

Weekly Town Board Meeting
July 14, 2015

The Town Board of the Town of Philipstown held their Weekly Meeting on the above date at 7:30 p.m. at the Claudio Marzollo Community Center, Garrison, New York.

PRESENT

Richard Shea	Supervisor
Nancy Montgomery	Councilwoman
John Van Tassel	Councilman
Michael Leonard	Councilman
Robert Flaherty	Councilman

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

AGENDA

1. Resolution authorizing Town Clerk Merando to advertise a vacancy in the Justice Department.

RESOLUTION #128-2015

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

RESOLVED, that the Town Board hereby authorizes Town Clerk Merando to advertise a vacancy for a Court Clerk for the Town of Philipstown's Justice Court.

2. Resolution authorizing Supervisor Shea to sign the negative declaration with regard to the South Mountain Pass paving project.

Christine Tomm Addona, Attorney representing Old Road Society of Philipstown asked to address the Town Board. She submitted a letter from Silverberg, Zalntis, LLP, and reviewed some of the concerns with the proposed paving project. She noted that prior to this meeting a FOIL request was submitted, however, they weren't able to get a lot of information due to the timing. Based on that information, the letter outlines SEQRA procedures.

She went on to say that the Town Board should not take any action making the SEQRA determination or voting on the proposed paving. She stated that this is an unlisted action under SEQRA and the board has a draft negative declaration. She added that before the Town Board can adopt a negative declaration, you have to identify the areas that are of environmental concern, and whether or not they are going to have a significant impact on the environment. The board then has to issue a determination with supporting documents. It is the Old Road Society's position, that for various reasons, most notably, the lack of a traffic study, makes it impossible for this Town Board to make a determination. This isn't average paving, this isn't an average roadway, it's a narrow two way road

that is one way for cars to fit in many directions. The proposed paving will create additional speeds by which cars can travel. However, the town won't be able to widen the roadway to be wide enough for two cars in all directions. There are other unique criteria that apply to this roadway. For example, it is part of the Appalachian Trail, so addition to vehicular traffic, you also have horseback riders as well as pedestrians who access the road. There is no real indication that any of those circumstances have been considered.

She continued by stating that in a letter from one of the town's advisors, because it is a small portion of the road that is going to be paved, that it is not going to increase traffic. Since traffic is going to come off of Route 9D, there is an indication that if someone sees a paved road, instead of a dirt road, they are more inclined to turn onto that road. That has not been taken into consideration either. The Department of Transportation has not been consulted as to this proposal. Another issue that hasn't been addressed is drainage; the original drainage that was recently installed was when this road was a dirt road. Now, the proposal is that of a paved road, the EAF suggest that the new drainage will be used to accommodate the increased runoff due to the impervious surfaces. These are issues that should, at the very least be considered as part of the SEQRA review before a determination is made. She noted that it doesn't appear from the records in her possession that they have been.

There is also an issue of the cost of maintaining a dirt road versus a paved road. It's a general statement, yet no numbers. Thus, without this information, the Town Board can't make a determination on this matter. All that is being stated is that there will be an increased cost, without providing variables. In addition, only twelve hundred feet of drainage has been installed and the proposed paved portion is 2600 feet. She asked if that could accommodate the increased impervious surface? This is another issue that hasn't been addressed, making it nearly impossible for this town board to make a decision that there are no significant impacts on the environment. She acknowledged that she may not have seen everything, only reviewing the documents she received based on the FOIL request.

She then addressed the wetlands that are in close proximity to the project. She asked if this is something that requires a permit issued from the Town of Philipstown, the Department of Conservation or even the Army Corps of Engineers? There are no indications in the EAF as to what those wetlands are or the relationship to this paved area. There is a series of long-standing issues that the Old Road Society feels needs to be addressed prior to adopting a negative declaration. Primarily, the belief is that it comes back to traffic, due to all the hazards that could be created and in order to determine that there's not going to be an impact on traffic. She strongly stated that a traffic study has to be completed. How do you know the speed or number of vehicles using the roadway currently? And how do you know how that's going to change unless there is a traffic study. To make these conclusions seems to be a little

Weekly Town Board Meeting
July 14, 2015

premature, and they recommend that the town engage in a traffic study in order to assure that it's making the right decision. Until SEQRA is complete, the rules are that you can't take action on the underlining application.

