

**WEEKLY TOWN BOARD MEETING**

**JUNE 25, 2014 7:30 P.M. TOWN HALL**

**AGENDA**

- 1. Resolution authorizing the Town Attorney to commence the eminent domain proceedings for the Indian Brook Road Bridge. *(Roll Call Vote)***
- 2. Adjournment.**

WHEREAS, an existing bridge and culvert on Indian Brook Road in the Town of Philipstown were severely damaged by Hurricane Irene in August, 2011 and Tropical Storm Sandy in October, 2012; and

WHEREAS, the Town Board finds that reconstruction of the bridge and culvert on Indian Brook Road, which is a Town road, is necessary for the safety of the public who drive on Indian Brook Road; and

WHEREAS, in order to perform the said reconstruction work on the bridge and culvert the Town needs to acquire construction and maintenance easements over certain private property adjoining the bridge and culvert on Indian Brook Road, particularly the property located at 325 Indian Brook Road and 330 Indian Brook Road in the Town of Philipstown, County of Putnam, State of New York, described on the tax map of the Town respectively as Section 39.-4-2 and Section 49., Block 3, Lot 74, and more fully described in the deed recorded in the Office of the County Clerk at Liber 735, Page 332; and

WHEREAS, the easements needed by the Town are: (1) a temporary construction easement, (2) a permanent easement for the reconstructed bridge and culvert and (3) a permanent easement for maintenance work on the bridge and culvert, all as shown in the plans entitled "Stream Crossing Reconstruction Plan" prepared by Badey & Watson, Surveying & Engineering, P.C., dated March 21, 2012 with revisions through June 18, 2013; and

WHEREAS, the Town has in good faith sought to acquire the said easements from the record owners of the said property, but the owners are unwilling to provide the easements; and

WHEREAS, the Town Board has determined to proceed under the provisions of the Eminent Domain Procedures Law in order to acquire the necessary easements;

NOW, THEREFORE, it is hereby resolved as follows:

1. That, as has been previously determined, the reconstruction of an existing bridge and culvert on Indian Brook Road, including the instant taking of easements by eminent domain, constitutes a Type II action under SEQRA; and

2. That the Town Board determines that the proposed acquisition of easements herein is *de minimis* in nature within the meaning of Eminent Domain Procedure Law §206(D); and

3. That the Town Board hereby determines that the proposed acquisition of easements serves the public use, benefit and purpose and, therefore, the Town shall proceed under the provisions of the Eminent Domain Procedure Law to acquire the same by applying to the Supreme Court of the State of New York, County of Putnam, for an order vesting title to the easements in the Town; and

4. That the Town Board does hereby authorize the Town Attorney to commence the eminent domain proceedings and to undertake all actions necessary to bring such proceedings to a conclusion, including, but not limited to, procuring an acquisition map, obtaining an appraisal of the value of the easements, filing a notice of pendency, and making arrangements for notice of the proposed acquisition to be published in the local newspaper of record; and

5. That, upon obtaining the said appraisal, the Town Board authorizes the Town Supervisor to transmit to the record owners an offer to pay the amount of the appraisal in return for a grant of the said easements.

\_\_\_\_\_ presented the foregoing resolution which was  
seconded by \_\_\_\_\_,

The vote on the foregoing resolution was as follows:

Nancy Montgomery, Councilwoman, voting \_\_\_\_\_

Michael Leonard, Councilman, voting \_\_\_\_\_

John VanTassel, Councilman, voting \_\_\_\_\_

David Merandy, Councilman, voting \_\_\_\_\_

Richard Shea, Supervisor, voting \_\_\_\_\_

**617.20**  
**Appendix B**  
**Short Environmental Assessment Form**

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project: Indian Brook Road Bridge/Culvert Reconstruction (Eminent Domain)			
Project Location (describe, and attach a location map): Indian Brook Road, Phillipstown, NY			
Brief Description of Proposed Action: The Town is reconstructing a small bridge/culvert over the Indian Brook creek on Indian Brook Road. In connection with the project it is necessary to acquire easements over adjoining property by eminent domain.			
Name of Applicant or Sponsor: Town of Phillipstown		Telephone: 845-265-5200	
		E-Mail: supervisor@phillipstown.com	
Address: 238 Main Street			
City/PO: Cold Spring		State: NY	Zip Code: 10516
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: NYS DEC			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ > 3 acres			
b. Total acreage to be physically disturbed? _____ >1 acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ >1 acres			
4. Check all land uses that occur on, adjoining and near the proposed action. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			



