring Chapter 93 into consistency with other sections of the Town Code and the Comprehensive Plan.

Be it enacted by the Town Board of the Town of Philipstown as Follows:

SECTION 1. TITLE

This local law shall be known as "A Law Amending the Town Code of the Town of Philipstown to Revise Chapter 93."

SECTION 2. AUTHORITY

This local law is enacted pursuant to the Municipal Home Rule Law, the Environmental Conservation Law, including but not limited to Articles 24 and 71 thereof, and the official compilation of Codes, Rules and Regulations of the State of New York, including but not limited to Title 6, Part 665 thereof (6 NYCRR 665), and any and all applicable laws, rules and regulations of the State of New York. This law establishes a wetlands regulatory system separate from, and in addition to, any applicable requirements under state or federal law. Nothing contained herein shall be deemed to conflict with any such laws, rules and regulations.

SECTION 3. PURPOSE AND FINDINGS

This local law is intended to more fully implement the Philipstown Comprehensive Plan, adopted March 9, 2006, by bringing the Town Code into consistency with it and with the recently enacted revision of the Town's Zoning Law, Chapter 175 of the Town Code (Local Law # 1 of the Year 2011). This local law is also intended to implement the recommendation of the Town's Comprehensive Plan to redesignate the Conservation Advisory Council as a Conservation Board, with enhanced powers as provided in Section 239-y of the General Municipal Law, and to ensure that Chapter 93 is consistent with other parts of the Town Code.

The Town Board finds that changes to Chapter 93 is necessary in order both to give fuller effect to the Comprehensive Plan and to avoid conflicts between existing chapters of the Town Code and the provisions of new Zoning Law. Because the designation of the Conservation Board involves changes to many of the

SECTION 4. AMENDMENTS TO CHAPTER 93

Chapter 93, "Freshwater Wetlands and Watercourses" of the Code of the Town of Philipstown, is hereby amended to read as follows (added language is underlined and deleted language is struck out):

§ 93-1 Title.

This chapter shall be known as the "Freshwater Wetlands and Watercourse Law of the Town of Philipstown." It is a law regulating the dredging, filling, deposition or removal of materials, diversion or obstruction of water flow, placement of structures and other uses in wetlands and watercourses and in certain associated lands and waters located in the Town of Philipstown. It further sets forth permit requirements governing such actions.

§ 93-2 Findings.

- <u>A.</u> The Town Board of the Town of Philipstown has determined that the public interest, health and safety and the economic and general welfare of the residents of the Town of Philipstown will be best served by:
 - (1) The preservation and the proper maintenance and use of its wetlands and watercourses; and
 - (2) The protection of these and adjacent land areas from encroachment, spoiling, pollution or elimination resulting from population growth attended by commercial development, housing, road construction and disregard for natural resources.
- <u>B.</u> The wetlands and watercourses in Philipstown are valuable natural resources which function and benefit the entire Town and the surrounding region in one or more of the following ways:
 - (1) Protecting subsurface water resources, watersheds and groundwater recharge systems.
 - (2) Treating pollution through chemical and biological degradation and adsorption processes.
 - (3) Providing drainage and flood control through ground absorption, natural storage and flood conveyance.
 - (4) Controlling erosion and water turbidity by serving as sedimentation areas and filter basins, absorbing silt and organic matter.
 - (5) Providing sources of nutrients in freshwater food cycles.
 - (6) Serving as nursery grounds and sanctuaries for freshwater fish.
 - (7) Providing a suitable living, breeding, nesting and feeding environment for many forms of wildlife, including wild fowl, shorebirds and rare species.
 - (8) Providing suitable habitat for endangered flora.

- (9) Preserving open space and aesthetic values by providing open space in areas threatened with crowding from commercial and residential development.
 (10) Furthering education and scientific research by providing readily accessible outdoor biophysical laboratories, living classrooms and vast training and education resources.
- <u>C.</u> Wetlands and watercourse protection is a matter of concern to the entire Town. The establishment of regulatory and conservation practices for these areas serves to protect the Town by ensuring review and regulation of any activity on wetlands and watercourses that might adversely affect the Town's residents' health, safety and welfare.
- <u>D.</u> Wetlands and watercourses in Philipstown form an ecosystem that is not confined to any one property owner or neighborhood. Experience has demonstrated that effective wetlands and watercourses protection requires uniformity of approach to preservation and conservation efforts throughout the Town.
- <u>E.</u> Interference with wetlands and watercourses can cause or aggravate flooding, erosion and diminution and pollution of water supply for drinking and waste treatment and may pose a threat to the health, safety and welfare of the people of Philipstown and the surrounding region.
- <u>F.</u> This chapter is enacted pursuant to the Municipal Home Rule Law, the Environmental Conservation Law, including but not limited to Articles 24 and 71 thereof, and the official compilation of Codes, Rules and Regulations of the State of New York, including but not limited to Title 6, Part 665 thereof (6 NYCRR 665), and any and all applicable laws, rules and regulations of the State of New York. This law establishes a wetlands regulatory system separate from, and in addition to, any applicable requirements under state or federal law. Nothing contained herein shall be deemed to conflict with any such laws, rules and regulations.

§ 93-3 Intent.

<u>A.</u> It is the intent of the Town of Philipstown to control and regulate the use of wetlands and watercourses, as defined herein, within the Town to ensure that the benefits found to be provided by them will not be lost and to protect the important physical, ecological, social, educational, aesthetic, recreational and economic assets of the present and future residents of the Town so as to protect the public interest.

<u>B.</u> It is not the intent of this chapter to prevent property owners from the reasonable use of their land. It is the intent of this chapter to allow reasonable use of land consistent with responsible land management and to conserve and protect freshwater wetlands and watercourses to the extent reasonably practicable, consistent with this objective.

<u>C.</u> It is the intent of this chapter that consideration should be given to the functional significance of a wetland involved in any particular application or proceeding. Wetlands vary in their importance and value to the environment. The decisions of activities to be permitted under this chapter should consider and reflect the relative significance or

importance of any particular wetland. It is intended that the methodology set forth in § 93-8, Criteria for approval, should be used in making these decisions.

§ 93-4 Definitions.

As used in this chapter, the following terms shall have the meanings defined below:

APPLICANT-- A person who files an application for a permit under this chapter, who is either the owner of the land on which the proposed regulated activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity or the authorized agent of such person.

<u>APPELLANT— A person who appeals a decision of the Conservation Board pursuant to Section 93-10.</u>

<u>CLEAR-CUTTING</u>--A method of harvesting where 75% or more of the trees of six inches in diameter or greater at breast height (4 1/2 feet) on a controlled area on an applicant's land are to be removed.

<u>CONSERVATION BOARD--The Conservation Board of the Town of Philipstown.</u>
<u>CONTROLLED AREA</u>--A controlled wetland, a watercourse, a wetland and/or watercourses buffer zone or any combination thereof.

<u>CONTROLLED WETLAND</u>--A wetland, as defined in this § <u>93-4</u>, which covers 1/4 of an acre or more, whether or not it appears on the map as defined in this § <u>93-4</u>, or a smaller wetland of critical value or unique quality, as may be provided by amendment to this chapter.

COUNCIL- The Conservation Advisory Council of the Town of Philipstown.

<u>DREDGING</u>--Excavating or removing sediment, soil, mud, sand, shells, gravel or other aggregate, whether natural or artificial, except for small samples.

<u>EROSION</u>--The wearing away of land surface by action of wind, weathering, water, gravity or other natural force.

EXCLUDED ACTIVITY--Any activity listed in § 93-6.

<u>FILLING</u>--Depositing any soil, stones, sand, gravel, mud, rubbish, material, matter or fill of any kind.

<u>FLOODPLAIN</u>--That portion of a watercourse adjacent to the channel of the watercourse which is built of sediments deposited during the present regimen of the watercourse and is covered with water when the watercourse overflows its banks at flood stage, such as but not limited to those mapped by the Federal Emergency Management Agency (FEMA) located along Clove Creek, Foundry Brook, Canopus Creek and the Hudson River. <u>GRADING</u>--The alteration of the slope of surface or subsurface conditions of land, lakes, ponds or watercourses by excavation or filling.

HYDRIC SOILS -- Soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part, and as further defined by the technical publication "Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989)," which manual shall be available for inspection in the office of the Town Clerk. Hydric soils listed in Philipstown include the following listed by numeric field symbols, names, symbol and hydrologic soil group:

Numeric Field (nmf)	Name	Symbol (hydrologic soil group)
101	Carlisle	(Ce)D
102	Ipswich	(Ip)D
100	Fluvaquents	(Ff) flooded
311	Fluvaquents	(Ff) flooded
28	Fredon	(Fr)C
1251A	Leicester	(LcA)C
1251B	Leicester	(LcB)C
1252B	Leicester	(LcB)C
1011	Palms	(Pa)D
1101	Palms	(Pa)D
1012	Palms	(Pa)D
103	Aquents	(Pc) flooded
35	Raynham	(Ra)C
25	Sun	(Sh)D
27	Sun	(Sm)D
251A	Ridgebury	(Rd)C
251B	Ridgebury	(Rd)C
252B	Ridgebury	(Rg)C

HYDROPHYTIC VEGETATION -- Macrophytic plant life growing in water or on soils that are at least periodically anaerobic as a result of excessive water content, and as further defined by the technical publication "Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989)," which manual shall be available for inspection in the office of the Town Clerk. Examples of hydrophytic vegetation include the following:

A. Wetland trees, which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other trees, including, among others, red maple (Acer rubrum), willows (Salix species), black spruce (Picea mariana), swamp white oak (Quercus bicolor), red ash (Fraxinus pennsylvanica), black ash (Fraxinus nigra), silver maple (Acer saccharinum), American elm (Ulmus americana) and larch (Larix laricina).

B. Wetland shrubs which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other shrubs, including, among others, alder (Alnus species), buttonbush (Cephalanthus occidentalis), bog rosemary (Andromeda glaucophylla), dogwoods (Cornus species) and leatherleaf (Chamaedaphne calyculata).

C. Emergent vegetation, including, among others, cattails (Typha species), pickerelweed (Pontederia cordata), bulrushes (Scirpus species), arrow arum (Peltandra virginica), arrowheads (Sagittaria species), reed (Phragmites communis), wildrice (Zizania aquatica), burr-reeds (Sparganium species), purple

loosestrife (Lythrun salicaria), swamp loosestrife (Decondon verticillatus) and water plantain (Alisma plantagoaquatica).

- <u>D.</u> Rooted, floating-leaved vegetation, including, among others, water lily (Nymphaea odorata), water shield (Brasenia schreberi) and spatterdock (Nuphar species).
- <u>E.</u> Free-floating vegetation, including, among others, duckweed (Lemna species), big duckweed (Spirodela polyrhiza) and watermeal (Wolffia species).
- <u>F.</u> Wet meadow vegetation which depends upon seasonal or permanent flooding or sufficiently water-logged soils to give it a competitive advantage over other open land vegetation, including, among others, sedges (Carex species), rushes (Juncus species), cattails (Typha species), rice cut-grass (Leersia oryzoides), reed canary grass (Phalaris arundinacea), swamp loosestrife (Decodon verticillatus) and spikerush (Eleocharis species).
- <u>G.</u>Bog mat vegetation, including, among others, sphagnum mosses (Sphagnum species), bog rosemary (Andromeda glaucophylla), leatherleaf (Chamaedaphne calyculata), pitcher plant (Sarracenia purpurea) and cranberries (Vaccinium macrocarpon and Vaccinium oxycoccos).
- <u>H.</u>Submergent vegetation, including, among others, pondweeds (Potamogeton species), naiads (Najas species), bladderworts (Utricularia species), wild celery (Vallisneria americana), coontail (Ceratophyllum demersum), water milfoils (Myriophyllum species), muskgrass (Chara species), stonewort (Nitella species), water weeds (Elodea species) and water smartweed (Polygonum amphibium).
- MAP-- A map, accompanying this chapter, on file in the office of the Town Clerk. entitled "Guide to Regulated Freshwater Wetlands and Watercourses, Town of Philipstown, Putnam County, New York," dated May 4, 1989, revised May 1, 1991, revised January 9, 2001, on which are indicated the approximate locations of watercourses and the boundaries of controlled wetlands. Said map is intended to be only a guide to the approximate location of wetlands and watercourses; their precise location is to be determined by field inspection in accordance with the specifications set forth in this chapter. However, any wetland which meets the definition of "controlled wetland" appearing in this § 93-4 is a controlled wetland, whether or not it appears on the map.

MITIGATION PLAN--The plan prepared by the applicant, pursuant to § 93-13, when the applicant has demonstrated that the losses or impacts to the wetland, watercourse, or wetland/watercourse buffer are necessary and unavoidable, as defined in § 93-12, and have been minimized to the maximum extent practicable.

NATURAL RESOURCES REVIEW OFFICER-- The Town employee or consultant appointed to review development applications for compliance with Town environmental regulations, including but not limited to wetlands, steep slopes, and conservation analysis requirements of zoning. This position may be held by an official with other duties or titles, such as Wetlands Inspector, Town Planner, or Town Engineer.

<u>PERMIT</u>--The written approval issued by <u>any Town board, agency, or official the</u> <u>permitting authority</u> where required for conducting-<u>a regulated activity in a controlled area</u> any activity regulated under the Philipstown Town Code.

<u>PERSON</u> -- Any corporation, firm, partnership, association, trust, estate, one or more individuals or any unit of federal, state or local government or any agency or subdivision

thereof, including any state department, bureau, commission, board or other agency, public authority or public benefit corporation.

<u>POLLUTION</u> --The presence in the environment of human-induced conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant or animal life or well-being or to property.

REGULATED ACTIVITY--Any activity listed in § 93-5 of this chapter.

STRUCTURE --A combination of materials to form a construction that is safe and stable, and includes, among other things, trailers, stadiums, platforms, radio towers, sheds, storage bins, billboards, display signs, docks, wharves, boathouses, underground lines and pipes and apparatus for transmission of electric power and standards and towers and lines for transmission of electrical power; it excludes poles for local electrical power distribution lines and telephone lines in the Town of Philipstown and underground lines and pipes and apparatus for local distribution of electric power or telephone service in the Town of Philipstown; it includes anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground, including but not limited to buildings, bridges, dams, tennis courts, swimming pools, paved surfaces and playing fields.

TOWN--The Town of Philipstown, Putnam County, New York.

<u>WATERCOURSES</u>--Rivers, streams, brooks, ponds, lakes, reservoirs and waterways, whether running constantly or intermittently, which are delineated on the current edition of the United States Department of Interior, Geological Survey, 7.5 Minute Series (Topographic) maps bearing the date 1981 (Peekskill Quadrangle), 1981 (West Point Quadrangle) and 1979 (Oscawana Lake Quadrangle), covering the Town of Philipstown; and any other streams, brooks and waterways which are contained within, flow through, or border on the Town of Philipstown, and any additional streams, brooks and waterways which are delineated on the map

<u>WETLAND HYDROLOGY</u>--The sum total of wetness characteristics in areas that are inundated or have saturated soils for a sufficient duration to support hydrophytic vegetation.