Another issue under SEQRA that was noticed in our review is that the implementation of the drainage, first the original 600 feet of piping, and then the second one of 600 feet along with the paving, are now in a domino effect. This all appears to be part of another bigger, long-term project. If that is the case, then SEQRA needs to incorporate all the different aspects. The current SEQRA doesn't include the drainage that was incorporated. There are no documents that she has seen, that SEQRA was ever completed with regard to the drainage. She wants to make sure that this isn't a segmented review under SEQRA. All of the issues noted, should be considered together.

She then pointed out the amount of concerned citizens who have turned out this evening who are really interested in this project, and haven't had enough time to process this.

Supervisor Shea stated for the record that Ms. Addona has just arrived, and the Town Board has been going through a process, weeks of process. Regardless of what work has been completed at that site, the town has experienced issues. He thanked Ms. Addona for her comments, however, " this isn't the first night this matter has been discussed or reviewed."

Andy Galler then addressed the Town Board stating that every year or so he reviews the town code with regard to Wetlands. In reviewing Chapter 93, this proposed project is not an exempted activity. The drainage that was done was not an exempted activity, there has not been a wetland consultation with the town's Wetlands Inspector, nor was it brought before the Conservation Board. He stated that he objects to having a negative declaration acted on. In addition to that, the Department of Environmental Conservation should have been called. He added that because Coppermine Creek runs into the Hudson River, which is a tidal estuary, it may very well fall under the Army Corps of Engineers. With that being said, he believes that there was no due diligence on the part of the Town Board.

Nick Angel commented on the proposed project saying that this board has invited this controversy, however, it's not too late to adopt a more careful, professional approach and take the emotion out of this. His feeling is that the Highway Department wants to pave roads. They maintain the dirt roads with a very expensive and outdated manner. He stated the board has stumbled on this matter procedurally. He stated that the board has not done a good job, nor provided accurate information. There has been a lack of disclosure and inaccurate disclosure. Procedurally, a radical change was made for South Mountain Pass, pointing out that this past fall's budget did not indicate this project. He referenced the cost for the drainage and paving of South Mountain

Weekly Town Board Meeting
July 14, 2015

Pass. He also feels that the majority of the board was committed to paving, prior to the public hearing, on the grounds that the town had to pave in order to preserve the investment for the drainage. He also cited that a poll of the residents in favor of the paving was not considered. Mr. Angel expressed his outrage with regard to the Town Board considering other options of maintaining dirt roads, which some residents have offered to bear the cost of.

Sandy Saunders submitted a photo of Old Albany Post Road and spoke of the history of dirt roads in this area. He then verbally challenged the merits of the Town Board. Supervisor Shea interjected angrily that comments of that caliber would not be accepted. There was cross talk between the Supervisor and Mr. Saunders. Mr. Saunders then spoke of the SEQRA process and the regulations pertaining to segmentation.

Terence Zaleski thanked the Town Board for giving the public a chance to participate in this process. He stated that he doesn't understand that in order to protect the investment of 1200 feet of drainage, the town is proposing paving 2400 to 2600 feet of paving. He believes that the issue of segmentation should be addressed. Another concern he has with this process was that there was a pre-judgment with regard to the project and the final outcome. The Town Board has stated that this has been discussed for several years; it is his opinion that this project was just put on the table. He then went on to give a brief history of other projects that previous boards thought was a good idea, and it wasn't until public participation did they realize it wasn't for the betterment of this community. Mr. Zaleski asked the Town Board to revisit this project, as it is early summer and there is plenty of time before the plant on Route 9 closes down.

A resident from Old Albany Post Road expressed her consensus with everyone who has spoken. She pointed out the beauty of this community and the passion in which the audience has for the rural character of dirt roads. She also requested that the Town Board safeguard the spirit of this town, which they have entrusted to you to do.

