

Weekly Town Board Meeting
August 23, 2017 **7:30 p.m.** **Town Hall**

AGENDA

1. Discussion with regard the acquisition by the Town of a 10-acre parcel on Route 9D from Open Space Conservancy and Scenic Hudson Land Trust.
2. Highway Department to discuss new office and garage.
3. Discussion with regard to Climate Smart Community and establishing a task force.
4. Any other business that may come before the Town Board.
5. Adjournment.

James R. Loeb
Richard J. Drake, *retired*
Glen L. Heller*
Marianna R. Kennedy
Gary J. Gogerty
Stephen J. Gaba
Adam L. Rodd
Dominic Cordisco
Timothy P. McElduff, Jr.
Ralph L. Puglielle, Jr.
Nicholas A. Pascale

Lisa M. Card
Alana R. Bartley
Aaron C. Fitch
Emily R. Grandolfo
Judith A. Waye

Jennifer L. Schneider
Managing Attorney

*LL.M. in Taxation

August 21, 2017

Hon. Richard Shea
Supervisor, Town of Philipstown
238 Main Street, P. O. Box 155
Cold Spring, New York 10516

Re: Open Space Institute Conservation Easement
Our Matter ID: 6082-68467

Dear Richard:

I am writing to you in connection with the acquisition by the Town of the 10-acre parcel on 9D which the Town will acquire as a gift from Open Space Conservancy, Inc. and Scenic Hudson Land Trust, Inc., the present property owners. Originally I thought that the plan was for Open Space and Scenic Hudson to deed the property to the Town subject to a series of restrictions on the use set forth as a conservation easement. At some point in the negotiations OSI advised that instead of deeding it to the Town subject to the conservation easement they wanted the property to go to the Town and presumably simultaneously have the Town grant a conservation easement to them or to a designated party putting in effect the various limitations on use.

That procedure raised a serious question in my mind. Section 64 Subdivision 2 of the New York State Town Law gives the Town Board the power to convey real property which I believe includes interests in real property such as granting conservation easements. As I am sure you will recall from the last time the Town of Philipstown conveyed real property, the resolution of the Town Board is subject to a permissive referendum. When I explained that to OSI that raised a number of issues.

It is now my understanding that the limitations on the use of the property by the Town will be either in the deed of conveyance to the Town or recorded as a conservation easement prior to the conveyance to the Town which would then be subject to those use limitations. I have not heard further from OSI and I will continue to be in touch with them.

In the meantime I believe the Town should move ahead with the preparations to acquire the property. The Town needs a survey of the property and since the boundaries of the property will be important for everyone to recognize I suggest that the boundary be staked as well. In that connection I have discussed this matter with Glenn Watson and his firm's fee for the survey with staking is \$4,150.00. The survey without staking is \$3,150.00; I urge that the Town authorize the staking at the same time the survey is prepared. In addition to the survey, I strongly recommend to the Town that there be a Phase I environmental assessment made to insure there are not any environmental

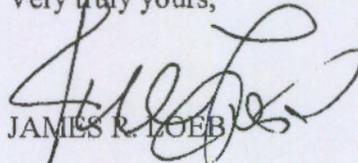
Hon. Richard Shea
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the property. I have received a proposal from Tim Miller Associates, Inc. to perform the Phase I environmental assessment for a lump sum fee of \$2,100.00.

Finally, I have secured a commitment from RG Agency for title insurance at a cost of \$342.00. In addition, there will be recording charges for the deed and such other documents that have to be placed on record.

I understand that this matter will be reviewed at a work session on Wednesday, August 23, 2017. Should you have any questions in connection with this matter or my letter, please do not hesitate to contact me.

Very truly yours,



JAMES R. LOEB

JRL/ef/593687

via e-mail: supervisor@philipstown.com

cc: Hon. Tina Merando (townclerk@philipstown.com)
Claudio Marzollo (marzollo@me.com)
Stephen J. Gaba, Esq.

**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, New York 10516

Phone (845) 265-4400

Fax (845) 265-4418

August 10, 2017

The Town of Philipstown
Attn: James R. Loeb, Esq.
Drake Loeb
555 Hudson Avenue
Suite 100
New Windsor, NY 12553

Re: **Proposal for Phase I Environmental Assessment
982 Route 9D
Garrison, NY**

Dear Mr. Loeb:

Tim Miller Associates, Inc. (TMA), would be pleased to assist you and the Town of Philipstown in connection with a Phase I Environmental Assessment for the 982 Route 9D property in Garrison, New York.

Environmental assessments generally have three sequential phases of effort: Phase I is a review of available historic records and a visual inspection of the site. Phase 2, if necessary, is a selective sampling of areas that are suspected of having potential environmental liabilities. Phase 3, if necessary, is a strategy for site utilization and/or potential environmental remediation (cleanup).

