

RESOLUTION NO. 2014261

RE: ACCEPTING THE DETERMINATION AND FINDINGS RELATING TO THE PROPOSED PUBLIC PROJECT (PIN 8758.74) HARLEM VALLEY RAIL TRAIL – PHASE IV, LOCATED IN THE VILLAGE OF MILLERTON AND TOWN OF NORTH EAST, DUTCHESS COUNTY, AND TOWN OF ANCRAM, COLUMBIA COUNTY, NEW YORK

Legislators MICCIO, PULVER, KELSEY, SURMAN, INCORONATO, SAGLIANO, and STRAWINSKI offer following and move its adoption:

WHEREAS, PIN 8758.74, Harlem Valley Rail Trail – Phase IV project proposed to develop a shared use path along approximately 8 miles of an abandoned railroad corridor known as the Harlem Valley Rail Line, and

WHEREAS, in 1986, the Harlem Valley Rail Trail Association (HVRTA) was organized to convert the former railroad right-of-way to hiking and biking recreation trail, and

WHEREAS, several planning reports, The Dutchess County Plan – *Directions*, Poughkeepsie-Dutchess County Transportation Council’s *Bicycle and Pedestrian Plan* (1996), Dutchess County Greenway Compact’s *Greenway Connections* (1999), and Hudson River Valley Greenway’s *Draft Greenway Trail Vision Plan* (2004) identified the Harlem Valley Rail Trail as a major non-vehicular transportation resource within eastern Dutchess County, and

WHEREAS, the proposed project is included on the Poughkeepsie-Dutchess County Transportation Council FFY 2014-2018 TIP Project Listing as PIN 8758.74 Harlem Valley Rail Trail - Phase IV, and

WHEREAS, the following objectives were identified for the project:

1. Preserve a critical link within the County’s system of trailways, presently in various stages of planning and development, as recommended in the Dutchess County Plan – *Directions*, Poughkeepsie-Dutchess County Transportation Council’s – *Bicycle and Pedestrian Plan* (1996) and *Connections 2025* (2003), Dutchess County Greenway Compact’s – *Greenway Connections* (1999), and Hudson River Valley Greenway’s – *Draft Greenway Trail Vision Plan* (2004).
2. Provide safe, off-road transportation travel opportunities. Provide travel opportunities for non-motorized modes of travel from residential locations to civic institutions, employment centers, recreational facilities, and commercial establishments.
3. Preserve a vital resource of the community for transportation and recreational benefits.
4. Provide residents and visitors with a facility to readily observe and enjoy the scenic and wildlife habitats of the local community.
5. Encourage non-motorized modes of transportation for intra-community travel.

6. Correct existing deficiencies of structures that are located on the railroad right-of-way and preserve structures from further deterioration, and

WHEREAS, the County of Dutchess implemented a program to incorporate public involvement which included one public information meeting held on May 8, 2007, and

WHEREAS, the purpose of the public information meeting was to present design alternatives and solicit comments from the local residents and business owners, and

WHEREAS, following the consideration of public input, the County of Dutchess and its consultant did incorporate mitigation measures into the project design to address stated concerns where warranted, and

WHEREAS, the County of Dutchess created an internet website to provide project progress information and provide reports to the public, and

WHEREAS, in July, 2014, the Dutchess County Department of Public Works and its consultant completed a Draft Final Design Report to accomplish the development of the Harlem Valley Rail Trail – Phase IV, which draft final design report included the development and consideration of various alternatives, and

WHEREAS, three project alternatives were selected for consideration in the report, and

WHEREAS, Alternative 1 – Off-Road Trail within Trail Right-of-Way includes the construction of a trail facility that would generally follow the existing Harlem Valley Rail Line corridor currently owned by the New York State Office of Parks Recreation and Historical Preservation, and

WHEREAS, Alternative 2 – Existing Roadway Network consists of providing adequate space for bicycles and pedestrians on existing roadways between The Village of Millerton and the Town of Ancram that parallel the Harlem Valley Rail Line, and

WHEREAS, Alternative 3 – No Action would involve taking no action, and

WHEREAS, based on the analysis of data gathered by the County of Dutchess and its consultants and comments received through the public involvement program, Alternative 1, Off-Road Trail within Trail Right-of-Way, was deemed to be the preferred alternative in the draft Final Design Approval, and

WHEREAS, the proposed project is classified as a Class II action under United States Department of Transportation (USDOT) National Environmental Policy Act (NEPA) Regulations, 23 CFR 771.117(d), and

WHEREAS, the Dutchess County Department of Public Works and its consultant completed the NEPA Assessment Checklist and determined the proposed project complies with the requirements of a Categorical Exclusion with Documentation, and

