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Collision course over Harbor Rd.

Head of the Harbor suit targets Heritage Org. to rebuild historic crossing

By Tom Allegra

The Village of Head of the Harbor has filed a lawsuit against the non-profit Ward Melville Heritage Organization (WMHO) and, secondarily, the Town of Brookhaven to try to compel action to repair Harbor Road.

The lawsuit seeks 1) a declaration from Suffolk County Supreme Court that WMHO is responsible for

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HISTORY IS MADE: The Smithtown Historical Society hosted its annual Heritage Country Fair Saturday, August 23, which drew a huge crowd. See picture story, page 9.

-Joseph Sperber photo

Dems tap Trotta for write-in

By David Ambro

With the top of its ticket backing out of the race, the Smithtown Democratic ticket announced this week that it intends to wage a write-in campaign for Suffolk County Legislator Robert Trotta (R-Fort Salonga) for town supervisor against two-term Republican incumbent Edward Wehrheim.

The Smithtown Democratic Committee designated Rosemary Griffin, of Kings Park, as its supervisor candidate. Last month, Ms. Griffin advised the Democrats that she was suspending her

candidacy and was not going to engage in the campaign, an announcement that she made when it was too late by law to get off the ballot.

Though Ms. Griffin will remain on the November 4 general election ballot, the Smithtown Democratic Committee announced this week that it will wage a write-in campaign for Mr. Trotta for town supervisor. The announcement came in the form of a letter to the editor of **The Smithtown News** signed by the two Democratic town board candidates, Michael Catalanotto and Jesse Phillips, and county

legislator candidate Shala Pascussi.

"We are proud to support Rob Trotta as a write-in candidate for town supervisor," says the letter, a copy of which is published in its entirety on page five. "While we may not agree on every issue, Rob has consistently fought for fiscal responsibility, government transparency, and responsible development. He isn't afraid to ask tough questions or stand up to powerful interests—something Smithtown desperately needs right now."

Mr. Trotta waged an

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Village to court to get Harbor Road rebuilt

(Continued from page 1)
rebuilding Harbor Road and restoring Mill Pond in Stony Brook Village, which were destroyed by the devastating rainstorm of August 18-19, 2024, and 2) an order from the court that WMHO must complete the work.

The lawsuit, which was filed by Village Attorney Brian Egan Tuesday, August 26, alleges WMHO—which owns the land comprising the pond and beneath the untraversable Harbor Road that connects Stony Brook Village to Head of the Harbor—has neglected its responsibility to remediate and reconstruct the site, resulting in hardship to residents of Head of the Harbor and providing cause for the village to seek damages.

“I’ve spent about nine months working with other parties to try and get an agreement, and every week I have hopes that the next meeting, the next conference, the next draft, would bring an agreement,” Head of the Harbor Mayor Michael Utevsy said a few hours after the filing of the lawsuit, which lists the Town of Brookhaven as a “nominal” defendant because this legal action could obligate the Town (which had maintained Harbor Road for at least the past century) to help coordinate and complete reconstruction efforts. “Unfortunately, it went by the wayside. We felt there was just no way to make progress without a court order, and we felt we had to sue.”

At the heart of the matter is a disagreement between WMHO and Brookhaven over who is responsible for fixing Harbor Road. WMHO argues its title searches show that Harbor Road is and has been a publicly maintained road and, as such, the responsibility of the Town. The Town maintains that its own title searches show WMHO as the owner of the property and, therefore, responsible for fixing the dam over which Harbor Road would be reconstructed.

“It [the compromised section of Harbor Road] is also in [the Town of Smithtown section] of Head of the Harbor, so shouldn’t they also be nominal defendants?” Brookhaven Town Councilman Jonathan Kornreich asked. “The road spans two municipalities, so for [WMHO] in any way to list us [the Town of Brookhaven] as responsible, whatever our responsibilities would be are symmetrical to theirs [Head of the Harbor’s].”

“I see us as twins in terms of exposure to this and what that amounts to the roadway service,” Councilman Kornreich said. “We would love to build the road, but



The “Public Safety Emergency” sign but on the fence blocking Harbor Road on the one-year anniversary of its washout is being repeatedly vandalized, according to Head of the Harbor officials.

we can’t build it in mid-air. We need WMHO to build [the dam].”

WMHO president Gloria Rocchio, whose organization recently paid for some preliminary measures, surveying the site and for the rendering of a proposed reconstruction plan, continues to maintain that it is the Town of Brookhaven’s responsibility to rebuild Harbor Road. She said that the reason WMHO hasn’t applied for funding from the Federal Emergency Management Agency (FEMA)—funding that would cover 75% of the costs of a reconstruction project—is because FEMA rules state a non-profit cannot apply for FEMA funding of a public road.

“We knew it was coming,” Ms. Rocchio said of the lawsuit, noting that WMHO has paid for studies on the structural soundness of the historic grist mill (which is located just East of the Harbor Road collapse on the border of the Town of Smithtown) and for borings to be taken of the land beneath what was once Harbor Road to determine its composition.

“We didn’t waste time just sitting there. We’ve done all this background work for whoever undertakes the construction,” Ms. Rocchio said. “The things that we did would have to be done by anyone who starts the project, so we didn’t lose time... All the data and everything we’ve gathered, we’ve given to the town of Brookhaven.”