WETLANDS

- A. All areas that comprise hydric soils, as defined in this § 93-4, that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation, as defined in this § 93-4; or lands and submerged lands containing remnants of any vegetation that is not aquatic or semi-aquatic that has died because of wet conditions over a sufficiently long period, provided that such conditions can be expected to persist indefinitely, barring human intervention.
- <u>B.</u> For the purposes of this chapter, "wetlands" within 50 meters of each other and hydrologically connected are considered to be one "wetland."
- C. Lands and waters substantially enclosed by hydrophytic vegetation, as defined in this § 93-4, the regulation of which is necessary to protect and preserve the hydrophytic vegetation; and
- <u>D.</u> The waters overlying the areas set forth in Subsections A and B above and the lands underlying the waters set forth in Subsection C above.

<u>WETLANDS INSPECTOR</u>-- An individual appointed by the Town Board who shall serve at the pleasure of the Town Board to investigate, report on, and enforce compliance with the provisions of this chapter, <u>who may also be the Natural Resources Review</u> Officer.

WETLANDS OR WATERCOURSE BUFFER ZONE ("BUFFER")--A controlled area adjacent to a controlled wetland or watercourse or to a combination of controlled wetlands and watercourses. A "wetlands buffer zone" consists of the land adjacent to a controlled wetland, as defined in this § 93-4, that lies within 100 feet of the boundary of said controlled wetland. A "watercourse buffer zone" consists of the land adjacent to a watercourse, as defined in this § 93-4, that lies within 100 feet, measured horizontally, of the mean high water mark of said watercourse.

WETLANDS PERMIT--The written approval issued by the Conservation Board where required by this chapter for conducting a regulated activity in a controlled area.

§ 93-5 Regulated activities.

Activities regulated under this chapter are:

- <u>A.</u> Dredging or excavation; grading; and removal of soil, mud, sand, gravel, silt, earth material and other aggregate, either directly or indirectly.
- <u>B.</u> Dumping or deposition of soil, stones, sand, gravel, mud, rubbish, material, matter or fill of any kind, either directly or indirectly.
- <u>C.</u> Construction or installation of any structure or facility, including but not limited to roads, buildings, driveways, parking facilities, swimming pools, tennis courts, bridges, pipes or conduits; installation of sewage disposal systems or sewer outfall; drilling of wells; placing of other obstructions; or driving of pilings.
- <u>D.</u> Alteration or diversion of any flow of watercourse or wetland. This includes but is not limited to docks, dams, pilings and bridges.
- <u>E.</u> Use of chemicals, dyes, fertilizers, animal waste, herbicides, pesticides, deicing materials or similar materials.
- <u>F.</u> Influents of high thermal content capable of causing harmful ecological effects unless water is properly treated in recycling, including but not limited to groundwater heat pumps for other than one-family dwellings.
- G. Clear-cutting or other vegetation removal affecting surface water runoff.
- <u>H.</u> Establishment of trails for such purposes as, but not limited to, walking, skiing, horseback riding, bicycling, motorcycling, snowmobiling and off-road vehicle travel.
- I. Installation of service lines, cable conduits or utilities.
- <u>J.</u> Introduction of any form of pollution, by means including, but not limited to, the installation of a septic system, running of a sewer or stormwater outfall, or discharge of sewage treatment or other solid waste into or so as to drain into a controlled area.
- K. Installation of drainage or water supply pipes or wells.
- L. Installation of dry wells, retention basins, filters, open swales or ponds.
- \underline{M} . Any other activity that may impair the natural functions of a wetland or watercourse as found in § 93-2.

§ 93-6 Excluded activities.

The following activities are excluded from regulation under this chapter.

- <u>A.</u> The depositing or removal of the natural products of freshwater wetlands by recreational or commercial fishing, shellfishing, hunting or trapping.
- <u>B.</u> Public health activities, orders and regulations of the New York State Department of Health, provided that copies of all such orders or regulations affecting wetlands are filed with the Department of Environmental Conservation in advance.
- <u>C.</u> Any activity for which, prior to the effective date of this chapter, the Planning Board has otherwise granted approval of a preliminary plat, conditional or otherwise, or the Building Inspector has granted a building permit, or, in the case of any activity not requiring action by the Planning Board or the Building Inspector, any otherwise necessary permit has been granted by the Town official or agency responsible for review of the activity.
- <u>D.</u> Any routine road, highway, street or driveway maintenance, if the activity will not cause pollution or erosion of a watercourse or a controlled wetland, or interfere with natural drainage.
- <u>E.</u> Normal grounds maintenance, gardening, selective trimming, pruning or bracing of vegetation, removal of dead or diseased vegetation, and decorative landscaping and planting, incidental removal of vegetation, addition of vegetation, but not including the use of fertilizers and pesticides within a controlled area.
- <u>F.</u> Ordinary maintenance and repair of existing structures, facilities or trails, including but not limited to those set forth in \S 93-5C and <u>H</u>, where the work does not entail the use of machinery within a controlled wetland or a watercourse.
- <u>G.</u> Mosquito control projects approved in writing by the New York State Department of Environmental Conservation.
- <u>H.</u> The operation, maintenance and repair of dams, retaining walls, docks and water control structures that were in existence on the effective date of this chapter.
- <u>I.</u> Emergency work which is immediately necessary to protect health and safety or prevent damage to property, provided that the <u>permitting authority Conservation Board</u> is given written notice within 48 hours after commencement of such work and within 48 hours after completion of the work, and provided that such work is limited to alleviation of the emergency condition.

§ 93-7 Activities of minor significance.

The <u>Conservation Board</u> may, at its discretion, waive any or all parts of § $\underline{93-9C}$, \underline{D} , \underline{E} and \underline{G} \underline{F} if it determines that a proposed regulated activity is an activity of minor significance.

- <u>A.</u> A proposed regulated activity may be designated an activity of minor significance if it is:
 - (1) An activity that entails no building or other structure, no sewage system, no sewage disposal system or no well in a controlled area;
 - (2) Installation of a driveway to a one-family dwelling, where less than 15 cubic feet of material is to be removed or deposited in a controlled area, and installation does not involve disturbance to a controlled wetland or watercourse;

- (3) Excavation, grading or depositing of less than 25 cubic yards of earth material in a controlled area but outside of a wetland or watercourse; or
- (4) Removal of water-deposited silt or debris in order to restore the controlled area to the condition existing before the deposit, where the work does not involve use of any machinery within a controlled wetland or a watercourse.

B. Provided that said activity:

- (1) Does not require a site plan, subdivision plat map or construction plans, grading plans and/or plot plans for grading and removal of earth;
- (2) Is not to be conducted on a floodplain; and
- (3) Will not result in a change or modification to a controlled area that will affect adjoining property, increase pollution or affect water flow upstream or downstream from the proposed activity.

§ 93-8 Criteria for approval.

<u>A.</u> The following are criteria applicable to the approval of <u>wetlands</u> permits for proposed regulated activities in controlled areas:

- (1) The activity will not have a substantial adverse effect upon the natural function and benefits of a wetland or watercourse as set forth in § 93-2B;
- (2) The activity will not substantially change the natural channel of a watercourse or substantially inhibit the dynamics of a watercourse system;
- (3) The activity will not result in the degrading or pollution of waters;
- (4) The activity will not increase the potential for flooding;
- (5) Sufficient provision has been made for control of pollution, erosion, siltation and sedimentation during and after conduct of the activity;
- (6) No practicable alternative location is available on the subject parcel; and
- (7) No additional technical improvements or safeguards can reasonably be added to the plan or activity which would minimize the impact on a controlled area; or
- (8) The activity will alleviate or remove a hazard to the public health or safety.
- B. In evaluating the criteria and the determination required in § 93-8A above, the Council and the permitting authority Conservation Board shall utilize the objective methodology for determining the functions of a wetland set out in the publication entitled "A Rapid Procedure for Assessing Wetland Functional Capacity," dated May 1998, by Magee and Hollands, a copy of which is on file in the office of the Town Clerk of the Town of Philipstown.

§ 93-9 Wetlands Permit procedure.

A. No person shall undertake, permit, conduct or cause to be undertaken, permitted or conducted a regulated activity in a controlled area without applying for and obtaining a wetlands permit therefor as provided in this chapter. Any person may is encouraged to confer with the Conservation Advisory Council Conservation Board and/or Natural Resources Review Officer for advice as to whether or not an activity proposed to be undertaken, permitted or conducted is a regulated activity in a controlled area. The permitting authority may refer any application for any other permit or approval to the

Council for advice as to whether or not such application involves a regulated activity in a controlled area.

- B. Application. Any person proposing to conduct or cause to be conducted a regulated activity in a controlled area shall file an application for a wetlands permit with the Conservation Board, in such form and with such information as the Town Conservation Board may from time to time prescribe. The application shall be accompanied by a fee as set by the Town Board, which fee may be amended from time to time by resolution of the Town Board. It is the intention of this chapter that any such application for a wetlands permit shall be filed at the same time as the an application for any other permit or approval is sought from any town official, agency, or board in connection with the same activity or project. the permitting authority. If an application for a wetlands permit has not been filed under this chapter and the board or official reviewing an permitting authority, in connection with consideration of the application for any other permit or approval, determines that such other application involves a regulated activity in a controlled area, then an application for a wetlands permit under this chapter shall promptly be filed with the Conservation Board in order to ensure proper coordination of all related that all applications. may be coordinated and decided within their respective time limits as may be specified by law.
- <u>C.</u> The number of copies of the application to be submitted under § <u>93-9B</u> shall be established by the Conservation Board as part of its rules of procedure and shall take into consideration the need to transmit the application to other agencies, officials, or boards with permitting jurisdiction over the same project. the greater of either eight, or eight plus a number equal to the number of copies required of any accompanying application to be submitted to the permitting authority. Each <u>copy</u> of the above copies of the application shall include the following information:
 - (1) A detailed description of the proposed activity and a comparison of the activity to the criteria for approval specified in § 93-8.
 - (2) A map showing the controlled area affected, any wetland or watercourse therein and the location thereof and the location, extent and nature of the proposed activity, prepared by a licensed surveyor or engineer. If showing sufficient information, any map, plat or plan acceptable to the permitting authority Conservation Board and required to be submitted for any other permit or approval in connection with any regulated activity may be used for the required map.
 - (3) The names of claimants of water rights in the wetland or watercourse of whom the applicant has record notice.
 - (4) A completed short form environmental assessment form.
 - (5) Copies of all applicable county, state or federal permit applications and permits that are required for such work.
- <u>D.</u> Request for additional information. The <u>permitting authority</u> <u>Conservation Board</u> may identify additional information that may be needed in order to make a determination. Such information may include but not be limited to the following:
 - (1) Complete plans for the proposed activity, which shall be certified by an engineer, architect, land surveyor or landscape architect licensed in the State of New York, drawn to a scale no less detailed than one inch equals 20 feet, and showing the following:

- (a) The location of all controlled wetlands, watercourses and wetland and watercourse buffer zones as determined no earlier than 12 months prior to the date of filing the application. The boundaries of a wetland and the mean high water mark of a watercourse shall be determined by field investigation and as defined in § 93-4;
- (b) A description of the vegetative cover of the controlled area, including dominant species;
- (c) A description of the on-site soil types;
- (d) The location of the construction area or the area proposed to be disturbed and its relation to property lines, roads, buildings, wetlands and watercourses within 250 feet of the proposed activity;
- (e) The exact locations, specifications and amount of all proposed draining, filling, grading, dredging and vegetation removal or displacement, and the procedures to be used to do the work;
- (f) The location of any wells and depths thereof, and any disposal system;
- (g) The existing and proposed contours at two-foot intervals in the proposed disturbed area and to a distance of 50 feet beyond, and elevations of the site and adjacent lands within 200 feet of the proposed activity;
- (h) Details of any temporary or permanent drainage system proposed both for the conduct of the work and after completion thereof; including locations of discharges, artificial inlets, or other human-made conveyances that would discharge into the controlled area, and measures proposed to control erosion both during and after work;
- (i) Where creation of a lake or pond is proposed, details of the construction of any dams, embankments, outlets or other water control devices, and analysis of the wetland hydrologic system, including seasonal water fluctuation, inflow/outflow calculations and subsurface soil, geology and groundwater conditions;
- (j) Where creation of a detention basin is proposed, with or without excavation, details of the construction of any dams, berms, embankments, outlets or other water control devices, and analysis of the wetland hydrologic system, including seasonal water fluctuation, inflow/outflow calculations and subsurface soil, geology and groundwater conditions;
- (k) Details of erosion and sediment control practices, including a diagram showing what and where erosion and sediment control practices will be implemented and a schedule for their installation and maintenance;
- (1) Functional analysis of the wetlands to be affected, showing existing wetlands formation and impacts to those functions from the proposed activity;
- (m)A completed long form environmental assessment form when required by the New York State Environmental Quality Review Act.

E. Transmittal of application.

In the case of a regulated activity within 500 feet of the Town line on a watercourse that crosses the Town line, or any regulated activity on a wetland that crosses the Town line, the permitting authority Conservation Board shall, if the application is not one for an

activity of minor significance, transmit a copy of the application to the Clerk of the relevant abutting municipality.

F.Upon receipt of a complete application, the permitting authority shall refer any application submitted to it pursuant to this chapter to the Conservation Advisory Council for review and report. The Council shall report back to the permitting authority within 21 days of the date of referral. The permitting authority shall continue to process and/or act on the application after such twenty one day period, whether or not it receives a report from the Council. Failure to report within such period may be deemed by the permitting authority as indicating no objection to the application.

<u>F.</u> Public hearing. (1)

A joint public hearing shall be held by the permitting authority Conservation Board and any other local board or agency with permit or approval jurisdiction over the same project, whenever a public hearing is required for the granting of the such other permit or approval required of such permitting authority pursuant to statute or the local laws and ordinances of the Town of Philipstown. Such joint public hearing shall be held at such time, under such circumstances and upon such notice as may be required for the granting of such other permit or approval.

(2)

Although it is the objective of this chapter that the Council should have at least 21 days from the date of referral to report to the permitting authority, where a shorter time period for the holding of the public hearing on an application for such other permit or approval is specified by statute, local laws or ordinances, then the Council shall report back to the permitting authority by the date of the required public hearing, even though this is less than 21 days from the date of referral. Failure to report within such shorter period shall be deemed by the permitting authority as indicating no objection to the application.

G. Approval or disapproval of wetlands permit.

- (1) On applications for which no public hearing is required, the permitting authority Conservation Board shall make a determination to approve, approve with modifications or disapprove the issuance of such a wetlands permit within 30 days following receipt of a completed application therefor.
- (2) On applications for which a public hearing is required, the permitting authority Conservation Board shall make a determination to approve, approve with modifications or disapprove the issuance of a wetlands such permit prior to or simultaneously with the determination by the permitting board of for the other permit or approval for which application was made.

 (3)

If the action of the permitting authority is contrary to the report of the Council, it shall set forth the reasons for its action in its decision.

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- (3) The permitting authority Conservation Board, in connection with its determination to approve or approve with modifications the issuance of such a wetlands permit, may impose such conditions that as the permitting authority Conservation Board deems necessary to conform the activity to the criteria for approval in § 93-8 and to maintain fulfill the purposes of this chapter. In connection with such wetlands permit, the permitting authority Conservation Board may establish time periods within which the regulated activity, or phases thereof, shall be commenced and/or be completed. The permitting authority Conservation Board may extend such time periods and the permit for good cause demonstrated to the satisfaction of the permitting authority Conservation Board and when it is shown that the regulated activity is or will be conducted in accordance with the wetlands permit as originally issued and an extension fee has been paid as set by the Town Board in accordance with § 93-14B..
- (4) The permitting authority Conservation Board may determine to issue an amended wetlands permit, upon application made in the same manner as required for the original application.
- (5) Copies of all determinations by the permitting authority Conservation Board shall be filed in the office of the Town Clerk and mailed to the applicant by certified mail, return receipt requested.