You have requested a proposal for a Phase 1 assessment. Our protocol for Phase I studies follows the "Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process" (ASTM E 1527-13) as promulgated by the American Society for Testing and Materials. Mr. Jon Dahlgren, Senior Geologist would conduct the Phase 1 for the Garrison property. Mr. Dahlgren has over 30 years of experience conducting environmental assessments and investigations.

The Phase I assessment will include a record search of current property information, including an environmental database, Town of Philipstown and agency records and historical use records including Sanborn maps. Following the record search, a visual site inspection will be conducted to make observations regarding the most recent activities on the property.

We understand that the property is approximately 10.77 acres in size and is undeveloped land with a small stream.

Mr. James R. Loeb, Esq.
August 10, 2017

The Phase I assessment will presumably give a clear indication of the likelihood of certain hazards being present on the subject property or adjoining properties such as soil contaminants, or underground storage tanks, registered spill sites, etc., from historic activities. A report will be prepared documenting the data and information gathered and the conclusions regarding the environmental status of the site.

Schedule and Fees

The Phase I Assessment for the 982 Route 9D property in Garrison, New York will be performed for a lump sum fee of \$2,100 including the site inspection, database search (historic aerial photographs, historic topographic maps and/or sanborn maps if available), FOIL requests and all other direct costs.

The above work can be completed in 15 working days. TMA carries \$1,000,000 in professional liability insurance and we can provide certificates of insurance upon request. Copies of the reports will be provided by U.S. mail and via E-mail, unless otherwise specified.

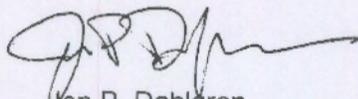
Quoted fees are applicable to the scope of services outlined herein. Tim Miller Associates does not normally send change orders in connection with work requested that is outside of the scope. Any work that you request of TMA that is not specified herein will be invoiced on a time and materials basis. If you require a change order or contract amendment, you should specify that at the time additional work is requested.

Our work is invoiced monthly based on progress and payments are due upon receipt. Attendance at meetings is not included in our fee estimate unless specifically stated herein. A summation of TMA's 2017 labor rates and contract conditions is provided on the attached page which is incorporated by reference and hereby made a part of this agreement.

Your signature below will signify acceptance of this scope, terms and conditions outlined herein and formerly authorize us to proceed.

We appreciate this opportunity to be of service. Please advise if you require any further information.

Sincerely,



Von P. Dahlgren
Senior Geologist
TIM MILLER ASSOCIATES, INC.

*Phase I Report Accepted and Authorized
to Proceed*

Date

**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, NY 10516 (845) 265-4400

www.timmillerassociates.com

**PROFESSIONAL CONSULTING SERVICES
Schedule of Fees and Conditions 2017***

Phase 1 Environmental Assessment for 982 Route 9D property, Garrison, NY

TMA's burdened labor rates are as follows:

◆ Principal	\$ 220.00
◆ Project Manager	\$ 155.00
◆ Senior Planner	\$ 100.00 - \$155.00
◆ Senior Environmental Specialist/ Traffic	\$ 100.00 - \$150.00
◆ Environmental Scientist/ Planner	\$ 75.00 - \$120.00
◆ Graphics/Production	\$ 50.00 - \$ 95.00
◆ Technicians/Administrative	\$ 40.00 - \$ 65.00

Quoted fees do not include direct costs unless explicitly stated. Certain direct costs, including express deliveries, long distance service, aerial photographs, document purchases, etc. will be passed on to the client with a 10 percent handling fee. Other direct costs such as mileage charges (\$0.65/mile), copies (\$0.10/page), equipment rental, lab fees will be invoiced at TMA's standard or quoted rates.

All invoices are due upon receipt. Interest is added at the rate of 1.5 percent per month on invoices past due more than 30 days. Work is stopped on all projects with invoices past due more than 60 days. Retainers are held against final invoices. We have a minimum four-hour charge for attendance at evening or weekend meetings. Fee and schedule proposals are subject to revision after 90 days if not accepted. By retaining TMA for professional services, Client agrees to pay for collection costs associated with any invoice not disputed within 30 days.

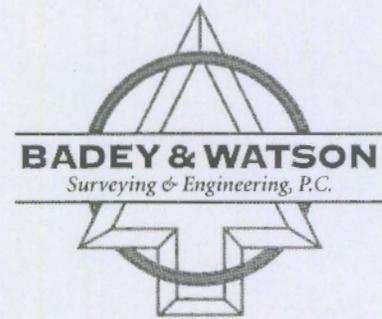
Work produced by TMA is the sole property of Tim Miller Associates, Inc. until such time as all outstanding invoices are paid. All such work is client confidential. No written or graphic product produced by Tim Miller Associates, Inc. may be released to a government agency or private individual without the expressed written permission of Tim Miller Associates, Inc. prior to payment in full of any outstanding amount owed in connection with said work. If such payment is not made, our work product may be withdrawn.