Theresa Orlandi, resident of Coppermine Road, stated that as a resident for eight year, she agrees that South Mountain Pass is a difficult road to traverse and a nightmare to maintain. She understands that some work needs to be done, however, she is not convinced that paving is the way to proceed. Safety should be a priority, and with the proposed paving, motor vehicles are going to speed. She stated that when they walked the road with the engineer, he pointed out portions of the road where it was widened to accommodate room for two cars. These portions of the road go directly into the areas that are single lane around blind hills and curves. She believes this mix is going to end badly.

Ms. Orlandi asked the Town Board if they could guarantee that her children won't be injured if the road is paved and cars are traveling at a higher rate of speed. She also noted that there is zero enforcement. She stated that the legacy of the

Weekly Town Board Meeting
July 14, 2015

town is at stake. She believes that a traffic study is warranted before the board can act on a negative declaration and paving.

Carl Dushin concurred with Ms. Orlandi, adding that there is a dirt road etiquette that locals observe, however, many traveling the road are not aware of. He acknowledged that the town has placed digital signs announcing that the "road is closed" and then witnessed a pick up truck ignoring the signage and using the road anyway. He then asked if the Town Board knew the depth of the proposed paving? Supervisor Shea responded saying that the Town Board is here to listen, this is not a question and answer meeting.

Leona Dushin stated that horses have the right of way over cars, and that law is still in effect, thereby, giving the residents the right to be on the road with their horses. She pointed out that many farms use the road for that purpose. When speaking with Roger Chirico he stated that the proposed work is "already a done deal, don't think you can do anything about it."

Supervisor Shea strongly stated that the audience should refrain from putting words in peoples' mouths. This is complete speculation; he also wanted to take a moment to address Sandy Saunders' reckless, and inflammatory comments about speculating and asserting that the Town Board would have some sort of financial consideration, under the table money. This is outrageous – Mr. Saunders' then interrupted – shouting. Supervisor Shea continued saying that this is dangerous, reckless, and slanderous. Mr. Saunders again shouted. Supervisor Shea cautioned Mr. Saunders that he didn't have the floor, and had the opportunity to speak earlier. Mr. Saunders's once again interrupted. Supervisor Shea asked him to be seated or be removed from the room. Supervisor Shea acknowledged how disrespectful Mr. Saunders behavior is. He continued by saying that the accusation that this Town Board would ever accept anything for doing anything is absurd. "Anyone who knows anyone on this board would find that absurd, I find it insulting, I think it's a reckless statement and I think your way out of line."

Dr. Marlena Vega addressed the Town Board stating that she finds it very offensive when someone tries to take a position when other people don't agree with it. There is a lot of emotion and history regarding this subject, but to start accusing people of doing things underhanded takes away the democratic process. She is saddened by the course of this meeting. The audience booded her for her comments.

Kevin Amter resident of Coppermine Road read a quote from Supervisor Shea that appeared in the newspaper on June 13, 2014. In short, the Supervisor stated "you can't pave paradise."

Supervisor Shea responded saying that was a statement regarding Old Albany Post Road, we're not tearing anything down, we are talking about paving a road.

Olivia Flanagan, Theresa Orlandi's daughter read a short statement as to why she doesn't want to see that portion of the road paved.

Blair Hartley, past member of the Garrison Ambulance Corp spoke of dirt vs paved and it was his experience that they have never been called to a personal injury auto accident on South Mountain Pass or any other dirt road.