<u>H.</u> Extension of time. The applicant may, by mutual consent with the permitting authority <u>Conservation Board</u>, extend any of the time periods specified herein.

§ 93-10 (Reserved) Appeal of Conservation Board Decision

Any person aggrieved by a decision of the Conservation Board under this chapter may appeal such decision to the Town Board as provided below.

- A. Such appeal shall be submitted to the Town Clerk within 14 days of the filing of the Conservation Board's decision in the office of the Town Clerk, on forms approved by the Town Board and provided by the Town Clerk.
- B. The Town Board shall apply the same criteria in its review of an approval as the Conservation Board is required to apply by this chapter. However, the Town Board shall not require the submission of additional information unless the appellant alleges that insufficient information was available to the Conservation Board when it made its decision. The Town Board shall defer to the judgment of the Wetlands Inspector or Natural Resources Review Officer with respect to matters of technical and scientific judgment.
- C. The Town Board shall hold a public hearing on the appeal within 31 days of its submission to the Town Clerk. The Board shall publish notice of such hearing in the official newspaper at least five days prior to the date thereof. The cost of giving all notices shall be charged to the appellant.
- D. The Town Board shall render its decision within 31 days of the public hearing and file such decision in the office of the Town Clerk immediately thereafter. The decision shall also be mailed to the appellant and the applicant (if different) by certified mail, return receipt requested.

E. <u>Judicial review of the Town Board's decision shall be available as provided in Section 93-18D.</u>

§ 93-11 Wetlands Inspector and Natural Resources Review Officer.

- A. This chapter shall be enforced by a Wetlands Inspector and/or Natural Resources Review Officer appointed by the Town Board, who shall serve at the pleasure of the Town Board. The Town Board may also designate a Deputy Wetlands Inspector who shall also serve at the pleasure of the Town Board. The Wetlands Inspector and/or Natural Resources Review Officer shall coordinate his activities with and be under the supervision of the Building Inspector. Neither t The Wetlands Inspector, Natural Resources Review Officer, and the Deputy Wetlands Inspector may not be members of the Conservation Advisory Council Conservation Board.
 - <u>B.</u> Qualifications for Wetlands Inspector. The Wetlands Inspector, and any _Deputy Wetlands Inspector, and any Natural Resources Review Officer performing the duties of the Wetlands Inspector must have training and experience adequate to:
 - (1) Identify, locate and stake or flag wetlands and watercourses in the field, and verify the identification, location and mapping thereof done by others;
 - (2) Consider the effects of specific proposals on the functions and benefits of the specific wetland(s) and watercourse(s) affected, as specified in $\S 93-2B$ and $\S 93-8A$;
 - (3) Determine whether the proposed use is consistent with applicable minimum land use regulations weighed against criteria for permit issuance set forth in § 93-8A;
 - (4) Assess an applicant's proposals to enhance, mitigate or compensate for the functions and benefits of existing wetland(s) and watercourse(s);
 - (5) Prepare a recommendation to grant, deny or condition a permit; and
 - (6) Enter his/her findings and supporting rationale in the public record.and
 - (7) Act as the permitting authority when required under § 93-12.
 - C. Suitable qualifications include either a bachelor's degree in wildlife management, fisheries management, forestry, ecology, hydrology or a closely related field; an associate degree in one of the above fields and two years' full-time experience in work closely associated with wetlands protection; or any other training and experience which assures a technical knowledge of wetlands and their functions and benefits sufficient to perform the tasks identified above.
 - <u>D.</u> Services. The Wetlands Inspector shall investigate, report on and enforce compliance with the provisions of this chapter and provide the services identified in § <u>93-11B</u>, coordinating such enforcement activities and services with the responsibilities of the Town Board, the Council and the permitting authority Conservation Board, the Building Inspector, and all other Town officials and agencies with permitting jurisdiction. The Wetlands Inspector shall also act as the permitting authority when required under § <u>93-12</u>.

§ 93-12 Permitting authority Conservation Board Authority.

The Conservation Board shall have the authority to grant and deny wetland permits as provided in § 93_9 of this chapter shall be exercised as provided herein. The permitting authority hereunder shall be as follows:

<u>A.</u>

The Zoning Board of Appeals shall be the permitting authority with respect to any application which requires the issuance of any other permit or approval by it pursuant to the local laws and ordinances of the Town of Philipstown, except as provided in § 93-12B and C.

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The Planning Board shall be the permitting authority with respect to any application which requires the issuance of any other permit or approval by it pursuant to the local laws and ordinances of the Town of Philipstown, including any application which also requires the issuance of any permit or approval by the Zoning Board of Appeals, except as provided in § 93-12C.

<u>C.</u>

The Town Board shall be the permitting authority with respect to any application which requires the issuance of any other permit or approval by it (other than approval of a bond, letter of credit or other security, and other than acceptance of documents related to actions by other agencies) pursuant to the local laws and ordinances of the Town of Philipstown, including any application which also requires the issuance of any permit or approval by the Planning Board or Zoning Board of Appeals.

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The Wetlands Inspector shall be the permitting authority with respect to all other regulated activities, and no public hearing shall be required.

§ 93-13 Required findings.

No <u>wetlands</u> permit shall be issued by the <u>permitting authority Conservation Board</u> pursuant to this chapter unless the <u>permitting authority Conservation Board</u> finds that the proposed regulated activity is consistent with the intent of this chapter as set forth in § <u>93-3</u>.

A. Permit conditions. Any permit issued pursuant to this chapter shall be issued with conditions as deemed necessary by the permitting authority Conservation Board. The Conservation Board shall set forth in writing findings and reasons for all conditions attached to any permit. very permit Permits issued pursuant to this chapter shall be in written form and shall contain, at a minimum, the following conditions:

- (1) Work conducted under said permit shall be open to inspection by the permitting authority Conservation Board or its designated representative, at any time, including weekends and holidays;
- (2) The permit shall expire on a specified date that is one year from its issuance $\underline{i}\underline{f}$ work has not commenced.
- (3) The permit holder shall notify the permitting authority Conservation Board of the date on which the work is to begin at least five days in advance of such date.
- (4) The permit shall be maintained and prominently displayed at the project site during the time that the activities authorized by the permit are being carried on. The permitting authority shall set forth in writing findings and reasons for all conditions attached to any permit.
- .B. Mitigation plan requirements.
 - (1) The permitting authority Conservation Board may require the applicant to prepare and implement a mitigation plan when the applicant has demonstrated that losses or significant impacts to a controlled wetland or wetland buffer are necessary and unavoidable. In determining whether and to what degree to impose such requirement, the permitting authority Conservation Board shall consider the following:
 - (a) Whether there is no reasonable on-site alternative to the proposed activity, including but not limited to reduction in density, change in use, revision of road and layout, and related site planning considerations that would accomplish the applicant's objective; and
 - (b) Whether there is a reasonable alternative to the proposed activity on another site available to the applicant that is not a controlled area.
 - (2) Adequate Mitigation for intrusion into wetlands shall be adequate to ensure that there will be no overall net loss of wetlands in terms of ecological characteristics and function, geographic location and setting and size. To ensure no net loss, mitigation measures must provide for replacement wetland at a ratio of at least 1.0 to 1.0.
 - (3) The permitting authority Conservation Board may require additional information if the plan does not provide sufficient detail to evaluate its effectiveness.
 - (4) On-site mitigation shall be the preferred approach. Off-site mitigation shall be permitted only when on-site alternatives are not possible; in these instances, emphasis shall be placed on mitigation within the same watershed as the original wetland.
 - (5) The permitting authority Conservation Board shall monitor or cause to have monitored projects, in accordance with the conditions set forth in the permit, to determine whether the elements of the mitigation plan have been met. The permitting authority Conservation Board may retain qualified professionals, at the expense of the applicant, to discharge its obligation hereunder. The time period for all monitoring activities shall be a minimum of three years. The requirements for monitoring shall be specified in the permit and/or mitigation plan. They may include, but not necessarily be limited to:
 - (a) Field measurements to verify the size and location of the impacted wetland area and of the restored/replacement wetland area;

(b) The date of completion of the work or restoration/replacement; (c) Field verification of the structural details, best management practices, mitigation measures, and vegetative, hydrologic and soils criteria specified in the permit and/or mitigation plan.

§ 93-14 General powers and duties.

In order to carry out the purposes and provisions of this chapter, the <u>Conservation Board</u> and the Town Board, the <u>Council</u>, the <u>Wetlands Inspector and the permitting authority</u>, as the case may be, shall have the following powers and duties, in addition to those specified above:

A. The Conservation Town Board shall have the power and duty to prepare forms designated in this chapter for the purpose of administration of this chapter and may amend the same from time to time. The Council Conservation Board shall hold regular meetings no less frequently than once per month and shall hold such additional meetings as shall be necessary for the timely processing of applications The Conservation Board may contract for professional and technical assistance and advice, not exceeding any budget appropriation that may be made therefor by the Town Board.

B. The Town Board shall have the power and duty to establish a schedule of fees hereunder and may amend the same from time to time by resolution. The Town Board shall also have the power to hear appeals pursuant to Section 93-10 above.

<u>C.</u> The permitting authority may contract for professional and technical assistance and advice, not exceeding any budget appropriation that may be made therefor by the Town Board.

§ 93-15 <u>Effect on other provisions</u>. No permit granted pursuant to this chapter shall remove any person's obligation to comply in all respects with the applicable provisions of any other federal, state or local law or regulation, including but not limited to the acquisition of any other required permit(s) or approval(s).

§ 93-16 Bonding requirements.

The permitting authority Conservation Board, with or without the recommendation of the Council, may determine that, prior to commencement of work under any permit issued pursuant to this chapter and as a condition thereof, the applicant should post a bond, cash or otherwise, or letter of credit, conditioned upon the faithful compliance with the terms of such permit and for the indemnification of the Town of Philipstown for restoration costs which may result from failure to so comply. If the permitting authority Conservation Board so determines, it shall make such recommendation to the Town Board. The Town Board shall fix the conditions and amount of such bond or letter of credit within its sole discretion. The same shall remain in effect until the permitting authority Conservation Board certifies that the work has been completed in compliance

with the terms of the permit and the bond is released by the Town Board or a substitute bond or letter of credit is provided that is acceptable to the Town Board.

§ 93-17 Suspension or revocation of permit; stop-work orders.

- <u>A.</u> The Wetlands Inspector shall make such on-site inspections during the conduct of the permitted activity as are necessary to determine whether the activity is being carried on in conformity with the provisions of the permit.
- <u>B.</u> The Wetlands Inspector and/or the permitting authority <u>Conservation Board</u> may, on written notice to the applicant, suspend or revoke a permit issued pursuant to this chapter where it finds that the applicant has not complied with any or all terms or conditions of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth in the application.
- <u>C.</u> The <u>permitting authority Conservation Board</u> and/or the Wetlands Inspector shall set forth in writing, in the file kept regarding a permit application, the findings and reasons for revoking or suspending a permit pursuant to this section.
- <u>D.</u> The Wetlands Inspector is authorized to issue a stop-work order if, in his judgment, a regulated activity, as defined in § 93-5 of this chapter, is not being carried out in compliance with this chapter. He shall withdraw such stop-work order when he determines that there is compliance with this chapter. The Wetlands Inspector is authorized to order, in writing, the remedying of any condition found to be in violation of this chapter.
- E. All powers granted herein to the Wetlands Inspector are also granted to the Natural Resources Review Officer.

§ 93-18 Penalties for offenses; additional remedies.

<u>A.</u> Civil sanctions; cease-and-desist order. In addition, the Town Board shall have the power, after a hearing or opportunity to be heard upon due notice and with the rights to specification of the charges and representation by counsel at such hearing, to direct the violator to cease his or her violation of this chapter and to restore the affected freshwater wetland to its condition prior to the violation, insofar as that is possible, within a reasonable time and under the supervision of the Wetlands Inspector and/or the <u>permitting authority Conservation Board</u>. Any such order of the Town Board shall be enforceable in an action brought by the Town in any court of competent jurisdiction. B. Criminal sanctions.

- (1) Criminal fine and imprisonment. Any person who violates any provision of this chapter or an order, permit, rule or regulation of the permitting authority Conservation Board regulating controlled areas pursuant to this chapter shall, in addition to any other civil sanctions, be guilty of a violation punishable by a fine of not more than \$1,000 or a term of imprisonment of not more than 15 days, or both.
- (2) Restoration order. Instead of these punishments, any offender may be punishable by being ordered by the court to restore the affected controlled area to its condition prior to the offense, insofar as that is possible. The court shall

- specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Wetlands Inspector and/or the permitting authority Conservation Board.
- (3) Continuing offense. For the purposes of criminal sanctions only, each offense shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- <u>C.</u> Equitable relief. The Town Board shall have the right to seek equitable relief to restrain any violation or threatened violation of any provisions of this chapter in any court of competent jurisdiction.
- <u>D.</u> Judicial review. Any decision or order of the <u>Town Board made on an appeal from the permitting authority Conservation Board</u> pursuant to or within the scope of this chapter may be reviewed at the request of any person aggrieved by such decision or order, in accordance with Article 78 of the New York Civil Practice Law and Rules, provided that such review is commenced within 30 days of the later of the filing of such <u>Town Board</u> decision or order in the office of the Town Clerk and the mailing of the same to the <u>appellant and the</u> applicant by certified mail, return receipt requested

Town of Philipstown

Local Law No. of the Year 2012

A Local Law to amend certain chapters of the Code of the Town of Philipstown in order to fully implement changes in Chapter 175, "Zoning," and to implement the redesignation of the Town's Conservation Advisory Council as a Conservation Board.

Be it enacted by the Town Board of the Town of Philipstown as Follows:

SECTION 1. TITLE

This local law shall be known as "A Law Amending the Town Code of the Town of Philipstown to implement the revised Zoning Law and designation of the Conservation Board."

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York, Article 2, §10 et seq., the Consolidated Laws of the State of New York, Chapter 62, Article 16 (the "Town Law"), and Section 239-y of the General Municipal Law.

SECTION 3. PURPOSE AND FINDINGS

This local law is intended to more fully implement the Philipstown Comprehensive Plan, adopted March 9, 2006, by bringing the Town Code into consistency with it and with the recently enacted revision of the Town's Zoning Law, Chapter 175 of the Town Code (Local Law # 1 of the Year 2011). This local law is also intended to implement the recommendation of the Town's Comprehensive Plan to redesignate the Conservation Advisory Council as a Conservation Board, with enhanced powers as provided in Section 239-y of the General Municipal Law.

The Town Board finds that changes to Chapters 10, 30, 38, 62, 78, and 85, along with the repeal of Chapter 147, are necessary in order both to give fuller effect to the Comprehensive Plan and to avoid conflicts between existing chapters of the Town Code and the provisions of new Zoning Law. Because the designation of the Conservation Board involves changes to many of the same chapters of the Town Code as are required for consistency with the Zoning Law, these changes are being made simultaneously in this local law in order to update all relevant sections of the Town Code.