If our work product is an environmental site assessment or audit, the report may only be used by the purchaser and may not be reproduced or made available to other parties without the written permission of Tim Miller Associates. Upon receipt of an updated or corrected copy of any report or data, the purchaser shall promptly cease all use of any prior copies of that report or data.

The information contained in audits and assessments is obtained from publicly available data sources and other secondary sources of information produced by entities other than TMA. Although reasonable care is taken by TMA in compiling and checking the information contained in the reports, TMA disclaims any and all liability for any errors, omissions or inaccuracies in such information and data (whether attributable to inadvertence or otherwise), and for any consequence arising therefrom.

TMA shall have no liability in contract, tort or otherwise, for any inaccuracy or defect in the assessment or audit reports or data therein or for any alteration to the reports made by the customer or any other matter related to this agreement in excess of the monetary value of the audit or assessment report. In no event shall TMA or any data supplier have any liability for lost profits or for any other indirect, special, incidental, consequential, exemplary, or punitive damage.

* Rates guaranteed through December 2017



August 2, 2017

James Loeb
Drake Loeb
555 Hudson Valley Ave
Suite 100
New Windsor, NY 12553
Work: (845) 561-0550
E-mail: jloeb@drakeloeb.com

Re: **PROPOSAL FOR SURVEYING SERVICES** - Quote 76550955
982 Rt 9D, Town of Philipstown, 71.-1-38

Dear Mr Loeb:

Thank you for your inquiry into the services that we might provide. In response, we propose the following:

We will prepare and certify a survey of the premises at the captioned address in the Town of Philipstown, County of Putnam, New York. The premises are shown on the Tax Map of the Town of Philipstown as Tax Map Number 71.-1-38. To be certain that we are discussing the correct parcel(s), we have highlighted it on the attached copy of the tax map.

The survey that we conduct will be prepared and certified in accordance with the existing *Code of Practice for Land Surveys* adopted by the New York State Association of Professional Land Surveyors, Inc.

The fee that we will require for the work is \$3,150.00 without markers and \$4,150.00 if you wish to have markers set. If you elect to have markers set, we will set semi-permanent iron bars at each of the major corners unless we encounter large boulders or ledge rock. If that occurs, we will set chisel marks at those corners. Markers will not be set unless you specifically authorize the work.

Please note that there are some instances when a description of property is needed. Your attorney will be the one to advise you if one is needed. If so, the additional fee will be \$100.00.

The work will be scheduled upon our receipt of your authorization to proceed. We expect it will take 3 week(s) to complete the map. If you elect to have the markers set, they may not be installed for another several days, however, this will not delay delivery of the survey maps.

We will provide 4 certified copies of the map.

Electronic copies of our drawings are not considered deliverables. Distribution of such files is made at the sole discretion of Badey & Watson unless prior specific arrangements to the contrary are made. Otherwise, if electronic copies are requested and approved an additional fee will apply.

Badey & Watson remains the owner of all survey notes, electronic files, computations, maps, and drawings produced in connection with this work, and retains all copyright to said documents.

Upon completion of the work we will contact you to arrange for payment of the balance and delivery of the maps. Payment in full is required prior to release of the maps.

If you wish to have us to proceed with the work, follow procedure A or B below.

A. VIA OUR SECURE WEBSITE

1. Click on this link: <http://badey-watson.com/quote.php?n=76550955>
2. Follow the instructions provided on our website.

or

1. Go to Badey-Watson.com, click on **Contact us**, and enter quote number 76550955
2. Follow the instructions provided on our website.

B. VIA EMAIL, FAX, or US MAIL

1. Sign the appropriate authorization, supply credit card information, and answer questions below.
2. Send us the completed authorization and the property description.
By Email - Scan and send to: MWilcox@Badey-Watson.com
By Fax - Send to: (845) 265-4428
By US Mail - Send to the address at the top of this letter.

We will also need a legal description of the property to be surveyed. You will find this in your sales/purchase contract or in the deed to the property. You can send it to us by email, fax, or US mail as described in procedure B above.

This proposal is subject to change if not executed and returned within sixty (60) days of the date of this letter.

We thank you for considering us and look forward to being of service. Please call or write if you have any questions or need further information.

Yours truly,

BADEY & WATSON

Surveying & Engineering, P.C.

by, *Glennon J. Watson*

Glennon J. Watson, L.S.

Please indicate your acceptance and authorization to proceed by signing **one** of the two places below.

The foregoing work is authorized under the terms outlined above. **STAKING IS NOT DESIRED.**

James Loeb Date

The foregoing work is authorized under the terms outlined above. **STAKING IS AUTHORIZED.**

James Loeb Date

Please provide the information requested below **exactly** as it should appear on the map. Some of these names may not be required. If required but unknown at this time, you may call with this information when it is available.

Name(s) _____

Bank Name _____

Title Company _____

Title Policy Number _____

GJW/rmm
Enclosures
cc: 2017 Putnam Philipstown JL21AG17QP