WHEREAS, the Harlem Valley Rail Trail – Phase IV Project is classified as a Type I project under the State Environmental Quality Review Act (SEQRA), and will have no significant impacts, as described in 6 NYCRR 617, and

WHEREAS, the County of Dutchess has considered the general effect of the proposed project on the residents of the locality in which the proposed project is to be undertaken, and

WHEREAS, the preferred alternative would require the County of Dutchess to acquire real property rights from 11 properties within the proposed project area, and

WHEREAS, in accordance with Article 2 of the Eminent Domain Procedure Law, the oral presentation and comment phase of the public hearing was held on July 23, 2014, beginning at 7:30 p.m. at Millerton Library Annex located at 28 Century Blvd, Millerton, New York, for the purpose of informing the public and to review the public use to be served and public benefit to be obtained by the aforementioned proposed public project, and to consider all other matters appropriate to that project, and

WHEREAS, during the course of the aforementioned oral presentation phase of the public hearing, all matters required by the Eminent Domain Procedure Law and appropriate to such public hearing were identified and explained to persons then in attendance, and such persons in attendance were given an opportunity to, and did, speak and comment on the proposed public project and examined documents presented, and

WHEREAS, at the conclusion of the oral presentation phase of the aforementioned public hearing, the hearing was adjourned to the close of business on August 6, 2014, and

WHEREAS, the minutes of such public hearing were transcribed and made available, together with the exhibits and other documents, if any, which were identified or made available during the oral presentation phase thereof, for inspection and examination by the public at the offices of the Village of Millerton Hall and the Office of the Dutchess County Department of Public Work, and

WHEREAS, additional written public comments regarding the proposed public project were accepted until the close of business on August 6, 2014, and said comments were incorporated into the record of the aforementioned Eminent Domain Procedure Law Public Hearing,

NOW, BE IT THEREFORE,

RESOLVED, the following constitutes the determination and findings of this Body with respect to the proposed Harlem Valley Rail Trail – Phase IV Project, Main Street to Under Mountain Road, the Village of Millerton and Town of North East, Dutchess County, and Town of Ancram, Columbia County, New York:

1. The public use to be served by the proposed public project is the development of an approximately 8 mile long shared use path along an abandoned railroad right-of-way in the Village of Millerton Town of North East, Dutchess County, Town of Ancram, Columbia County, New York and would include infrastructure improvements such as the restoration, reconstruction and replacement of existing drainage structures and bridge structures along the right-of-way, trail surface improvements to provide adequate surfaces along the entire right-of-way for non-motorized use, intersection improvements including treatments to existing roadways at trail crossings to improve the safety and efficiency for trail users, access improvements that would increase

general access to the shared use path by the public, or controlled access at strategic locations for emergency access, support facility improvements such as parking facilities, information kiosks, entrance signing, benches, bicycle parking facilities, and a comprehensive wayfinding and information signing system.

2. The benefits to be obtained and purposes to be served by the proposed public project are as follows:
 - a. The proposed Alternative 1 will provide a non-motorized, off-road transportation travel opportunity that connects residential locations to civic institutions, employment centers, recreational facilities, and commercial establishments.
 - b. The proposed Alternative 1 will correct existing structural deficiencies and preserve structures from further deterioration that are located on the railroad right-of-way.
 - c. The proposed Alternative 1 will provide residents and visitors with a facility to readily observe and enjoy the scenic and wildlife habitats of the local community.
 - d. The proposed Alternative 1 will preserve a vital resource of the community for transportation and recreational benefits.
 - e. The proposed Alternative 1 will encourage non-motorized modes of transportation for intra-community travel.
 - f. The proposed Alternative 1 will preserve a critical link within the County's system of trailways, presently in various stages of planning and development.
3. The following alternatives were considered:
 - a. Alternative 1 – Off-road Trail within Trail Right-of-way – Construction of a trail facility that would generally follow the existing Harlem Valley Rail Line, and
 - b. Alternative 2 – Existing Roadway Network – Provide adequate space for bicycles and pedestrians on existing roadways that parallel the Harlem Valley Rail Line, and
 - c. Alternative 3 – No Action – No action would be taken to satisfy the project objectives.
4. The reasons for selecting Alternative 1 include:
 - a. Alternative 2 – Existing Roadway Network. This alternative does not satisfy all the project objectives. Bicycle and pedestrian traffic would be located within the existing highway right-of-way, at times occupy common travel surfaces. Therefore, this alternative has been determined not to be feasible and prudent, and has been eliminated from further consideration.