SECTION 4. AMENDMENTS TO CHAPTER 10 (ALL NEW MATERIAL)

Chapter 10 of the Town Code of the Town of Philipstown, entitled "Conservation Advisory Council," is hereby repealed and a new Chapter 10, entitled "Conservation Board" is adopted, as follows:

§ 10-1 Establishment.

The Town Board of the Town of Philipstown, having adopted an Open Space Index, does hereby designate its Conservation Advisory Council as a Conservation Board pursuant to §239-y of the General Municipal Law.

§ 10-2 Membership; terms; officers.

A. The Board consists of seven members appointed by the Town Board of the Town of Philipstown for two year terms. Persons residing within the Town of Philipstown who are interested in the improvement and preservation of the environment are eligible for appointment as members of the Board.

- B. The current members of the Conservation Advisory Council, and their two-year terms as they exist on the effective date of this local law, shall be converted to terms on the Conservation Board. Vacancies on the Board occurring other than by the expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.
- C. The Chairman of the Board shall be appointed by the Town Board from among the members appointed to the Board.
- D. The Board shall elect a recording secretary from its members.
- E. The Town Board shall have authority to remove any member of said Board so appointed for cause, after a public hearing, if requested.

§ 10-3 Meetings and reports.

The Board shall keep accurate records of its meetings and actions and shall file an annual report with the Town Board of the Town of Philipstown on or before the 31st day of December in each and every year. Once approved, the Town Board shall forward a copy of this report to the State Commissioner of Environmental Conservation.

§ 10-4 Powers and duties.

- A. The powers and duties of the Board shall be to:
- (1) Conduct research into the land area of the Town of Philipstown.
- (2) Seek to coordinate the activities of unofficial bodies organized for similar purposes and to cooperate with other official municipal bodies active in the area of community planning for the particular municipality.

- (3) Keep and update the Open Space Index, as defined in §239-y of the General Municipal Law, with the plan of obtaining information pertinent to proper use of such open lands, including lands owned by the state, any other municipality within the state or by the Town itself.
- (4) Keep and update an inventory and map of all open marshlands, swamps and all other wetlands in a like manner, and with the option of recommending to the Town Board a program for ecologically suitable use of all such areas.
- (5) Review and report to any other boards or committees on such applications or matters as they may refer to it.
- (6) Have the duties, powers and authority conferred on it by the following chapters of the Town Code: Chapter 62, Building Code, Chapter 78, Driveways, Chapter 93, Freshwater Wetlands and Watercourses, Chapter 112, Land Development, Chapter 159, Timber Harvesting and Forest Management, and Chapter 175, Zoning.
- (7) Hold regular meetings no less frequently than once per month and hold such additional meetings as shall be necessary for the timely processing of applications.
- (8) In addition to the foregoing, carry out any other duties, tasks or responsibilities consistent with the objectives of this chapter.
- B. The Board may:
- (1) Prepare, print and distribute books, maps, charts, plans and pamphlets.
- (2) Request the Department of Environmental Conservation to render such assistance and advice as the Board deems necessary and as may be permitted by law.

§ 10-5 Compensation and expenses.
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The members of the Board shall receive no compensation for their services as members. The members of the Board may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within appropriations made therefor.

§ 10-6 Notice to state.

Within 30 days following the designation of the Board, written notification thereof shall be sent by the Town Board to the State Commissioner of Environmental Conservation.

§ 10-7 Interpretation.

This chapter shall be deemed an exercise of the powers of the Town of Philipstown to preserve and improve the quality of the natural and man-made environment on behalf of the present and future citizens of the town. This chapter is not intended and shall not be deemed to impair the powers of any other public corporation.

SECTION 5. AMENDMENT TO CHAPTER 30

Section 30-9 of Chapter 30 of the Town Code of the Town of Philipstown, entitled "Officers and Employees," is hereby amended to read as follows (added language is underlined):

§ 30-9 Residency requirement; state law superseded.

A. The Wetlands Inspector of the Town of Philipstown, who may also be designated by the Town Board as the "Natural Resources Review Officer," shall not be required to be a resident of the Town.

B. Pursuant to the power granted to the Town of Philipstown by the Municipal Home Rule Law, this article supersedes New York State Town Law § 23, Subdivision 1, and New York State Public Officers Law § 3, Subdivision 1, to the extent necessary to give this article full force and effect.

SECTION 6. AMENDMENTS TO CHAPTER 38

Chapter 38 of the Town Code of the Town of Philipstown, entitled "Planning Board," is hereby amended as follows:

- 1. §38-3, "General Duties and Responsibilities," is hereby amended by deleting subsection A(3)(d) and renumbering subsection A(3)(e) as A(3)(d).
- 2. A new §38-15 is hereby added after §38-14, to read as follows:

38-15 Appointment of Alternate Planning Board Members.

The Town Board may appoint alternate members of the Planning Board for terms specified by resolution for purposes of substituting as needed for a regular member in the event such member is unable to participate in a particular matter or matters because of a conflict of interest or because of an expected extended absence. The chairperson of the Planning Board may designate one of the duly appointed alternate members to substitute for a regular member where a regular member has a conflict of interest or expects to have an extended absence. Such designation of an alternate member shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made. To the extent that the preceding three sentences may be inconsistent with Section 271(15) of the Town Law, the Town Board hereby expresses its intention to supersede the Town Law in accordance with Municipal Home Rule Law, Article 2, §10, et seq.

SECTION 7. AMENDMENTS TO CHAPTER 62

Chapter 62 of the Town Code of the Town of Philipstown, entitled "Building Construction and Fire Prevention," is hereby amended as follows (added language is underlined:

1. §62-2, "Definitions," is hereby amended by adding the following definitions in the appropriate places alphabetically within the Section:

CONSERVATION BOARD: The officially appointed Conservation Board, as described in Section 239-y of the General Municipal Law and Chapter 10 of the Town Code of the Town of Philipstown.

NATURAL RESOURCES REVIEW OFFICER: A Town employee or consultant appointed to review development applications for compliance with Town environmental regulations, including but not limited to wetlands, steep slopes, and conservation analysis requirements of zoning. This position may be held by an official with other duties, such as Wetlands Inspector, Town Planner, or Town Engineer.

OPEN SPACE INDEX: The officially adopted Open Space Index adopted by the Town Board, consisting of a conservation open areas inventory and conservation open areas map.

- 2. §62-4F is hereby amended to read as follows:
- F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code, Energy Code and Town Code. The Code Enforcement Official shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code, Energy Code and Town Code. If the proposed work is to be conducted on a property listed on the Open Space Index, the Code Enforcement Official shall refer the application to the Natural Resources Review Officer as provided in §62-19, Referral to Natural Resources Review Officer, and follow the procedures therein prior to issuing a building permit.
- **3.** A new §62-19, entitled "Referral to Natural Resources Review Officer," is hereby added after §62-18, as follows:

§ 62-19 Referral to Natural Resources Review Officer

- A. Upon receipt of an application for a Building Permit, the Code Enforcement Official shall ascertain whether the property on which the proposed work will occur is listed on the Town's Open Space Index (OSI).
- B. In the event that the property is listed on the OSI, the Code Enforcement Official shall immediately forward copies of the application to the Conservation Board and the Natural Resources Review Officer.
- C. The Natural Resources Review Officer, after consultation with the Chair of the Conservation Board, shall review such application and submit a written report to the Code Enforcement Official within seven days of receiving the application. In the event that the Natural Resources Review Officer does not submit his/her report within seven days, the Code Enforcement Official may issue the Building Permit without such report.
- D. The Natural Resources Review Officer's report shall evaluate the proposed work in terms of the Town's open space planning objectives, as expressed in the

Philipstown Natural Resource and Open Space Protection Plan, to determine the effect of the proposed work on the Open Space Index. The report shall make recommendations as to the most appropriate use or development of the open area and may include preferable alternative use proposals consistent with open areas conservation. A copy of such report shall be filed with the Town Board and shall also be made available to the public in the office of the Natural Resources Review Officer.

E. In the event that the issuance of the Building Permit does not follow the recommendations in the Natural Resources Review Officer's report, The Code Enforcement Official shall provide a written statement of the reasons for not following such recommendations, which shall be filed with the Town Board and shall also be made available to the public in the office of the Natural Resources Review Officer.

SECTION 8. AMENDMENTS TO CHAPTER 78

Chapter 78 of the Town Code of the Town of Philipstown, entitled "Driveways," is hereby amended as follows (new language is underlined):

- 1. Section §78-2B is hereby amended to read as follows (new language is underlined):
- B. Upon receipt of the application, the Building Inspector shall refer a copy of it to the Town Superintendent of Highways for the latter's review and approval or disapproval. If the application is for an operation to be performed on a property listed on the Town of Philipstown Open Space Index, as defined in Chapter 30 of the Town Code, the Building Inspector shall refer the application to the Natural Resources Review Officer and shall not take action until the requirements in §78-7 have been met. If the Superintendent of Highways approves the application, the Building Inspector shall issue such permit, provided that there is compliance with the provisions of this chapter and all other laws, ordinances and rules and regulations of the Town of Philipstown and the Highway Department and other municipalities having jurisdiction pertinent to the application. Such permit, when issued, shall be effective for a period of time not to exceed six months, and the expiration date shall be specified in the permit. Such period may be extended by the Building Inspector for the completion of the operation, if so requested in writing by the applicant, prior to the expiration date, for such additional period or periods of time authorized by the Town Superintendent of Highways.
 - **2.** Chapter 78 is hereby amended by adding a new Section 78-7, which reads as follows:

§78-7 Referral to Natural Resources Review Officer

- A. <u>Upon receipt of an application for a Driveway Permit, the Code Enforcement Official shall ascertain whether the property on which the proposed work will occur is listed on the Town's Open Space Index (OSI).</u>
- B. In the event that the property is listed on the OSI, the Code Enforcement Official shall immediately forward copies of the application to the Conservation Board and the Natural Resources Review Officer.
- C. The Natural Resources Review Officer, after consultation with the Chair of the Conservation Board, shall review such application and submit a written report to the Code Enforcement Official within seven days of receiving the application. In the event that the Natural Resources Review Officer does not submit his/her report within seven days, the Code Enforcement Official may issue the Driveway Permit without such report.
- D. The Natural Resources Review Officer's report shall evaluate the proposed work in terms of the Town's open space planning objectives, as expressed in the Philipstown Natural Resource and Open Space Protection Plan, to determine the effect of the proposed work on the Open Space Index. The report shall make recommendations as to the most appropriate use or development of the open area and may include preferable alternative use proposals consistent with open areas conservation. A copy of such report shall be filed with the Town Board and shall also be made available to the public in the office of the Natural Resources Review Officer.
- E. In the event that the issuance of the Driveway Permit does not follow the recommendations in the Natural Resources Review Officer's report, The Code Enforcement Official shall provide a written statement of the reasons for not following such recommendations, which shall be filed with the Town Board and shall also be made available to the public in the office of the Natural Resources Review Officer.

SECTION 9. AMENDMENTS TO CHAPTER 85

Chapter 85 of the Town Code of the Town of Philipstown entitled ""Environmentally Sensitive Lands — Identification; criteria For Use, Protection and Management," is hereby amended to read as follows (added language is underlined and deleted language is struck out):

§ 85-1 Title.

This chapter shall be known as and may be cited as "Environmentally Sensitive Lands — Identification; criteria For Use, Protection and Management."

§ 85-2 Purpose.

The way in which currently undeveloped acreage in the Town of Philipstown is developed is of critical importance to the public interest. It is hereby declared to be the purpose of this chapter to identify, and to protect and provide for proper management of, environmentally sensitive lands in order to ensure the public health, safety and general

welfare for present and future residents of the Town of Philipstown. Pursuant to such purpose, this chapter also establishes criteria regarding the manner in which undeveloped acreage is developed, so that land may be appropriately used while protecting and providing for proper management of environmentally sensitive lands.

§ 85-3 Definitions; word usage.

A. Except where specifically defined herein, all words in this chapter shall carry their customary meanings. Words used in the present tense include the future anti and the plural includes the singular.

B. As used in this chapter, the following terms shall have the meanings indicated:

BUILDABLE AREA

An area on a building lot which is free of environmentally sensitive lands and which is located so as to be usable for buildings in compliance with the building setback requirements specified in Zoning Law, Chapter 175, and which is in addition to land used or suitable for use for an on-site sewage disposal system in accordance with regulations established by the Putnam County Department of Health.

BUILDING LOT

A "lot" as defined in Chapter 175.

LAND DISTURBANCE

Site preparation, consisting of the removal of vegetation and/or the excavation, filling, grading or removal of earth, soil or rock, or retaining structures, whether by labor, machine or explosive. The condition of land disturbance is deemed to continue until the area of disturbance is returned to its original state or to a state complying with a permit for such disturbance granted in accordance with the Code of the Town of Philipstown or complying with standards for completion of a land disturbance in accordance with such Code.

DWELLIN

A " /elling" as defined in Chapter 175.

ENVIRONMENTALLY SENSITIVE LANDS

Consist of and are defined as the following:

- (1) SPECIAL FLOOD HAZARD AREAS As defined in Chapter 90.
- (2) STEEP TERRAIN Consisting of Class I, II and III slopes As defined in Chapter 147 175.
- (3) STEEP TERRAIN WETLAND/WATERCOURSE TRANSITION AREAS As defined in Chapter 147 175.
- (4) WATERCOURSES/WATERCOURSE BUFFER ZONES As defined in Chapter 93.
- (5) WETLANDS/WETLANDS BUFFER ZONES Consisting of:
- (a) Lands that are regulated by the State of New York pursuant to the Freshwater Wetlands Act (Article 24 of the New York Environmental Conservation Law); and/or
- (b) Controlled wetlands and wetlands buffer zones as defined in Chapter 93. STREET/STREET LINE

As defined in Chapter 175.

§ 85-4 Criteria for residential building lots.

- A. The following criteria are applicable to each lot created after the effective date of this chapter and intended for use or used for a dwelling:
- (1) It shall contain a minimum buildable area of at least 6,000 contiguous square feet having a minimum dimension of 60 feet in any direction measured on a horizontal plane; and
- (2) It shall have a usable motor-vehicle driveway, or location for such driveway, from the minimum buildable area to the boundary of the lot that is also the street line of the street constituting access to the lot, and no part of such driveway shall be on steep terrain consisting of Class III slopes with a topographic gradient of 35% or greater.
- B. The criteria in § 85-4A above are also applicable whenever the preparation of a conventional subdivision plan is prepared required in order to establish a maximum dwelling unit or lot count for some other purpose, such as in a conservation subdivision under provisions of § 278 of the Town Law.

§ 85-5 Criteria for land disturbance.

Land disturbance within special flood hazard areas is also subject to the criteria, standards and requirements of Chapter 90. Land disturbance within watercourses/watercourse buffer zones and wetlands/wetlands buffer zones is also subject to the criteria, standards and requirements of the State of New York Freshwater Wetlands Act and/or Chapter 93, as applicable. Land disturbance on steep terrain is also subject to criteria, standards and requirements of Chapter 147. 175.

§ 85-6 Criteria for special flood hazard areas.

Criteria, standards and requirements for use, protection and management of special flood hazard areas are as set forth in Chapter 90.

§ 85-7 Criteria for steep terrain; steep terrain wetland/watercourse transition areas.

Criteria for use, protection and management of steep terrain-consisting of Class I, II and III-slopes and steep terrain wetland/watercourse transition areas are as set forth in Chapter 147. 175, Section 175-36B.

§ 85-8 Criteria for watercourses and wetlands.