Glenn Lebwohl-Steiner stated that the Town Board, Roger Chirico and Town Clerk Merando work very hard for the Town of Philipstown. She expressed her concerns with regard to the process that took place regarding this project. She talked about community and the fact that the residents should not be making false accusations, finger pointing or derogating each other. Nor is acting in a way that is not consistent with the culture that we want for our town. She did point out that many people felt as though they were blind-sided. She offered that everyone back up and try to maintain relationships while repairing the roads. At this point, Supervisor Shea asked who has been excluded from these discussions? Ms. Steiner replied stating, lots of people, then referencing the budget process and the amount allocated for South Mountain Pass. Councilman Van Tassel stated that if the Town Board had talked about this during the budget in 2014 and agreed upon it, he asked if everyone would still be in attendance tonight. The general consensus was YES. Roger Chirico, Highway Superintendent clarified the monies that were involved, including Multi Model. He also noted that the Highway Department turned over \$104,000 to the Town last year, which he couldn't use due to the amount of FEMA work that needed to be done as a result of Hurricanes. Those monies were used in areas that needed repair and to save monies for the taxpayers. At this point, Terence Zaleski repeatedly interrupted, cross talk between the Supervisor and Mr. Zaleski ensued. Supervisor Shea asked at what point would the people in the audience say, okay, we had enough process now we are on board with it?

Supervisor Shea stated that the Town Board has seen the alternatives for dirt road maintenance, and they don't mind discussing it, however, they are not willing to take a chance on an experimental approach on that side of the Pass. Also, the town's engineer doesn't have a lot of faith in that particular approach, nor can anyone point to an example of it anywhere on the ground. Ms. Steiner thanked the Town Board for all the meetings that have been held to discuss this project.

Supervisor Shea stated that he doesn't know at which point everyone would think that this project is worthy. This is an incredibly steep grade, 15%, the town brings materials in and it winds up in the stream. The town now travels to Columbia or Orange County to get materials for maintenance. He noted that this is not an expanded project, it is one segment of road, just over a 1/3 of a mile. Ms. Steiner then asked why this hasn't been discussed in the budget. Supervisor Shea responded saying that it was in the budget in the past, and pulled out due

Weekly Town Board Meeting
July 14, 2015

to FEMA projects that had to be completed. When grants and CHIPS monies become available, the town acts on it, not always according to plan. Agree or disagree, the merits of the project need to be addressed with a long-term resolve. He also pointed out that FEMA will not continually fund the same areas.

Ms. Steiner's final question was "when did the town know that they were getting the money and when did you let the public know?" Supervisor Shea stated that the town has been discussing this project for three months now.

Terence Zaleski then spoke about conversations that he has had with a CHIP regional representative, he said there was no rush regarding the Multi Model money. Supervisor Shea interjected that it isn't pork money, it's taxpayers money coming back to the taxpayer. Mr. Zaleski said this was not a project that was recommended in 2008. Shouting ensued and cross talk made it impossible to transcribe. Mr. Zaleski said that this money came available in 2008 and has been re-appropriated by the state legislature routinely each year thereafter. In December of last year that Multi Model money was not in the budget. He reiterated that no paving project was mentioned during that process. The Old Road Society notified the community through e-mail that no paving was slated for 2015.

Councilwoman Montgomery interjected stating that if we put this off until this year's budget process, we will be here again this time next year doing this all over again. She stated that she voted against the paving, as the residents weren't fully vetted, now, months later, we are here again talking about the same thing. Both sides have been heard thoroughly. Councilwoman Montgomery asked Mr. Zaleski to let her continue speaking, as he has had the opportunity to speak. We have heard both sides with great arguments. This board, especially Richard has given this a great amount of time and has consulted with individuals with great expertise on this matter. Roger and Ron have spent years on this project as has every other expert that has been consulted through the years. She has addressed the grade of this road and the need to pave it. With that being said here I am, after listening to all of you, reviewing all of the heartfelt letters and taking all of this into consideration, it's time to bring it to a vote. She stated that the alternative plan that Mr. Angell presented was very interesting and she was willing to give it a shot. After reviewing the plan at Mr. Angell's house and reviewing it at length she feels if the purpose of this alternative is really to preserve the aesthetic value of this road, throw it away. This alternative destroys the aesthetic value of this road, we would be better off paving. In her opinion, the alternative plan would possibly preserve some of the drainage, but it's not preserving the quality that residents of the Pass have set out to preserve. She stated that she has sat at Coppermine Creek, the creek at Old Albany Post Road and Indian Brook and watched the run off that are in our creeks, and it was then she decided how she was going to vote. She believes that everyone has had ample time, and this matter has been exhausted, therefore she asked that this be brought to a vote.