Residents of Head of the Harbor contend that time has been wasted, with more than a year already having elapsed since the catastrophic rainstorm dropped more than 150 million gallons of water into the pond in less than 24 hours, according to Ms. Rocchio, washing out the road and emptying the pond into Stony Brook Harbor.

“I feel like we have had endless meetings trying to figure out this amicably, and at this point we have exhausted every effort... so

they’ve given us no choice [but to file the lawsuit],” Head of the Harbor Deputy Mayor Lisa Davidson said. “The hope is this can be expedited, but that’s always a question with the courts. Maybe this lawsuit will motivate all the parties.”

Ms. Davidson has primarily targeted Ms. Rocchio for the inaction to get reconstruction work underway. She has demanded that WMHO apply for FEMA funding for the road and pond, noting that there is limited time left to obtain FEMA funding for the disaster, and she previously has alleged WMHO refuses to apply for funding because the non-profit’s financials would come under greater scrutiny if it were to apply.

Ms. Rocchio said, “We haven’t hidden a thing.”

“In the FEMA handbook, it says a non-profit cannot own a public road, that it will not be eligible for assistance. That’s been our position. So here we are,” Ms. Rocchio said. “How can a non-profit own a public road and be responsible for building everything?”

In the interim, Ms. Rocchio has suggested the project be completed with private funding contributed by WMHO and all municipalities involved, including Head of the Harbor, the Town of Brookhaven and Suffolk County. She said the work would likely be completed more expeditiously if it were privately funded.

“Divide it evenly and get it done. Outside of FEMA, you could get it done quickly. This is going to take a while, because [going through FEMA] there’s a [long] process,” said Ms. Rocchio, whose organization in late 2024 did apply for FEMA funding for WMHO properties, the Grist Mill, the Thompson House and the Jazz Loft.

Ms. Rocchio said FEMA officials finally visited those sites earlier this summer, but no FEMA determination or funding amount has been finalized. She said FEMA did not, however, survey the damage to Harbor Road

because ownership has yet to be determined.

“We gave a proposal to the Town of Brookhaven, Suffolk County, and the Village of Head of the Harbor to share the cost of this without going through FEMA,” Ms. Rocchio said. “Our attorney feels there’s still a way to get this resolved by sitting in a room with all four people—[the attorneys for Brookhaven, Head of the Harbor, Suffolk County and WMHO]—and getting it done, and just the attorneys.”

Mayor Utevsy contends it is not the Village of Head of the Harbor’s responsibility to fix Harbor Road.

“It’s unfortunate that this road collapsed beyond our village’s borders. If it were in our village... we would have been out there with shovels,” he said. “I’ve been hopeful all this time, and my hopes are continually frustrated to the point that I’ve lost hope for a negotiated agreement.”

Not under contestation by WMHO was the responsibility for restoring Mill Creek Road, a private road in Head of the Harbor on WMHO property running parallel to the creek that had carried water from the pond into Stony Brook Harbor. WMHO paid for and organized the reconstruction of Mill Creek Road, which connects residents of seven Head of the Harbor homes to Harbor Road just east of the road collapse. The work was completed May 7.

“Mill Creek Road was done in 200 days [from the date of the disaster], which includes the application, review process, and construction. That was 195 feet of road,” Ms. Rocchio said. “Over here [on Harbor Road], it’s a little more than 100 feet [of road that must be rebuilt], and look what’s happening. The pond is getting growth in it. It’s very sad.”

“The way to get it done quickly,” Ms. Rocchio said, “was to do it between municipalities.”

The Harbor Road dam

and the pond that its reconstruction would help restore are a more complicated issue due to the contestation of ownership. With its lawsuit, however, the Village of Head of the Harbor has made clear that it is primarily holding WMHO accountable for the lack of progress.

“We would have been completely forgotten if we hadn’t called government officials, organized meetings, spoken to the press—if our residents hadn’t posted signs and held rallies,” Mayor Utevsy said. “Our village has kept this alive when it’s not important to anyone else, when it’s critical to our village.”

Ms. Rocchio said: “We understand their frustration because we feel the same way as them, probably more, but at the same time, no one has really known the entire process [of applying for FEMA funding]. And the process is long. [It would be completed faster] if it were done with private funding.”

Councilman Kornreich criticized WMHO for shirking responsibility. “I think it’s a gross dereliction of [WMHO’s] responsibility to the community to try to muddy the waters and pretend the ownership of the dam is in dispute,” he said. “They created this narrative, but there is no dispute [over who owns the land there].”

Interesting about the lawsuit is that the Town of Brookhaven was included as a nominal defendant and not a direct defendant, even though the Town has done little to secure the area surrounding the collapsed road. It is easy for pedestrians to access the unstable ground and concrete remnants west of the collapse of Harbor Road, which clearly poses a public safety hazard.

“Brookhaven absolutely should have done more, and I strongly believe they could have done more if they wanted to because [Harbor Road] is a public road,” Ms. Davidson said. “I honestly think this particular situation is incredibly unique, and that must be taken into account. In a perfect world, Gloria and Brookhaven would have teamed up rather than everybody pointing fingers and denying culpability or responsibility. I know there were endless meetings. They need to collaborate.”

“We feel we had no choice [but to file the lawsuit],” Mayor Utevsy said. “We would welcome a negotiated agreement. But we don’t see enough progress to this point, so we had no choice but to bring this in front of the judge and let a judge decide.”