Criteria, standards and requirements for use, protection and management of watercourses/watercourse buffer zones and wetlands/wetlands buffer zones are set forth in the State of New York Freshwater Wetlands Act (Article 24 of the New York Environmental Conservation Law) and/or as set forth in Chapter 93.

§ 85-9 (Reserved)

§ 85-10 Severability

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered or as determined by such judgment.

SECTION 10. REPEAL OF CHAPTER 147

Chapter 147, entitled "Steep Terrain," is hereby repealed.

SECTION 11. VALIDITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudicated invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Philipstown hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 12. REPEAL

All ordinances, local laws and parts thereof that are inconsistent with this Local Law are hereby repealed.

SECTION 13. EFFECTIVE DATE

This Local Law shall take effect immediately after its adoption and filing in the office of the New York State Secretary of State.

Town of Philipstown

Local Law No. of the Year 2012

A Local Law to amend Chapter 159 of the Code of the Town of Philipstown, entitled "Timber Harvesting and Forest Management," in order to implement the Town's Natural Resource and Open Space Plan and its redesignation of the Town's Conservation Advisory Council as a Conservation Board.

Be it enacted by the Town Board of the Town of Philipstown as Follows:

SECTION 1. TITLE

This local law shall be known as "A Law Amending Chapter 159 of the Town Code of the Town of Philipstown."

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York, Article 2, §10 et seq. and the Consolidated Laws of the State of New York, Chapter 62, Article 16 (the "Town Law").

SECTION 3. PURPOSE

This local law is intended to implement the Philipstown Comprehensive Plan, adopted March 9, 2006, by amending Chapter 159 to empower the Natural Resources Review Officer and Conservation Board to play a more significant role in administering the Town's local law regulating timber harvesting and forest management and to make Chapter 159 consistent with the newly adopted Zoning Law, Chapter 175.

SECTION 4. REVISION OF CHAPTER 159

Chapter 159 of the Town Code of the Town of Philipstown, entitled "Timber Harvesting and Forest Management," is hereby amended to read as follows (added language is underlined and deleted language is struck out):

§ 159-1 Title.

This chapter shall be known and cited as the "Timber Harvesting and Forest Management Law of the Town of Philipstown."

§ 159-2 Findings.

A. While it is known that trees and forests have commercial value and may be a source of income to the landowner, it has also been established that trees and forests stabilize the soil, especially on steep slopes; control water pollution by preventing soil erosion and flooding; control air pollution through the absorption of carbon dioxide and the provision of oxygen; yield advantageous microclimatic effects including cooling shade and fire breaks; provide recreation; offer a natural barrier to noise; provide a natural habitat for wildlife; and yield mulch, nuts, fruits and maple syrup.

B. Timber harvesting is not incompatible with maintenance of a forested landscape. Good forest management helps to maintain forests and is often necessary for the health of a forest

C. However, indiscriminate, unregulated cutting, clearing or other removal of trees and forests may deprive the landowner, individual and the community of these benefits; have adverse impact on future growth of trees and forests; adversely affect soils and water resources and supplies and result in soil erosion and sedimentation; create a detrimental effect on neighboring property; and disrupt ecological systems in which trees and forests are an integral part.

§ 159-3 Policy and purpose.

It is hereby declared to be the policy of the Town of Philipstown and the purpose of this Timber Harvesting and Forest Management Law to conserve, manage, protect and make the best use of trees and forests which are an integral part of the natural resources and environment of the Town as well as its economy, by regulating the cutting and harvesting of trees and using professional management practices therefor and by improving and coordinating plans for tree cutting, harvesting, forest restoration and forest management, in order to enhance the health, safety and welfare of its people and their overall economic well-being.

§ 159-4 Definitions.

Whenever used in this chapter, unless a different meaning clearly appears from the context or unless a different meaning is stated in a definition applicable to only a portion of this chapter, the following terms shall have the meanings indicated:

APPLICANT

The individual, corporation, copartnership or other entity which files an application under § 159-7 of this chapter.

AREA OF SPECIAL FLOOD HAZARD

This term shall have the same meaning as defined in Chapter 90 of the Code of the Town of Philipstown.

BASAL AREA PER ACRE

The total cross-sectional area of trees on one acre measured at diameter breast height (DBH) expressed in square feet.

BENCH

A relatively flat interruption of an otherwise relatively steep slope or hillside. Benches are typically longer than they are wide and follow the contour of the slope.

BOARD FOOT

A measure of lumber one foot by one foot by one inch as measured by the International 1/4 Log Rule. "MBF" equals 1,000 board feet.

BUILDING INSPECTOR

The Building Inspector for the Town of Philipstown.

CLEAR CUTTING

A method of cutting, removal or harvesting that removes 75% or more of the trees of six inches in diameter or greater at breast height (DBH) in either a stand of trees in an area of more than two acres, or in any area of more than two acres.

CODE ENFORCEMENT OFFICER

The Enforcement Officer appointed by the Philipstown Town Board.

CONSERVATION BOARD (CB) ADVISORY COUNCIL (CAC)

The Town of Philipstown Conservation Board. Advisory Council.

CONSULTANT FORESTER

A professional forester to assist the Wetlands Inspector or Natural Resources Review Officer in both the permit process and enforcement of the provisions of this chapter. (cf "professional forester" defined below.)

CORD

Four feet by four feet by eight feet or equivalent.

CUBIC FOOT

A unit of timber volume measuring 12 inches by 12 inches by 12 inches.

DIAMETER BREAST HEIGHT (DBH)

The diameter of a tree 41/2 feet in height from ground level at the base of a tree.

EXEMPT OPERATIONS

Tree cutting and timber harvesting operations specifically exempted by this chapter from the need to obtain a timber harvesting permit.

FOREST MANAGEMENT

A long-range plan for the forest cycle of regeneration, tending and harvesting to yield a sustainable forest.

HAUL OR TRUCK ROAD

Construction road utilized for moving cut trees from a point where they are loaded on a truck to an exit from the site.

INTERNATIONAL 1/4 LOG RULE

A professionally recognized and accepted methodology for estimating board foot volume in standing trees.

LANDING

Open or cleared areas used for loading logs onto trucks or any general purpose such as storing logs or servicing equipment.

LOT

The same meaning as defined in Chapter 175, the Zoning Law of the Town of Philipstown.

MAJOR TIMBER HARVESTING OPERATION

The cutting, removal or harvesting of timber or trees from an area of 10 acres or more in size on any lot, or from a contiguous area of 10 acres or more in size on adjacent lots.

MINOR TIMBER HARVESTING OPERATION

The cutting, removal or harvesting of timber or trees from an area of up to 10 acres in size on any lot, or from a contiguous area of up to 10 acres in size on adjacent lots.

NATURAL RESOURCES REVIEW OFFICER: A Town employee or consultant appointed to review development applications for compliance with Town environmental regulations, including but not limited to wetlands, steep slopes, and conservation analysis requirements of zoning. This position may be held by an official with other duties, such as Wetlands Inspector, Town Planner, or Town Engineer.

PROFESSIONAL FORESTER

One who has a minimum of either a bachelor of science degree in forestry or other closely related environmental field from a four-year college accredited by the Society of American Foresters, or an associates degree in such field, with two years' full-time experience in work closely associated with forestry management.

RIDGE

The topmost elevation of a steep slope which may either continue relatively flat on the same contour or drop off to a lower elevation on the back side.

SILT FENCE

Filter fabric attached to stakes one inch by two inches by two and one-half feet to collect siltation.

SKID TRAIL OR ROAD

Trail or rough road used to move a tree from the place where it was cut to a pile or landing where it is loaded onto a truck.

SLASH

Those portions of trees remaining on the ground following a timber harvest, including limbs, branches and other unmarketable portions of the tree.

STAND

A contiguous group of trees sufficiently uniform in species composition, age class and condition to be a homogenous and distinguishable unit.

STEEP SLOPES

Slopes with an angle of 25% or more.

STREAM

The same meaning as "watercourse."

SUGARBUSH

A stand consisting primarily of sugar maple (acer saccharum) trees annually tapped for the commercial production of maple syrup, maple sugar, maple candy or other typical maple products.

TIMBER HARVESTING

The cutting, removal or harvesting of any timber or trees from any property or lot in the Town of Philipstown, and includes the term "timber harvesting operation."

TOWN BOARD

The Town of Philipstown Town Board.

WATERBARS

Small humps or diversions for the purpose of erosion and sediment control which are built up across roads and/or landings which catch and then divert runoff into adjacent vegetated areas in a nonerosive manner.

WATERCOURSE

Includes the term "stream" and shall also have the same meaning as defined in Chapter 93 of the Code of the Town of Philipstown.

WETLANDS

The same meaning as defined in Chapter 93 of the Code of the Town of Philipstown.

WETLANDS INSPECTOR

The same meaning as defined in Chapter 93 of the Code of the Town of Philipstown. Also known as Natural Resources Review Officer.

§ 159-5 Timber harvesting; permit required.

A. All trees or timber cut, removed or harvested from any property or lot in the Town of Philipstown shall only be cut, removed or harvested as provided by this chapter, except for exempt operations as set forth in this chapter.

B. A timber harvesting permit shall be obtained from the <u>Natural Resources Review</u> <u>Officer Wetlands Inspector</u> to cut, remove or harvest timber or trees from any property or lot in the Town of Philipstown, except that such permit shall not be required for exempt operations as set forth in this chapter. <u>Prior to granting such timber harvesting permit,</u> approval of the Planning Board shall be required for major timber harvesting permits.

§ 159-6 Exempt operations.

A timber harvesting permit is not required for the following operations:

- A. The cutting, removal or harvesting of trees or timber from an area of two acres or less in size on any lot or from a contiguous area of two acres or less in size on adjacent lots.
- B. The harvesting of evergreens specifically planted for Christmas trees or the thinning of sugarbush.
- C. The cutting or removal of timber or trees reasonably necessary in connection with the bona fide construction or alteration of a building, other structure, outside storage area or off-street parking or loading area for which any required building permit has been issued and an application for certificate of occupancy has been approved.
- D. A bona fide landscaping operation, provided that such operation also conforms to the requirements of Town Code § 175-33I (5). 42A (5)
- E. The cutting or removal of timber or trees in connection with a bona fide operation for which a special use permit has been issued pursuant to Town Code Chapter 175, Article IX XI.
- F. The cutting or removal of timber or trees in connection with the construction of streets, drainage and other improvements and the changing of contours in an approved subdivision plat or in connection with an approved site plan in accordance with construction plans and contour plans approved by the Philipstown Planning Board pursuant to Town Code Chapter 112 or Chapter 175.

- G. The cutting or removal of timber or trees in connection with and within the area of a soil extraction operation authorized under Town Code Chapter 175, <u>Sections 175-17 through 175-17.4</u>. <u>Article X</u>
- H. The cutting, removal or harvesting on any property or lot of trees or timber in any twelve-month period of either 10,000 or less board feet of timber as measured by the International 1/4 Log Rule or 20 full cords or less, whichever is greater.
- I. The normal maintenance of trees or property through the pruning or topping of trees or timber, or the cutting, removal or harvesting of trees or timber which are dead or diseased or are a hazard to public safety or health or property.
- J. The cutting or removal of timber or trees in the case of a bona fide emergency to protect or preserve health, safety or welfare of persons or property as determined by the <u>Natural Resources Review Officer</u> Wetlands Inspector or other competent public safety or public health authority.
- K. Any forestry use or timber harvesting operation for which a building permit has been issued or an application for certificate of occupancy has been approved prior to the adoption of this chapter.

§ 159-7 Application for major or minor timber harvesting permit

- A. An applicant seeking a timber harvesting permit shall file an application for such permit with the <u>Natural Resources Review Officer</u> Wetlands Inspector, together with the required fee. Where required, an application for a wetlands permit shall be included. The Town Board may adopt or amend forms and/or a fee schedule for use in connection with this chapter by resolution from time to time.
- B. The application shall be accompanied by the number of copies required by the permitting authority and shall include:
- (1) A written report of the proposed operation prepared by the applicant or his/her designated representative, which shall contain the following information:
- (a) The purpose of the operation.
- (b) A description of the proposed activity to be performed.
- (c) The dates between which such activity will occur.
- (d) The names, addresses and phone numbers of the owners of all property on which the timber harvesting operations are to be conducted and satisfactory proof of ownership.
- (e) The name, address and phone number of the persons, company or corporation (contractor) who will be performing the cutting and harvesting operation.
- (f) In the case of a major timber harvesting operation, the name, address and phone number of the professional forester, hired by the applicant, who is to be consulted in connection with the operation.
- (g) The names and addresses of all adjacent property owners.
- (h) The total land area involved in the operation.
- (i) An estimate of the range, in inches of diameter, of the trees to be cut, measured 41/2 feet above the ground, and the range in diameter of the stand remaining.
- (j) The average number of trees per acre to be cut.
- (k) An estimate of the total volume of timber to be removed from the cutting area.
- (l) A detailed program for restoration (reclamation) of the property and the access driveways, roads and/or trails, which plan shall address the items set forth in § 159-10E.
- (m) The contract price or estimate for the job.

- (n) A certificate of insurance.
- (o) Said report shall be signed by the applicant, the contractor, if any, the property owner and, in the case of a major timber harvesting operation, by a professional forester hired by the applicant.
- (2) Any map, plat, plan or sketch, and attachments, that shows the following required information:
- (a) A key map of the location and boundaries of the lot or lots where the timber harvesting or forest management operation is proposed and all lots and streets within 200 feet.
- (b) All public and privately owned streets and roads within 200 feet of the area of the proposed timber harvesting or forest management operation.
- (c) All structures within 200 feet of the area of operation.
- (d) The proposed location and bounds of the areas within the lot or lots where cutting and harvesting will occur.
- (e) All existing or intermittent streams, bodies of water, watercourses, wetlands and areas of special flood hazard located in or within 200 feet of the area of the operation and slopes of 25% or more.
- (f) Access roads into the lot and proposed roads and skid trails into and within the area of operation.
- (g) The location and size of proposed product loading areas and storage piles.
- (h) The location of areas within the lot or lots where previous harvesting activity has occurred within the last 20 years.
- (3) Statement of trees to be cut:
- (a) A statement that each tree to be cut, removed or harvested shall be designated with paint or other descriptive means at two points so as to be readily visible by the contractor or logger. One point shall be low enough on the tree so as to be visible on the stump after the tree is removed.
- (b) In the case of a major timber harvesting operation, a statement that such designation has been made by the professional forester hired by the applicant.

§ 159-8 Application review procedure.

- A. Minor timber harvesting operation.
- (1) Within 10 business days after an application for a minor timber harvesting operation is deemed complete, the <u>Natural Resources Review Officer</u> Wetlands Inspector shall approve the permit, deny the permit or approve the permit with modifications and/or additional conditions. The <u>Natural Resources Review Officer</u> Wetlands Inspector may consult with the town's Consultant Forester <u>and/or the Conservation Board</u> if he/she deems it necessary. If a permit is denied, the grounds for denial shall be set forth. Upon grant or denial of a permit, the <u>Natural Resources Review Officer</u> Wetlands Inspector shall notify the Conservation <u>Board Advisory Council</u> of the action.
- (2) The ten-business-day time period in which the <u>Natural Resources Review Officer</u> Wetlands Inspector must take action may be extended by mutual consent of the applicant and the Natural Resources Review Officer Wetlands Inspector.
- B. Major timber harvesting operation.
- (1) Within three business days after an application for a major timber harvesting operation is deemed complete, the <u>Natural Resources Review Officer Wetlands Inspector</u>

shall refer same to the Philipstown Planning Board, which shall review the application according to its procedures and time line for a site plan application. The Natural Resources Review Officer shall also refer the application to the Conservation Board, which shall have 30 days to report on the application to the Planning Board. If the Conservation Board does not report within 30 days, the Planning Board may make its decision without such report.