- b. Alternative 3 – No Action. This alternative would not satisfy any of the project objectives. Therefore, this alternative has been determined not to be feasible and prudent, and has been eliminated from further consideration.
 - c. Alternative 1 – Off-Road Trail within Trail Right-of-Way. This alternative was selected because it satisfies all project objectives and is considered to be a feasible alternative. The benefits to be derived from this alternative are more fully set forth herein above at paragraph 2
5. The proposed public project is classified as a Type I project in accordance with 6NYCRR Part 617, State Environmental Quality Review (SEQR) Act, and the County of Dutchess will act as the lead agency. It has been determined that the project will have no significant adverse impacts, as defined in 6 NYCRR 617.
6. It is hereby concluded that the proposed public project will have, among other things, the following effects upon the residents of the locality:
 - a. The proposed project will not have any long term impacts to emergency services in the project area. During construction, project activities will be coordinated with local emergency response services to minimize impacts. All access locations will be designed to accommodate emergency vehicle access.
 - b. Community travel patterns will not change significantly as a result of the proposed facility. The proposed facility will support pedestrian and bicycle commuter traffic, thereby potentially reducing vehicular traffic on adjacent roads in the project area.
 - c. The proposed facility will not bisect adjacent neighborhoods, change residential property values, or relocate any residences. It is anticipated the project will positively impact the perceived quality of life and community cohesion by allowing residents in adjacent municipalities to travel between communities for recreational and commuting purposes.
 - d. The proposed public project will require real property acquisitions, but will not affect land uses, change travel patterns or have any permanent effect on local planning.
7. The proposed project is being coordinated with the Office of Parks, Recreation and Historic Preservation (OPRHP) and will not have a negative impact on any identified historic and cultural resources. Based on the coordination with OPRHP, OPRHP has determined that the use of Right-of-Way for the rail trail is the only feasible and prudent alternative that would meet the goals of the project.
8. Dutchess County Department of Public Works is hereby authorized and directed to prepare a brief synopsis of the foregoing determination and findings, such synopsis to include those factors set forth in Eminent Domain Procedure Law §204(B), and, further, such synopsis to state that copies of the determination and findings will be forwarded upon written request without cost.

9. Dutchess County Department of Public Works is further hereby authorized and directed to publish the aforementioned synopsis of the foregoing resolution in at least two (2) successive issues of an official newspaper designated by the County of Dutchess and in at least two successive issues of a newspaper of general circulation in Dutchess County.
10. Dutchess County Department of Public Works is further hereby authorized and directed to serve, by personal service or certified mail, return receipt requested, a notice of the aforementioned brief synopsis upon each assessment record billing owner (as that term is defined in Eminent Domain Procedure Law §103(B-1) or his or her attorney of record whose property may be acquired, such notice to:
 - a. include the information required by Eminent Domain Procedure Law §204(B)(2); and
 - b. state that copies of the determination and findings will be forwarded upon written request without cost; and
 - c. state that pursuant to Eminent Domain Procedure Law §207, such individual shall have thirty (30) days from the completion of the publication of the aforementioned brief synopsis in the newspapers as aforesaid, to seek judicial review of the County of Dutchess' determination and findings relating to the proposed public project; and
 - d. inform such individual that, under Eminent Domain Procedure Law §§207 and 208, the exclusive venue for judicial review of the County of Dutchess' determination and findings relating to the proposed public project is the appellate division of the supreme court in the judicial department where any part of the property to be condemned is located.

CA-185-14 CAB/ca/R-480-C 9/17/14
Fiscal Impact: See attached statement

STATE OF NEW YORK
COUNTY OF DUTCHESS

ss:

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 14th day of October 2014, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 14th day of October 2014.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

FISCAL IMPACT STATEMENT

NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost \$ 400

Total Current Year Revenue \$ 380
and Source

Source of County Funds (*check one*): Existing Appropriations, Contingency,
 Transfer of Existing Appropriations, Additional Appropriations, Other (*explain*).

Identify Line Items(s):

H0360.7110.3500

Related Expenses: Amount \$ 400

Nature/Reason:

Publication costs for synopsls of findings.

Anticipated Savings to County: \$ 380

Net County Cost (this year): \$ 20

Over Five Years: _____

Additional Comments/Explanation:

This Fiscal Impact Statement is related to the Resolution Request for the Acceptance of the Eminent Domain Procedure Law Determination and Findings for the Federally Funded project identified as PIN 8758.74 Harlem Valley Rail Trail Phase 4, Village of Millerton and Town of Northeast, Dutchess County and Town of Ancram, Columbia County.

