

# The Millbrook Independent

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## **Dover Residents Question Legality of Rasco Application**

On April 5, the second Dover Planning Board Public Hearing on an application for a group called Rasco to manufacture an asphalt product called “Earth Pave” out of Petroleum Contaminated Soils (PCS) on the former Mid-Hudson Recycling site brought out many members of the public who are concerned about the effect of this substance on their drinking water.

Evelyn Chiarito, a Dover Town resident, read a letter to the Planning Board that she and her husband had written saying: “It appears to me that this project will produce a potentially polluting material which may be used all over our town and the whole Harlem Valley and will contaminate our aquifer, increase Rte. 22 traffic and produce air pollution from trucks, and is located in and adjacent to the Great Swamp and Swamp River, the second largest wetland in New York State, a designated Critical Environmental Area and can have a negative effect of our community health, welfare, safety and home values.”

Many environmental and local watchdog groups made written and oral comments that expressed deep concern about the potential effects of the proposed cold asphalt operation which would store and transport PCS to and from the former Wingdale industrial park. The Housatonic Valley Association stated: “The application, as submitted lacks sufficient information to assure the Town that no contamination of the site and adjacent land and water resources will occur. We strongly urge the Planning Board to require a full SEQRA (State Environmental) review of this application.”

The Coalition of the Responsible Growth of Dover (CRGD) stated in their comments that “Dover specifically forbids solid waste operations within our borders, except for municipally-owned and operated facilities” and that CRGD does not understand how two senior leaders of the community, Supervisor Courtien and Planning Board Chairman “came to agree to open the door to a solid waste business operation in our Town by signing the Stipulation Agreement [with the applicant, granting grandfathering status for a non-conforming prior use] on behalf of the residents of Dover.

Planning Board Chairman, Dave Wylock, defended the position of the Board saying “Just because the site plan is before the Board does not mean that it will be approved. I signed the Stipulation Agreement because on the opinion of the zoning code enforcement officer.”

The most dramatic comment, read by Mr. Wylock was from an e-mail to the Planning Board from Jill Way, former Town Supervisor. She said: “I understand that Rasco intends

to process solid waste. Please be advised that Section 145-10 of the Town of Dover Code specifically prohibits additional solid waste facilities to be permitted in the Town of Dover with the sole exception of municipally owned and operated facilities.” She also stated that; “The code was amended in 1999 due to the unprecedented number of existing and proposed solid waste facilities within our jurisdiction.” She said that the definition of solid waste included operations like Rasco “that have received Beneficial Use Determinations (BUD) from the New York State DEC” and referred to “Section 145-74 of the Town Code which states that BUD uses are still considered solid waste for the purposes of these regulations.”

At several points during the evening, the spokesman for Rasco, Frank Peduto of Spectra Engineering, put his head down on his pile of papers and sighed while listening to the litany of public comments. At the beginning of the long evening he had stated that the operation would be building a berm alongside the road to direct stormwater away from the wetlands and a bioretention area to allow the water to infiltrate into the ground.

One of the first comments from the public came from a young farmer named Ben Schwartz. “My name is Ben Schwartz. I run the Wassaic Community Farm and am a member of the Northeast Organic Farming Association (NOFA). My business depends on clean water to succeed. I am originally from Rockland County where recently a local reservoir was polluted by Petroleum Contaminated Soils, the same type of soils as Rasco plans to use at the Wingdale site. I am concerned about the cold asphalt application because this new asphalt has been known to become brittle and crack after freezing, heaving and thawing for a few years and have been known to leach into the soil and aquifer. Even a small amount of PCS with MTBE in it can have a very negative effect on ground water. This will be bad for the agriculture of our community.”

A local Dover resident, Joy Godin who is on the Board of the Dutchess County Department of Health read a letter to Supervisor Ryan Courtien and David Wylock from Constance DuHamel which stated: “By signing the Rasco Stipulation Agreement you have helped clear the way for a Petroleum Contaminated Soil Recycling business to be brought into the Town of Dover....as you know solid waste projects are not allowed in Dover.....I am dismayed to find that on this project with potentially serious environmental consequences that the Applicant has not approached the process with the professionalism, transparency and seriousness that Cricket Valley Energy (CVE) has conducted itself, and CVE is not even handling PCS (Petroleum Contaminated Soils).” She questioned what steps led the Town to grandfather in this application in light of the fact that the prior business on the site was shut down for violating its permit and a Stop Work Order was issued by the Town. “Did you exercise something like Executive Privilege in signing this document?....It would appear that the alternative method of determining whether the project in grandfathered in is to take it through the courts. That route would necessarily involve legal fees and I am curious to know the amount of legal

fees our Town Attorneys estimated that it would cost to argue that the project was not only not grandfathered in but moreover should not be located above our water supply.”

Mrs. Chiarito continued this theme in her letter when she said: “I was shocked that Supervisor Courtien and Planning Board Chairman Wylock signed the “Stipulation Agreement” on behalf of our town grandfathering in the Rasco PCS business, especially when we passed legislation after the Palumbo fiasco to prevent our town from having to host every damaging solid waste proposal that comes our way. It appears to me that TT Materials was out of business for over one year thereby losing their use. I believe we were and are currently a targeted town since we are considered a ‘poor town’ and [solid waste] businesses unwelcome in other towns target our town, where they think they can find an open door....it would be great if Supervisor Courtien and Chairman Wylock could explain their reasoning. If the reasoning was to avoid a lawsuit, Section 145-50 was already challenged once before and stood up just fine.”

Mike Purcell who is on the Board of Friends of the Great Swamp (FROGS) pointed out that wetlands are comprised of ‘hydric soils’ which absorb and then discharge what they absorb into the Swamp River. He said that the run-off travels very quickly into the river after storm events. He also pointed out that low impact development is what is being encouraged these days that Earth Pave would be useless as a pervious product.

Finally, Sharon Kroeger, who formerly chaired the Tenmile River Commission made the point that the NYS Dept. of Conservation has been remiss in not taking a more wholistic look at the effect of a proposal like this on our entire region. “Why isn’t the EPA looking at this too?”