- (2) The Planning Board shall issue a decision setting forth findings whether the standards and guidelines set forth in § 159-10 have been met and recommending to the <u>Natural Resources Review Officer Wetlands Inspector</u> to approve the permit, deny the permit, or approve the permit with modifications and/or additional conditions. <u>The Planning Board shall take the Conservation Board's recommendations into consideration, and if it does not follow such recommendations, it shall provide a written explanation of its reasons for not doing so.</u>
- (3) Upon receipt of said decision from the Planning Board, the <u>Natural Resources Review</u> <u>Officer Wetlands Inspector</u> shall promptly take action on the application for permit in accordance with said decision.

§ 159-9 Duration of permit.

- A. Permits issued pursuant to this chapter shall expire 12 months from the date of issuance.
- B. A minor timber harvesting permit may be extended by the <u>Natural Resources Review Officer Wetlands Inspector</u> for one additional period of 12 months. In making a determination on extension, the <u>Natural Resources Review Officer Wetlands Inspector may consult with the Conservation Board and shall make a complete review of all plans and examine make an examination of all work accomplished.</u>
- C. For major timber harvesting permits, the Planning Board may extend the permit for additional periods of one year when it determines the circumstances of the application so warrant, provided that the Conservation Board is given a 30-day period in which to comment on the proposed extension.
- D. The Town Board may establish a fee for any such application for extension.

§ 159-10 Standards and guidelines.

All timber cutting, removal or harvesting operations requiring a timber harvesting permit shall be designed and conducted in accordance with the policy and purpose of this chapter and shall adhere to the following standards and guidelines:

A. General.

- (1) Clear cutting is not permitted.
- (2) No tree cutting, harvesting or removal, other than exempt operations, shall take place between the hours of 6:00 p.m. and 7:00 a.m., or on Sundays or legal holidays.
- (3) All trees shall be felled so that no trees or debris shall fall on any adjoining property or on any roads.
- (4) All stumps shall be kept as low as possible and in general, when measured on the uphill side, no higher than the diameter of the tree trunk.

- (5) Landing or loading areas should be located, if possible, in the same vicinity as the operations. They shall be smoothed to remove all ruts and debris at the conclusion of the operation.
- (6) There shall be no tree cutting, harvesting or removal on slopes over 25%, unless such property has been granted a real property tax exemption pursuant to Real Property Tax Law § 480 or 480-a.
- (7) The <u>Natural Resources Review Officer</u> Wetlands-Inspector or Enforcement Officer shall have the authority to issue a stop-work order for all or part of the cutting and harvesting activity if in his opinion conditions created by a spring thaw, adverse weather conditions or any other cause may make damage to public roads likely or may result in soil erosion or other damage beyond or outside of the boundaries of the area of the timber harvesting operation.

B. Stream crossings.

- (1) Stream crossing shall be kept to a minimum and shall be designed and planned so that streams shall be crossed at the most direct route at a ninety-degree angle to the flow of the stream, and all crossings at heads of pools are to be avoided.
- (2) Silt fences, hay bales or the equivalent shall be installed and/or maintained across the roads at stream crossings when the road is not in use.
- (3) Stream crossing sites shall be at locations with low, stable banks, a firm stream bottom and gentle slopes along the approaches. All temporary culverts, bridges or runways, etc., must be removed after use.
- (4) There shall be no skidding in any stream channel, and all fallen trees, bushes and debris shall be promptly removed from any stream channel.
- (5) In order to keep stream banks stable and to minimize stream temperature variations, no trees shall be cut within 50 feet of stream banks unless a permit has been issued pursuant to Town Code Chapter 93.
- (6) There shall be no cleaning, draining of oils, gasoline, hydraulic fluids, antifreeze, etc., or any other maintenance of any machinery, vehicles, chainsaws, etc., and no refueling of any equipment with said or similar fluids within 100 feet of any water body or dry stream channel.
- (7) Running water from skid trails and haul roads shall not be diverted directly into a stream or other water body but should be diverted into a well-vegetated area.
- C. Road and skid trails.
- (1) A driveway permit shall be obtained from the appropriate town, county or state agency for any new access road to the timber harvesting operation.
- (2) Whenever practical, haul roads and skid trails shall be located on benches and ridges and off of steep slopes to minimize erosion. They must be kept out of wet and poorly drained areas and off the tops and toes of banks and slopes. Roads should be designed so that their construction causes a minimum, amount of soil removal and shall not exceed 14 feet in width. Any haul road or skid trail constructed within 100 feet of a town-controlled wetland or within 50 feet of mean high water of a watercourse, as defined in § 93-4 of the Philipstown Freshwater Wetlands and Watercourse Law, shall require a wetlands and watercourse permit.
- (3) Whenever practical, haul roads and skid trails shall be kept back from streams, ponds, wetlands and other water bodies at least 100 feet on slopes of 25% or less and at least 150 feet from steeper slopes.

(4) Running water shall be diverted off haul roads and skid trails by waterbars placed at the following intervals:

Road Grade	Spacing (in feet)		
2% to 5%	300 to 500		
6% to 10%	200 to 300		
11% to 15%	100 to 200		
Over 15%	100		

- (5) No haul road or skid trail shall exceed a slope of 25% for a distance of more than 100 feet.
- D. Landings and buffer zones.
- (1) Whenever practical, landings shall be located so as to avoid erosion by keeping such landings out of low spots and poorly drained places. Whenever possible, landings shall be located on gently sloping ground that provides good drainage. Whenever possible, landings shall not be located in areas of special flood hazard and shall be set back at least 200 feet from streams, ponds, lakes, swampy areas and marshes.
- (2) Whenever practical, landings shall be located at least 200 feet from all roads and adjacent property. Access roads to such landing areas should be designed to reduce visibility from the road whenever reasonably possible.
- (3) The nature and dimension of buffers between the harvesting area and any public or private road or any adjacent property, if applicable, must be addressed in the applicant's forest management plan.
- E. Reclamation. Upon completion or termination of the cutting and harvesting activity, or upon revocation of the timber harvesting permit, reclamation of the site shall be performed by the applicant as follows:
- (1) All stream crossings, stream culverts, bridges and runways shall be treated according to the requirements of the Department of Environmental Conservation (DEC) and/or the Wetlands and Watercourse Law.
- (2) Haul roads and skid trails shall be smoothed and sloped. Said haul roads and skid trails shall also be seeded with grass.
- (3) Landings and loading areas shall be smoothed to remove all ruts and debris and shall be seeded with perennial grass.
- (4) All trash and debris within the area covered by the permit, such as oil cans, food containers, cables, etc., shall be removed during and after the operation.
- (5) All structures erected during the operation shall be removed upon completion, unless a certificate of occupancy is obtained for same.
- (6) All hung-up or partly fallen trees shall be pulled down during the operation and at the termination of the operation. As slash constitutes a serious fire hazard, all slash must be chopped into a layer not more than four feet thick, in contact with the ground or piled and burned under controlled conditions. Quick decay or removal of slash is key to fire prevention and forest regeneration.
- (7) On land that is not intended for immediate building or other development, native and/or noninvasive seed trees shall be left or planted for restoration of the forest, and small trees shall be retained on steep slopes.

- (8) All reclamation efforts shall be subject to inspection and review by the <u>Natural</u> <u>Resources Review Officer</u> Wetlands Inspector and/or Enforcement Officer to assure compliance with this chapter.
- (9) Upon completion of the operation, a statement shall be filed with the <u>Natural Resources Review Officer Wetlands Inspector</u> by the contractor, forester and property owner certifying that the operation was performed in accordance with the application and all the standards set forth herein.
- F. Additional standards.
- (1) The <u>Natural Resources Review Officer</u> Wetlands Inspector, or the Planning Board in the case of a major timber harvesting operation, may impose such other additional standards as may be warranted by specific circumstances.
- (2) In the event that any other or stricter standards, measures or permits are required by any federal, state, county or Town governmental authority, agency or department having jurisdiction thereof (for example, the Freshwater Wetlands and Watercourse Law of the Town of Philipstown,

Editor's Note: See Ch. 93, Freshwater Wetlands and Watercourses.

New York Water Resources Law and New York fire laws) the same shall be complied with by the persons conducting such operation.

- (3) The <u>Natural Resources Review Officer</u> Wetlands Inspector, Enforcement Officer or the Philipstown Superintendent of Highways shall have the right to restrict the weight of logging trucks and equipment in accordance with the capabilities or conditions of Town and private roads, bridges and culverts. The <u>Natural Resources Review Officer</u> Wetlands Inspector, Enforcement Officer or Highway Superintendent shall have the right to require the repair of roads, bridges and culverts damaged as a result of any operation.
- (4) Applications for timber harvesting permits are subject to the State Environmental Quality Review Act.

§ 159-11 Performance bond and certificate of completion.

As a part of the permit procedure and to ensure compliance by the applicant with the conditions of the permit and all of the standards set forth in this chapter, a bond shall be posted with the Town of Philipstown in an amount to be determined by the Natural Resources Review Officer Wetlands Inspector or, in the case of major timber harvesting operations, by the Planning Board. Such amount shall be no less than 10% of the contract price. Said Bond shall remain in full force and effect throughout the operation and will be released once a certificate of completion has been issued by the Natural Resources Review Officer Wetlands Inspector or Enforcement Officer following a site inspection indicating that all of the provisions of this chapter and any additional permit conditions have been complied with. The bonding or surety company, or the security posted by the owner, is subject to the approval of the Town Board, as is the form, sufficiency and manner of execution of the bond. Such bonds may be but are not limited to surety bonds, cash bonds or irrevocable letters of credit.

§ 159-12 Enforcement.

A. Inspections; investigation of complaints.

- (1) This chapter shall be enforced by the <u>Natural Resources Review Officer</u> Wetlands Inspector and/or Enforcement Officer, who shall inspect the progress of the work as needed. The <u>Natural Resources Review Officer</u> Wetlands Inspector, Enforcement Officer and/or the town's consultant forester shall be authorized and have the right at any time in the performance of their duties to enter upon any property proposed to be harvested, or in the process of being harvested or reclaimed, and to make such inspections as are necessary to determine satisfactory compliance with the provisions of this chapter. Owners, agents or contractors on a property being harvested shall be responsible for allowing access to all parts of the premises within their control to the <u>Natural Resources Review Officer Wetlands Inspector</u>, the Enforcement Officer and/or the town's consultant forester.
- (2) It shall be the duty of the <u>Natural Resources Review Officer</u> Wetlands Inspector and/or Enforcement Officer to investigate all complaints made under this chapter and to take appropriate legal action on all violations of this chapter.
- B. Stop-work orders; correction of violations.
- (1) Upon determination by the <u>Natural Resources Review Officer</u> Wetlands Inspector and/or Enforcement Officer that there has been a violation of any provision of this chapter or violation of the conditions under which a permit has been granted, he/she shall serve the property owner and/or contractor with a written stop-work order to cease and desist immediately and directing that the violations therein specified be corrected within five working days after service of the order. The order shall also contain an outline of remedial action which, if taken, will effect compliance.
- (2) Where violations cannot reasonably be corrected within five days and where an alleged violator has demonstrated good-faith efforts to comply, said time period may be extended by the <u>Natural Resources Review Officer Wetlands Inspector</u> and/or Enforcement Officer for up to a maximum of 30 days.
- C. Failure to comply; revocation of permit.
- (1) If, after the expiration of such period, said violations are not corrected, the <u>Natural Resources Review Officer</u> Wetlands Inspector and/or Enforcement Officer shall serve a written notice requiring the alleged violator to appear before the Town Board of the Town of Philipstown, at a time to be specified in such notice, for a hearing to determine whether or not such permit should be revoked.
- (2) The Philipstown Town Board may, after such hearing, issue such order as it deems appropriate, including revoking such permit if it finds that the violations described in the stop-work order exist and have not been corrected, and may direct termination of timber harvesting activities and reclamation of the site. In addition, the Town Board may use the proceeds of the performance bond to achieve compliance with 159-10, Standards and guidelines, including reclamation of the site.

§ 159-13 Penalties for offenses.

Any violation of this chapter is hereby declared to be a violation, punishable by a fine not exceeding \$1,000 or by imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment. Each day's continued violation shall constitute a separate additional violation.

§ 159-14 Severability.

If any part of or provision of this chapter or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of this chapter directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances.

SECTION 5. VALIDITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudicated invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Philipstown hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 6. REPEAL

All ordinances, local laws and parts thereof that are inconsistent with this Local Law are hereby repealed.

SECTION 7. EFFECTIVE DATE

This Local Law shall take effect immediately after its adoption and filing in the office of the New York State Secretary of State.

Town of Philipstown

Local Law No. of the Year 2012

A Local Law to amend Chapter 112 of the Code of the Town of Philipstown, entitled "Land Development," in order to require maintenance agreements for Open Development Area subdivisions accessed by shared rights-of-way.

Be it enacted by the Town Board of the Town of Philipstown as Follows:

SECTION 1. TITLE

This local law shall be known as "A Law Amending Chapter 112 of the Town Code of the Town of Philipstown with respect to Open Development Area subdivisions."

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York, Article 2, §10 et seq. and the Consolidated Laws of the State of New York, Chapter 62, Article 16 (the "Town Law").

SECTION 3. PURPOSE

This local law is intended to require maintenance agreements for Open Development Area subdivisions accessed by shared rights-of-way in order to solve a long-standing problem in the Town and provide a secure legal basis for a requirement that the Planning Board has attempted to institute in its discretion, as a matter of good practice.

SECTION 4. REVISION OF CHAPTER 112

Section 112-64 of Chapter 112 of the Town Code of the Town of Philipstown, entitled "Land Development," is hereby amended by inserting a new subsection J after subsection I (renumbering existing subsection J as subsection K), as follows:

- J. Requirement of Recorded Right-of-Way Maintenance Agreement
 - (1) Prior to granting final approval of a new open development area subdivision pursuant to these regulations, the Planning Board shall require the applicant to submit a right-of-way maintenance agreement that complies with the criteria in subsection (4) below.
 - (2) Final approval of the subdivision shall be conditioned upon recording the approved maintenance agreement in the County Clerk's office, and the Planning Board chair shall not sign the plat until the applicant has shown proof of such recording and provided a suitable notation of such recording on the plat.

- (3) An applicant may substitute a recorded property owners association agreement for a recorded right-of-way maintenance agreement, provided that the Town Attorney finds that the property owners association documents provide assurances of maintenance of the right-of-way that meet the requirements in subsection (4). The property owners association agreement shall be recorded in the County Clerk's office prior to or simultaneously with final approval of the plat.
- (4) The right-of-way maintenance agreement or property owners' association (POA) agreement shall meet the following minimum requirements:
 - a. The signatories to the maintenance agreement or the POA agreement shall have adequate powers to charge the subdivision lot owners for their proportionate share of the maintenance costs of the private road.
 - b. The maintenance agreement or the POA agreement shall ensure that the road will be maintained and kept open to permit emergency vehicle access.
 - c. The maintenance agreement or POA agreement shall bind all lot owners in the subdivision and their successors in title.