Robert Juby stated that he has attended meetings for approximately three years and has experienced a positive response from the Town Board and Roger with many concerns that he had. He agrees with many of the comments made this evening with regard to paving South Mountain Pass. He referenced the most recent paving project on East Mountain Road due to dust problems, pointing out that even though Mr. Zaleski disagreed in the beginning, with very little fanfare came to support the project. He commented that no one has attended any meetings until it has come down to the last minute. Finally, he agrees with the fact that once it is paved from Route 9D, the tendency to use that road will increase.

Another resident added that based on comments from both Christine Tomm Addona and Andy Galler, there may be some legal issues to consider, such as the SEQRA, Negative Declaration.

Joe Flanagan, resident of Coppermine Road, spoke of runoff, citing that it is organic material that winds up at the base of the streams that doesn't trickle down to the Hudson River. The proposal is to lay asphalt, which is a petrol chemical laden with toxins, thus poisoning the stream and at least 80 wells. Supervisor Shea interrupted asking if Mr. Flanagan was a scientist? Mr. Flanagan responded saying that he is a real estate developer who has cleaned up brown fields. Mr. Flanagan then asked why the Town Board hasn't considered these toxins.

Joyce Blum spoke of the trails, and the beauty of the area. She asked the cost of the paving. Roger Chirico responded stating that the cost would be \$117,000 of CHIP funds. He went on to explain that he couldn't support an alternative plan without seeing it first hand. He refuses to spend taxpayer dollars on an unproven method. He noted for the record that dirt roads take chemicals 12 months a year as compared to paved roads, which are treated only during the winter months. Conversations continued between Roger Chirico, Ms. Blum and the Supervisor, for some time, addressing a new engineer consult, cost and postponing the vote.

A resident of Old Albany Post Road suspects that there is a way that dirt roads could be protected here in Philipstown and that needs to be looked at. She pleaded to postpone the vote.

Alex Clifton then took the floor and stated that the Supervisor's choice of hearing comments from him before Ed Polhemus is because Mr. Polhemus supports the Town Board. He quickly apologized for that comment. He passionately requested the Town Board not to move forward with the project, as it is extremely unpopular in this community. Councilman Van Tassel stated that comment should be "it's unpopular with the people in this room." Mr. Clifton reported that he had gone door to door and his findings were that most of those supported his point of view on this matter. Again, Multi Model monies were questioned, all of

Weekly Town Board Meeting
July 14, 2015

which have been addressed. Roger Chirico explained and tried to answer the questions put forth.

Ed Polhemus expressed his support for the paving project for many reasons, such as water raging down the hill during storms and the damage done. He acknowledged the special character of South Mountain Pass. He then gave a brief history of the road.

Councilman Leonard stated that one thing he would ask everyone to take a look at is looking at this issue from the Town Board's standpoint. Everyone on the board are not people from out of town, they all have experience and feelings for this town. He has personally spoken with many people about this project, which he stated is the biggest project undertaken since he became a member of the Town Board. He briefly explained that the SEQRA process is involved, and it covers a lot of areas and one has to keep an open mind and listen to the experts. He is comfortable with this process, and he is well rounded on the subject. The Town Board is obligated to make a decision on this for the entire town. The town is most definitely spending a lot more of taxpayer's dollars in this area. With all that said, the actions that are going to be taken this evening are better for the environment, not harmful. He added that the Town Board has a responsibility to all the residents of the town, and be mindful of the costs involved with maintaining this road.

Councilman Van Tassel concurred with the comments set forth by Councilwoman Montgomery and Councilman Leonard. He referenced East Mountain Road North, which was dirt. The town saw that continually wash out in the exact manner as South Mountain Pass. Mr. Flanagan interrupted and some unhealthy comment ensued, at which time Supervisor Shea put an end to his badgering. Councilman Van Tassel asked Mr. Galler if the runoff from pavement would be an improvement? Mr. Galler responded that he couldn't answer that, because what should have happened is the town, as the permitting authority, should have approached the Conservation Board. He would assume that the Conservation Board might have said that a habitat assessment needs to be completed, and a construction narrative would have been provided along with protections. Mr. Galler answered stating that at best, he believes it's 50/50 impact on the environment.