18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: <u>Town of Phillipstown</u>		Date: <u>June</u> , 2014
Signature: _____		

**Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2.** Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____	_____
Name of Lead Agency	Date
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

**PRINT**

## **TEMPORARY CONSTRUCTION & MAINTENANCE EASEMENT**

This Temporary Construction & Maintenance Easement is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014 between

BARBARA DESILVA AND RONALD A. DESILVA, 325 Indian Brook Road, Town of Philipstown, Putnam County, New York ("Grantors"), and

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, Putnam County, New York (hereinafter the "Grantee").

### **W I T N E S S E T H:**

WHEREAS, Grantors are the owners of certain real property located at 325 Indian Brook Road and 330 Indian Brook Road in the Town of Philipstown, County of Putnam, State of New York, described on the tax map of the Town respectively as Section 39.-4-2 and Section 49., Block 3, Lot 74, and more fully described in the deed recorded in the Office of the County Clerk at Liber 735, Page 332, and

WHEREAS, the Grantors' said property adjoins a Town Road by user called "Indian Brook Road" on both sides; and

WHEREAS, part of the improved portion of Indian Brook Road that runs over the Grantors' land consists of a culvert or small bridge spanning a stream called the "Indian Brook"; and

WHEREAS, the said culvert or small bridge spanning the "Indian Brook" is need of replacement and related work; and

WHEREAS, to perform the said culvert replacement and related work it is necessary for the Town (Grantee) to enter upon the certain portions of the Grantors' said lands and to perform site work thereon; and

WHEREAS, the Town (Grantee) wishes to acquire a Temporary Construction Easement from the Grantors for the purpose of performing the said culvert replacement and related work; and

WHEREAS, after the said culvert replacement and related work has been completed, the culvert may require maintenance and repairs from time to time such as may require entry upon the Grantors' property for such purposes, and

WHEREAS, the Town (Grantee) also wishes to acquire a Maintenance Easement to enter the Grantors for purposes of performing such maintenance and repair work on the said culvert as may be required from time to time;

NOW, IN CONSIDERATION of ONE AND 00/100 DOLLARS (\$1.00) and other good and valuable consideration paid by the Grantee to the Grantors, the receipt of which is hereby conclusively acknowledged, the parties agree as follows:

1. The Grantors hereby grant to the Grantee a Temporary Construction Easement to enter the property described in Exhibit "A" hereto for purposes of performing the culvert replacement and related work described in the Stream Crossing Reconstruction Plan prepared Badey & Watson Surveying & Engineering, P.C., dated March 21, 2012 and last revised on June 18, 2013, a copy of which shall be kept on file in the office of the Town Clerk.

2. The Grantors further hereby grant to the Grantee an Maintenance Easement to enter the property described in Exhibit "A" hereto for purposes of performing such maintenance and repair work on the said culvert as may be required from time to time.

3. The Grantee shall be obligated to restore the Grantors' property to the extent reasonably practical in any areas wherein site work is conducted.

4. The Grantee shall defend, indemnify and hold harmless the Grantors against any claims, causes of action, liability, damages, costs, expenses of any kind arising out of the negligent or otherwise wrongful acts of the Grantee, its contractors, agents and invitees in performing the culvert replacement and related work and in performing subsequent maintenance and repair work.

IN WITNESS WHEREOF the parties hereto have set their hands as of the day and year first above written.

Signed:

By: \_\_\_\_\_  
Name: Ronald A. DeSilva

By: \_\_\_\_\_  
Name: Barbara DeSilva

TOWN OF PHILIPSTOWN

By: \_\_\_\_\_  
Name: Richard Shea  
Title: Supervisor

STATE OF NEW YORK :

:ss.

COUNTY OF PUTNAM :

On the \_\_\_\_ day of \_\_\_\_\_, 2014, before me, the undersigned, a notary public in and for said state, personally appeared RONALD A. DESILVA personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK:

:ss.

COUNTY OF PUTNAM:

On the \_\_\_\_ day of \_\_\_\_\_, 2014, before me, the undersigned, a notary public in and for said state, personally appeared BARBARA DESILVA personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK:

:ss.

COUNTY OF PUTNAM:

On the \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a notary public in and for said state, personally appeared RICHARD SHEA personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted executed the instrument.

\_\_\_\_\_  
Notary Public