SECTION 5. VALIDITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudicated invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Philipstown hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 6. REPEAL

All ordinances, local laws and parts thereof that are inconsistent with this Local Law are hereby repealed.

SECTION 7. EFFECTIVE DATE

This Local Law shall take effect immediately after its adoption and filing in the office of the New York State Secretary of State.

Town of Philipstown

Local Law No. of the Year 2012

A Local Law to amend Chapter 175, "Zoning," of the Code of the Town of Philipstown in order to make clarifications and technical corrections.

Be it enacted by the Town Board of the Town of Philipstown as Follows:

SECTION 1. TITLE

This local law shall be known as "A Law Amending the Town Code of the Town of Philipstown to make clarifications and technical corrections to Chapter 175."

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York, Article 2, §10 et seq. and the Consolidated Laws of the State of New York, Chapter 62, Article 16 (the "Town Law").

SECTION 3. PURPOSE AND FINDINGS

This local law is intended to make technical corrections, resolve ambiguities, and refine the provisions of the Town's Zoning Law, Chapter 175 of the Town Code (Local Law # 1 of the Year 2011).

SECTION 4. AMENDMENTS TO CHAPTER 175

- 1. Section 175-10B of the Town Code of the Town of Philipstown, is hereby amended by adding the words "Minor Project" at the beginning of the first footnote on the Use Table so that the footnote reads as follows:
 - (*) Minor Project Site Plan review required when footprint area exceeds 3,000 square feet. Additions to dwellings where the total cumulative footprint will be greater than 3000 square feet shall require minor project site plan review if the footprint of the addition exceeds 1000 square feet.
- 2. Section 175-10B of the Town Code of the Town of Philipstown, is hereby amended by deleting the word "subject" from the second footnote on the use table so that the footnote reads as follows:
 - (#) Permitted by right if operated in conjunction with the primary institutional use as defined in §175-74; otherwise a special permit is required. See §175-10J.

3. Section 175-11 of the Town Code of the Town of Philipstown, is hereby amended by adding a new subsection F after subsection E, to read as follows:

"F. Lot Size Calculation for Land in More than One Zoning District

For purposes of calculating and determining compliance with minimum lot size requirements on a lot or parcel that lies in more than one zoning district, the required minimum lot size shall be the minimum lot size for the zoning district which encompasses the largest portion of the lot. The remaining land on the lot, lying in one or more other districts, shall be counted toward the minimum lot size requirement as determined above. Land on a contiguous parcel in the same ownership may also be counted toward minimum lot size if so desired by the landowner."

4. The first sentence of Section 175-62E(4) of the Town Code of the Town of Philipstown, is hereby amended to read as follows:

"Upon receipt of application materials it deems to be complete, the Planning Board shall also refer to the Town's Conservation Board any application for a Major Project Special Permit or any application for a Minor Project Special Permit located within the OSO, WSO, SPO, or FPO Districts, or within a Ridgeline and Hillside Protection Area, together with any SEQR documents submitted with the application."

- 5. Section 175-65A(2) of the Town Code of the Town of Philipstown, is hereby amended to read as follows:
 - "2. The procedures for review of Site Plans for Major and Minor Projects (as defined in Article XII) are described in §\$175-66 and 175-67. Agricultural structures with a footprint of over 15,000 square feet shall require Minor Project site plan approval. Agricultural structures with a footprint of 15,000 square feet or less are exempt from site plan approval requirements."
- 6. The fourth sentence of Section 175-67D of the Town Code of the Town of Philipstown, is hereby amended to read as follows:

"A minor project site plan shall be referred to the Conservation Board if it is located within the OSO, WSO, SPO, or FPO Districts, or within a Ridgeline and Hillside Protection Area."

7. Section 175-74B of the Town Code of the Town of Philipstown, is hereby amended by changing the definition of Lot/Parcel to read as follows:

"Lot/Parcel: An area of land with definite boundaries, all parts of which are owned by the same person(s) or entities, the boundaries of which were established by the filing of an approved subdivision plat, by the recording of a deed prior to the adoption of Subdivision Regulations of the Town of Philipstown on June 17, 1968, or by the recording of a deed after the adoption of Subdivision Regulations of the Town of Philipstown, if the Subdivision Regulations then in effect did not require subdivision approval for the creation of the lot or parcel."

SECTION 5. VALIDITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudicated invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Philipstown hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 6. REPEAL

All ordinances, local laws and parts thereof that are inconsistent with this Local Law are hereby repealed.

SECTION 7. EFFECTIVE DATE

This Local Law shall take effect immediately after its adoption and filing in the office of the New York State Secretary of State.

Town of Philipstown

Local Law No. of the Year 2012

A Local Law to amend Chapter 175, "Zoning," of the Code of the Town of Philipstown in order to ensure that the practice known as hydraulic fracturing and its associated impacts are prohibited in the Town of Philipstown.

Be it enacted by the Town Board of the Town of Philipstown as Follows:

SECTION 1. TITLE

This local law shall be known as "A Law Amending the Town Code of the Town of Philipstown to prohibit hydraulic fracturing."

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York, Article 2, §10 et seq. and the Consolidated Laws of the State of New York, Chapter 62, Article 16 (the "Town Law").

SECTION 3. PURPOSE AND FINDINGS

This local law is intended to prohibit hydraulic fracturing and associated activities, including disposal and transport of products and wastes in connection with drilling for fossil fuel products. While hydraulic fracturing and directional gas drilling are not permitted in any zoning district in the Town, the Town Board desires to take further steps to ensure that hydraulic fracturing, directional gas drilling or any ancillary or related uses or activities do not take place within the Town. Serious health and environmental impacts caused by these uses could threaten the health of the residents in the Town, could require the use of massive amounts of water, or the transportation of massive amounts of water causing impact to Town highways and could cause other aesthetic, environmental and public health impacts, resulting in the degradation of the quality of life in the Town of Philipstown and the Town's infrastructure. It is the purpose of this local law to prohibit hydraulic fracturing, directional gas drilling and related or ancillary uses in order to avoid such negative impact within the Town. The Town's zoning law includes an aquifer overlay district, Section 175-16, that applies townwide and already affords substantial protection against these hazards. However, Section 175-16 does not specifically mention hydraulic fracturing and associated activities as prohibited uses. It is the intent of this local law to make it clear that such practices and activities are prohibited throughout the Town of Philipstown.

SECTION 4. AMENDMENT TO CHAPTER 175

The Town of Philipstown Zoning Law, Chapter 175 of the Town Code (Local Law # 1 of the Year 2011) is hereby amended by adding to the list of uses prohibited throughout the Town a new subsection 175-16E(1)(d) after subsection 175-16E(1)(c), as follows:

d. Exploration, vertical or directional drilling for natural gas, oil, or any other fossil fuel, and production or processing of any materials resulting from such drilling, including liquid, gaseous, or solid products, byproducts, and wastes. This prohibition specifically covers high-volume hydraulic fracturing ("hydrofracking"), the storage or use of equipment, product, or materials needed for or resulting from hydrofracking, as well as the transport and disposal of such equipment, product, or materials.

SECTION 5. VALIDITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudicated invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Philipstown hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 6. REPEAL

All ordinances, local laws and parts thereof that are inconsistent with this Local Law are hereby repealed.

SECTION 7. EFFECTIVE DATE

This Local Law shall take effect immediately after its adoption and filing in the office of the New York State Secretary of State.

617.20

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM For UNLISTED ACTIONS Only

PART 1 - PROJECT INFORMATION (16 be completed by A	pplicant or Project Sponsor)
1. APPLICANT/SPONSOR	2. PROJECT NAME
Town of Philipstown	Town Code Amendments
3. PROJECT LOCATION:	
Municipality Philipstown	County Putnam
4. PRECISE LOCATION (Street address and road intersections, prominent	landmarks, etc., or provide map)
Entire Town of Philipstown	
5. PROPOSED ACTION IS: New Expansion Modification/alteration	on
6. DESCRIBE PROJECT BRIEFLY:	
Package of six amendments to the Town Code, more fully describe	ed in Attachment A.
7. AMOUNT OF LAND AFFECTED: Initially _Townwide acres	acres
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OT	HER EXISTING LAND USE RESTRICTIONS?
Yes No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT?	
Residential Industrial Commercial	Agriculture Park/Forest/Open Space Other
Describe: NA	
IVA	
10. DOES ACTION INVOLVE A PERMIT APPROVAL OR FUNDING, NO	DW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY
(FEDERAL, STATE OR LOCAL)?	zwit/operavole:
Yes Vo If Yes, list agency(s) name and pe	imit/approvais:
AA DOEG ANY ACREOT OF THE ACTION HAVE A CHERENT WAY A	DEPART OF APPROVAL
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID Yes No If Yes, list agency(s) name and per	
NA NA	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/A	PPROVAL REQUIRE MODIFICATION?
Yes V No	DOVE 10 TO THE DEST OF ANY WHOLE DOE
Applicant/sponsor name: Richard Shea, Town Supervisor, Town	BOVE IS TRUE TO THE BEST OF MY KNOWLEDGE of Philipstown Date:
Signature:	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Le A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PAR	
Yes No	
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOI declaration may be superseded by another involved agency. Yes No	R UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No. a negative
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED C1. Existing air quality, surface or groundwater quality or quantity, nois potential for erosion, drainage or flooding problems? Explain briefl NO	e levels, existing traffic pattern, solid waste production or disposal,
C2. Aesthetic, agricultural, archaeological, historic, or other natural or on NO	cultural resources; or community or neighborhood character? Explain briefly:
$\ensuremath{\text{C3}}.$ Vegetation or fauna, fish, shellfish or wildlife species, significant has NO	abitats, or threatened or endangered species? Explain briefly:
C4. A community's existing plans or goals as officially adopted, or a chang NO	e in use or intensity of use of land or other natural resources? Explain briefly.
C5. Growth, subsequent development, or related activities likely to be i NO	induced by the proposed action? Explain briefly:
C6. Long term, short term, cumulative, or other effects not identified in $$\operatorname{NO}$$	C1-C5? Explain briefly:
C7. Other impacts (including changes in use of either quantity or type on NO	of energy)? Explain briefly:
D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL C ENVIRONMENTAL AREA (CEA)? Yes No If Yes, explain briefly:	CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL
E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED Yes No If Yes, explain briefly:	TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
effect should be assessed in connection with its (a) setting (i.e. url geographic scope; and (f) magnitude. If necessary, add attachme sufficient detail to show that all relevant adverse impacts have been	y Agency) nine whether it is substantial, large, important or otherwise significant. Eac ban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e ents or reference supporting materials. Ensure that explanations contai nidentified and adequately addressed. If question D of Part II was checke pact of the proposed action on the environmental characteristics of the CEA
EAF and/or prepare a positive declaration.	r significant adverse impacts which MAY occur. Then proceed directly to the FUL
	d analysis above and any supporting documentation, that the proposed action WIL provide, on attachments as necessary, the reasons supporting this determination
Town Board, Town of Philipstown	
Name of Lead Agency	Date
Richard Shea Print or Type Name of Responsible Officer in Lead Agency	Town Supervisor Vitle of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (If different from responsible officer)

ATTACHMENT A TO SHORT ENVIRONMENTAL ASSESSMENT FORM, TOWN OF PHILIPSTOWN, PROPOSED AMENDMENTS TO TOWN CODE

JANUARY 2013

This EAF evaluates the environmental impacts of six proposed local laws, attached hereto and dated October 12, 2012, as follows:

- 1. Revision of Chapter 93, Wetlands, to expand the powers of the Conservation Board and make Chapter 93 consistent with the new zoning. By resolution of the Town Board dated May 5, 2011, the Philipstown Conservation Advisory Council was redesignated as a Conservation Board pursuant to Section 239-y of the General Municipal Law. By itself, the redesignation did not give any additional powers to this body. It simply authorized this body to be given additional powers. To exercise these powers, it was necessary to amend Chapter 93, as well as other chapters of the Town Code, to give the Conservation Board the powers that it needs to carry out the intent of the redesignation. The attached revisions to Chapter 93 make the Conservation Board the permitting agency for wetland permits under Chapter 93 and also provide for the role of Natural Resources Review Officer. This proposed local law is primarily procedural in nature and makes no material substantive changes to Chapter 93. To the extent that it provides for more thorough review of wetland permit applications by the Conservation Board, it is expected to have only beneficial environmental impacts, if any at all.
- 2. Amendments to various chapters of the Town Code (10, 30, 38, 62, 78, and 85) to implement provisions of the new Zoning Law passed in May, 2011 and to expand the powers of the Conservation Board, including amendments that provide for the position and authority of the Natural Resources Review Officer, appointment of alternate members of the Planning Board, procedural and definitional amendments to the building code and driveway permit chapters, definitional changes to the chapter on environmentally sensitive lands to correspond to changes already made in the zoning, repeal of the steep terrain provisions of Chapter 147 which have been incorporated into the zoning, and otherwise to make these chapters consistent with the new zoning and with the designation of the Conservation Board. These changes are technical in nature, do not change the substantive provisions of any existing chapter of the Town Code, and resolve inconsistencies between these chapters and the new Zoning Law and designation of the Conservation Board.
- 3. Amendments to Chapter 159, Timber Harvesting, to expand the role of the Conservation Board and to make Chapter 159 consistent with the new zoning.
- 4. Amendment of Chapter 112 to require recorded maintenance agreements for rights of way in Open Development Areas.
- 5. Technical amendments to the Zoning Law (Chapter 175) to correct minor mistakes and clarify and resolve ambiguities.
- 6. An amendment to the Zoning Law to (Chapter 175) to clarify that hydraulic fracturing and related activities associated with drilling for petroleum products in prohibited throughout the Town.

Inasmuch as these Town Code amendments are technical and procedural in nature, more fully implementing previously adopted measures by the Town Board, they will have no environmental impact.

COMMERCIAL NET LEASE AGREEMENT

Landing Association, Inc. (Landlord) and _The Town of Philipstown Tenant] ("Tenant").

Landlord is the owner of land and improvements commonly known and numbered as _The Depot Theatre

Depot Square, Garrison, NY 10524 _____ [Address of Building] and legally described as follows

(the "Building"): _The building is known as the Depot Theatre and was formerly the train station for the hamlet of Garrison. [Legal Description of Building]

This Commercial Net Lease Agreement ("Lease") is made and effective 01 JAN 2013 between Garrison's

Landlord makes available for lease a portion of the Building designated as __the entire building, known at The Depot Theatre [Suite or Other Number of Leased Building] (the "Leased Premises").

Landlord desires to lease the Leased Premises to Tenant, and Tenant desires to lease the Leased Premises from Landlord for the term, at the rental and upon the covenants, conditions and provisions herein set forth.

THEREFORE, in consideration of the mutual promises herein, contained and other good and valuable consideration, it is agreed:

1. Term.

A. Landlord hereby leases the Leased Premises to Tenant, and Tenant hereby leases the same from Landlord, for an "Initial Term" beginning __01 January 2013____ [Start Date] and ending __31 December 2017__ [End Date]. Landlord shall use its best efforts to give Tenant possession as nearly as possible at the beginning of the Lease term. If Landlord is unable to timely provide the Leased Premises, rent shall abate for the period of delay. Tenant shall make no other claim against Landlord for any such delay.