Councilwoman Montgomery stated that she is going to vote to preserve this dirt road by paving it. This will also preserve the quality of our streams. She has consulted with the town's Wetlands Inspector who stated that this grade of road should to be a paved surface. She went on to say that she is sorry if everyone here tonight feels blind sided, but she appreciates the leadership of this board in giving the public the opportunity to vet their concerns. She again stated that she is prepared to take a vote.

Weekly Town Board Meeting
July 14, 2015

Councilman Flaherty pointed out that he is new on the board, but the board is dealing with a problem that has existed for a very long time. He spent a lot of time at the site, and feels a lot of time has been spent getting feed back from the whole community for or against this project. He doesn't feel that anyone has been blind sided as the board has reviewed this for over three months. He stated that like it or not, respect the decision of the Town Board.

2. Resolution authorizing Supervisor Shea to sign the negative declaration with regard to the South Mountain Pass paving project.

RESOLUTION #129-2015

The following Resolution was presented by Councilwoman Montgomery, seconded by Councilman Flaherty;

WHEREAS, the Town Board has before it a proposal to pave approximately 2,600 +/- linear feet of South Mountain Pass, from a point just east of its intersection with NYS Route 9D to a point just east of High Ridge Road, in order to address long-standing roadway erosion problems caused by the road grade and to reduce ongoing maintenance costs and eliminate siltation of the adjacent drainage ways; and

WHEREAS, this is an action subject to SEQRA; and

WHEREAS, the Town Board as the sole Involved Agency assumes Lead Agency status and, as such, has caused to be prepared a Short Environmental Assessment Form ("EAF"), conferred with its consultants and the Highway Department and taken a hard look at potential environmental impacts;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Supervisor is hereby authorized to sign the EAF; and
2. That after considering all of the information presented to it, including the EAF, the Town Board determines that the adoption of this local law is an Unlisted Action and adopts the Negative Declaration attached hereto.

ROLL CALL VOTE

Supervisor Shea	AYE
Councilwoman Montgomery	AYE
Councilman Van Tassel	AYE
Councilman Leonard	AYE
Councilman Flaherty	AYE

The resolution was thereupon declared duly adopted.

Weekly Town Board Meeting
July 14, 2015

3. Resolution authorizing Highway Superintendent Chirico to proceed with the paving project on South Mountain Pass.

RESOLUTION #130-2015

The following Resolution was presented by Councilwoman Montgomery, seconded by Councilman Flaherty;

WHEREAS, the Town Board has before it a proposal to pave approximately 2,600 +/- linear feet of South Mountain Pass, from a point just east of its intersection NYS Route 9D to a point just east of High Ridge Road, in order to address a long-standing roadway erosion problems caused by the road grade and to reduce ongoing maintenance costs and eliminate siltation of adjacent drainage ways; and

WHEREAS, the pavement is to be provided pursuant to the competitive bid awarded earlier this year by the Town for asphalt delivered and laid in place; and

WHEREAS, the Town has determined that it is in the best interest of the Town to proceed with the proposed paving work;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Town Board approves the said paving of approximately 2,600 +/- linear feet of South Mountain Pass; and
2. That the Town Highway Superintendent is requested and directed to make arrangements for the paving work to be accomplished expeditiously; and
3. That the Town Supervisor is authorized to execute any documents necessary for completion of the project.

ROLL CALL VOTE

Supervisor Shea	AYE
Councilwoman Montgomery	AYE
Councilman Van Tassel	AYE
Councilman Leonard	AYE
Councilman Flaherty	AYE

The resolution was thereupon declared duly adopted.

There being no further business to discuss, Councilwoman Montgomery made a motion, seconded by Councilman Leonard and unanimously to close the Weekly Town Board Meeting at 9:25 p.m.

Respectfully submitted by,
Tina M. Merando, Town Clerk