B. Tenant may renew the Lease for one extended term of **_for an additional 5 years** (Renewal Term]. Tenant shall exercise such renewal option, if at all, by giving written notice to Landlord not less than **ninety (90) days** prior to the expiration of the Initial Term. The renewal term shall be set upon the same covenants, conditions and provisions as provided in this Lease.

2. Rental.

A. Tenant shall pay to Landlord during the Initial Term rental of _\$8000 Annual Rent] per year, payable in installments of \$2000 quarter. Each installment payment shall be due in advance on the first day of each quarter during the lease term to Landlord at _PO Box 205, Garrison, NY 10524 Landlord's Designated Payment Address] or at such other place designated by written notice from Landlord or Tenant. The rental payment amount for any partial calendar months included in the lease term shall be prorated on a daily basis. NO security has been paid.

B. The rental for any renewal lease term, if created as permitted under this Lease, shall be **negotiated** [Annual Rent in Renewal Term) per year payable in installments of **to be advised**.

3. Use

Notwithstanding the forgoing, Tenant shall not use the Leased Premises for the purposes of storing, manufacturing or selling any explosives, flammables or other inherently dangerous substance, chemical, thing or device. The leased premises are to be used as a theatre and for related artistic and community purposes. Until a special use permit or approval is granted to The Garrison's Landing Association allowing non municipal use, all use must be sponsored or co-sponsored by The Town of Philipstown.

4. Sublease and Assignment.

Tenant shall not sublease all or any part of the Leased Premises, or assign this Lease in whole or in part without prior written consent of the Landlord, such consent not to be unreasonably withheld or delayed.

Any assignment, sublease or other purported license to use the Leased Premises by Tenant without the Landlord's consent shall be void and shall (at Landlord's option) terminate this Lease.

5. Condition of Leased Premise; Maintenance and Repair. The Tenant acknowledges that the Leased Premises are in good order and repair. The Tenant agrees to take good care of and maintain the Leased Premises in good condition throughout the term of the Lease. Tenant agrees to replace all glass at Tenants expense, which may become broken in and on the demised premises. Glass and mirrors if any shall be insured by the Tenant at their full insurable value in a company satisfactory to the Landlord. The Tenant at his expense, shall make all necessary functional or operating repairs to the Leased Premises, including the repair of pipes, electrical wiring, heating and plumbing systems, fixtures and all other systems and appliances and their appurtenances. The quality and class of all repairs shall be equal to or greater than the original worth. If Tenant defaults in making such repairs, Landlord may make them for Tenant's account, and such expenses will be considered additional rent. All other repairs or replacements such as structural shall be made by Landlord.

The Landlord will make exterior structural repairs to the building as needed, to maintain the premises in a condition at least as good as that existing on the date hereof.

All outside storage of Theatre related items, sets, furniture, wood etc, must be kept neat and secure so that there is no hazard to passersby and theatre workers. It should be understood that the storage of items outside the theatre is of a temporary nature until such time that a storage shed is built near the theatre or at another site.

6. Alterations and Improvements.

The Tenant shall not make any alterations, additions, or improvement to said premises without the prior written consent of the Landlord. All erections, alterations, additions and improvements, whether temporary or permanent in character, which may be made upon the premises either by the Landlord or the Tenant, except furniture or movable trade fixtures installed at the expense of the Tenant, shall be the property of the Landlord and shall remain upon and be surrendered with the premises as a part thereof at the termination of this Lease. without compensation to the Tenant, The Tenant further agrees to keep said premises and all parts thereof in a clean and sanitary condition and free from trash, inflammable materials and other objectionable matter. If this lease covers premises, all or a part of which are on the ground floor, the Tenant further agrees to keep the sidewalks in front of such ground floor portion of the premises clean and free of obstructions, snow and ice.

6a. The Landlord shall not be responsible for the loss or damage to property or injury to persons, occurring in or about the demised premises, by reason of any existing or future condition, defect, matter or thing in said demised premises or the property of which the premises are a part of for the acts, omissions or negligence of other persons or tenants in and about the said property. The Tenant agrees to indemnify and save the Landlord harmless from all claims and liability for losses of or damage to property, or injuries to persons occurring in or about the demised premises.

7. Property Taxes.

Not applicable

8. Insurance.

A. Landlord shall maintain fire and extended coverage insurance on the Building and the Leased Premises in such amounts as Landlord shall deem appropriate. Tenant shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property, including removable trade fixtures, located in the Leased Premises.

B. Tenant and Landlord shall, each at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the respective activities of each in the Building with the premiums thereon fully paid on or before due date, issued by and binding upon some insurance company approved by Landlord, such insurance to afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. Landlord shall be listed as an additional insured on Tenant's policy or policies of comprehensive general liability insurance, and Tenant shall provide Landlord with current Certificates of Insurance evidencing Tenant's compliance with this Paragraph. Tenant shall obtain the agreement of Tenant's insurers to notify Landlord that a policy is due to expire at least (10) days prior to such expiration. Landlord shall not be required to maintain insurance against thefts within the Leased Premises or the Building.

C. Should the theatre be let to a person or persons NOT sponsored by the Town of Philipstown, those persons must have their own insurance holding harmless The Garrison's Landing Association, Inc. and The Garrison Station Plaza, Inc.

9. Utilities.

Tenant shall pay all charges for water, sewer, gas, electricity, heat, hot water, furnace maintenance, telephone and other services and utilities used by Tenant on the Leased Premises during the term of this Lease unless otherwise expressly agreed in writing by Landlord. In the event that any utility or service provided to the Leased Premises is not separately metered, Landlord shall pay the amount due and separately invoice Tenant for Tenant's pro rata share of the charges. Tenant shall pay such amounts within fifteen (15) days of invoice. Tenant acknowledges that the Leased Premises are designed to provide standard office use electrical facilities and standard office lighting. Tenant shall not use any equipment or devices that utilize excessive electrical energy or which may, in Landlord's reasonable opinion, overload the wiring or interfere with electrical services to other tenants.

10. Signs.

Following Landlord's consent, Tenant shall have the right to place on the Leased Premises, at locations selected by Tenant, any signs which are permitted by applicable zoning ordinances and private restrictions. Landlord may ref use consent to any proposed signage that is in Landlord's opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate to the Leased Premises or use of any other tenant. Landlord shall assist and cooperate with Tenant in obtaining any necessary permission from governmental authorities or adjoining owners and occupants for Tenant to place or construct the foregoing signs. Tenant shall repair all damage to the Leased Premises resulting from the removal of signs installed by Tenant.

11. Entry.

Landlord shall have the right to enter upon the Leased Premises at reasonable hours to inspect the same, provided Landlord shall not thereby unreasonably interfere with Tenant's business on the Leased Premises.

12. Parking.

During the term of this Lease, Tenant shall have the non-exclusive use in common with Landlord, other tenants of the Building, their guests and invitees, of the non-reserved common automobile parking areas, driveways, and footway s, subject to rules and regulations for the use thereof as prescribed from time to time by Landlord. Landlord reserves the right to designate parking areas within the Building or in reasonable proximity thereto, for Tenant and Tenant's agents and employees. Tenant shall provide Landlord with a list of all license numbers for the cars owned by Tenant, its agents and employees. Four parking spaces are allocated to the Tenant.

Tenant must enforce the parking regulations for attendees during performances on the weekends. All parking must be in the Metro North Railroad Parking lot, which is free and open to the community at the weekends and from 7pm to 2am Monday to Friday. During rehearsals, actors and participants may not park in other tenant designated parking spaces.

13. Building Rules.

Tenant will comply with the rules of the Building adopted and altered by Landlord from time to time and will cause all of its agents, employees, invitees and visitors to do so; all changes to such rules will be sent by Landlord to Tenant in writing. The initial rules for the Building are attached hereto as Exhibit "A" and incorporated herein for all purposes. *N/A* 12-27-12

14. Damage and Destruction.

Subject to Section 8 A. above, if the Leased Premises or any part thereof or any appurtenance thereto is so damaged by fire, casualty or structural defects that the same cannot be used for Tenant's purposes, then Tenant shall have the right within ninety (90) days following damage to elect by notice to Landlord to terminate this Lease as of the date of such damage. In the event of minor damage to any part of the Leased Premises, and if such damage does not render the Leased Premises unusable for Tenant's purposes, Landlord shall promptly repair such damage at the cost of the Landlord. In making the repairs called for in this paragraph, Landlord shall not be liable for any delays resulting from strikes, governmental restrictions, inability to obtain necessary materials or labor or other matters which are beyond the reasonable control of Landlord. Tenant shall be relieved from paying rent and other charges during any portion of the Lease term that the Leased Premises are inoperable or unfit for occupancy, or use, in whole or in part, for Tenant's purposes. Rentals and other charges paid in advance for any such periods shall be credited on the next ensuing payments, if any, but if no further payments are to be made, any such advance payments shall be refunded to Tenant. The provisions of this paragraph extend not only to the matters aforesaid, but also to any occurrence which is beyond Tenant's reasonable control and which renders the Leased Premises, or any appurtenance thereto, inoperable or unfit for occupancy or use, in whole or in part, for Tenant's purposes.

15. Default.

If default shall at any time be made by Tenant in the payment of rent when due to Landlord as herein provided, and if said default shall continue for fifteen (15) days after written notice thereof shall have been given to Tenant by Landlord, or if default shall be made in any of the other covenants or conditions to be kept, observed and performed by Tenant, and such default shall continue for thirty (30) days after notice thereof in writing to Tenant by Landlord without correction thereof then having been commenced and thereafter diligently prosecuted, Landlord may declare the term of this Lease ended and terminated by giving Tenant written notice of such intention, and if possession of the Leased Premises is not surrendered, Landlord may reenter said premises. Landlord shall have, in addition to the remedy above provided, any other right or remedy available to Landlord on account of any Tenant default, either in law or equity. Landlord shall use reasonable efforts to mitigate its damages.

16. Quiet Possession.

Landlord covenants and warrants that upon performance by Tenant of its obligations hereunder, Landlord will keep and maintain Tenant in exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Leased Premises during the term of this Lease. **Tenant, The Depot Theatre, will hold noise to a minimum during late night rehearsals and meetings in deference to other tenants in the area.**

17. Condemnation.

If any legally, constituted authority condemns the Building or such part thereof which shall make the Leased Premises unsuitable for leasing, this Lease shall cease when the public authority takes possession, and Landlord and Ten ant shall account for rental as of that date. Such termination shall be without prejudice to the rights of either party to recover compensation from the condemning authority for any loss or damage caused by the condemnation. Neither party shall have any rights in or to any award made to the other by the condemning authority.

18. Subordination.

Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Leased Premises, or upon the Building and to any renewals, refinancing

and extensions thereof, but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now existing or hereafter placed upon the Leased Premises of the Building, and Tenant agrees upon demand to execute such

full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now existing or hereafter placed upon the Leased Premises of the Building, and Tenant agrees upon demand to execute such further instruments subordinating this Lease or attorning to the holder of any such liens as Landlord may request. In the event that Tenant should fail to execute any instrument of subordination herein require d to be executed by Tenant promptly as requested, Tenant hereby irrevocably constitutes Landlord as its attorney-infact to execute such instrument in Tenant's name, place and stead, it being agreed that such power is one coupled with an interest. Tenant agrees that it will from time to time upon request by Landlord execute and deliver to such persons as Landlord shall request a statement in recordable form certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), stating the dates to which rent and other charges payable under this Lease have been paid, stating that Landlord is not in default hereunder (or if Tenant alleges a default stating the nature of such alleged default) and further stating such other matters as Landlord shall reasonably require.

1	9.	Se	cur	ity	De	pos	sit

None held.

20. Notice.

Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to Landlord to:	If to Tenant to:
Garrison's Landing Assoc. Inc	_The Town of Philipstown
[Landlord]	[Tenant]
PO Box 205	The Depot Theatre
Garrison, NY 10524	PO Box 155, Cold Spring, NY 10516
[Landlord's Address]	Tenant's Address1

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

21. Brokers.

Tenant represents that Tenant was not shown the Premises by any real estate broker or agent and that Tenant has not otherwise engaged in, any activity which could form the basis for a claim for real estate commission, brokerage fee, finder's fee or other similar charge, in connection with this Lease.

22. Waiver.

No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

23. Memorandum of Lease.

The parties hereto contemplate that this Lease should not and shall not be filed for record, but in lieu thereof, at the request of either party, Landlord and Tenant shall execute a Memorandum of Lease to be recorded for the purpose of giving record notice of the appropriate provisions of this Lease.

24. Headings.

The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.

25. Successors.

The provisions of this Lease shall extend to and be binding upon Landlord and Tenant and their respective legal representatives, successors and assigns.

26. Consent.

Landlord shall not unreasonably withhold or delay its consent with respect to any matter for which Landlord's consent is required or desirable under this Lease.

27. Performance.

If there is a default with respect to any of Landlord's covenants, warranties or representations under this Lease, and if the default continues more than fifteen (15) days after notice in writing from Tenant to Landlord specifying the default, Tenant may, at its option and without affecting any other remedy hereunder, cure such default and deduct the cost thereof from the next accruing installment or installments of rent payable hereunder until Tenant shall have been fully reimbursed for such expenditures, together with interest thereon at a rate equal to the lessor of twelve percent (12%) per annum or the then highest lawful rate. If this Lease terminates prior to Tenant's receiving full reimbursement, Landlord shall pay the un reimbursed balance plus accrued interest to Tenant on demand.

28. Compliance with Law.

Tenant will and will cause any subtenants to comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to Tenant's use of the Leased Premises. The Tenant agrees not to do or permit anything to be done in said premises, or keep anything therein, which will increase the rate of fire insurance premiums on the improvements or any part thereof, or on property kept therein, or which will obstruct or interfere with the rights of other tenants, or conflict with the regulations of the Fire Department or with any insurance policy upon said improvements or any part thereof. In the event of any increase in insurance premiums resulting from the Tenant's occupancy of the premises, or from any act or omission on the part of the Tenant, the Tenant agrees to pay said increase in insurance premiums on the improvements or contents thereof as additional rent. Landlord shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Leased Premises.

29. Final Agreement.

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

30. Governing Law.

This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of New York.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

[Landlord Signature]		 	
[Tenant Signature)	 		



Town of Philipstown Code Enforcement Office

Code Enforcement Office 238 Main Street, PO Box 155 Cold Spring, NY 10516

Office (845) 265-5202 Fax (845) 265-2687

MONTHLY REPORT for December 2012

1.	Fees Collected	* 6142
2.	Total Number of Permits Issued	20_
3.	New One- or Two-family dwellings:	<u>-</u>
4.	New Commercial/Industrial buildings:	
5.	New Hazardous (H) occupancies:	
6.	New Multi family occupancies:	
7.	Additions, alterations or repairs residential buildings	_7_
8.	Additions, alterations or repairs commercial buildings:	
9.	All other permits (pools, sheds, decks, plumbing, HVAC, etc.)	
10.	Number of Certificates of Occupancy:	<u> 15</u>
11.	Number of Stop Work Orders issued:	<u> </u>
12.	Operating permits issued	
13.	Operating permits issued hazardous materials	
14.	Operating permits Hazardous processes and activities	
15.	Permits issued for the Use of pyrotechnic devices:	
16.	Inspection of public assembly:	
17.	Inspection of commercial occupancies	
18.	Inspection of buildings with 3 or more dwelling units:	
Projects	s of Significanœ:	