Prepared by: Jefferson H. Akins, P.E., Assistant Civil Engineer II

626 Dutchess Turnpike
Poughkeepsie, NY 12603
Phone: (845) 486-2925
Fax: (845) 486-2940

Dutchess County
DPW ENGINEERING

Memo

TO: Noel H.S. Knille, AIA, ASLA, Commissioner of Public Works

FROM: Robert H. Balkind, P.E., Deputy Commissioner of Public Works 

DATE: September 17, 2014

RE: RESOLUTION REQUEST – ADOPTION OF EDPL
DETERMINATION AND FINDINGS
PIN 8758.74 – HARLEM VALLEY RAIL TRAIL PHASE 4
VILLAGE OF MILLERTON AND TOWN OF NORTH EAST,
DUTCHESS COUNTY AND TOWN OF ANCRAM, COLUMBIA
COUNTY

The attached Resolution Request and Fiscal Impact Statement are submitted for the referenced project. A public hearing was held on Wednesday, July 23, 2014 at 7:30 P.M. at the Millerton Library Annex, 28 Century Boulevard, Millerton, New York. Following the public hearing, a two week written comment period ended on Wednesday, August 6, 2014 and the public hearing was closed at that time. The purpose of this request is to authorize the Dutchess County Legislature to adopt the attached resolution which accepts the Eminent Domain Procedure Law (EDPL) Determination and Findings. This resolution must be adopted within 90 days of the completion of the public hearing.

The Harlem Valley Rail Trail – Phase IV project will develop a shared use path along approximately 8 miles of an abandoned railroad corridor known as the Harlem Valley Rail Line. The project requires property acquisitions from approximately eleven (11) property owners along the shared-use path. This resolution and the acceptance of the Determination of Findings are necessary steps for the acquisition of property under Eminent Domain Procedure Law for this federally funded project. Property acquisition is currently underway and will always be accomplished by willing sale when possible. Acquisition by Eminent Domain will be employed only if absolutely necessary and would require additional legislative action.

2014 SEP 17 10:25 AM

001
10/17/14
10:25 AM

McKinney's Consolidated Laws of New York Annotated
Eminent Domain Procedure Law (Refs & Annos)
Chapter 73. Of the Consolidated Laws
Article 2. Determination of the Need and Location of a Public Project Prior to Acquisition

McKinney's EDPL § 203

§ 203. Conduct of the public hearing

Currentness

At the public hearing the condemnor shall outline the purpose, proposed location or alternate locations of the public project and any other information it considers pertinent, including maps and property descriptions of the property to be acquired and adjacent parcels. Thereafter, any person in attendance shall be given a reasonable opportunity to present an oral or written statement and to submit other documents concerning the proposed public project. A record of the hearing shall be kept, including written statements submitted. Copies of such record shall be available to the public for examination without cost during normal business hours at the condemnor's principal office and the office of the clerk or register of the county in which the property proposed to be acquired is located. Copies shall be reproduced upon written request and payment of the cost thereof. Further adjourned hearings may be scheduled.

Credits

(L.1977, c. 839, § 1. Amended L.1982, c. 356, § 4.)

Notes of Decisions (15)

McKinney's E. D. P. L. § 203, NY EM DOM PROC § 203

Current through L.2014, chapters 1 to 351, 359, 369, 382 to 383, 386 to 387, 390, 395, 397 to 398.

End of Document

© 2014 Thomson Reuters. No claim to original U.S. Government Works.

McKinney's Consolidated Laws of New York Annotated
Eminent Domain Procedure Law (Refs & Annos)
Chapter 73. Of the Consolidated Laws
Article 2. Determination of the Need and Location of a Public Project Prior to Acquisition

McKinney's EDPL § 204

§ 204. Determination and findings

Effective: January 12, 2005

Currentness

(A) The condemnor, within ninety days after the conclusion of the public hearings held pursuant to this article, shall make its determination and findings concerning the proposed public project and shall publish a brief synopsis of such determination and findings in at least two successive issues of an official newspaper if there is one designated in the locality where the project will be situated and in at least two successive issues of a newspaper of general circulation in such locality. If the official newspaper is one of general circulation in such locality, publication therein as specified shall be deemed sufficient compliance. The synopsis shall include those factors set forth in subdivision (B) herein, and shall also state that copies of the determination and findings will be forwarded upon written request without cost.

✓ (B) The condemnor, in its determination and findings, shall specify, but shall not be limited to the following:

(1) the public use, benefit or purpose to be served by the proposed public project;

✓ (2) the approximate location for the proposed public project and the reasons for the selection of that location;

(3) the general effect of the proposed project on the environment and residents of the locality;

(4) such other factors as it considers relevant.

(C) Upon making the determination and findings, the condemnor shall serve, by personal service or certified mail, return receipt requested, a notice of the brief synopsis thereof upon each assessment record billing owner or his or her attorney of record whose property may be acquired. Such notice shall: (1) include the information required by paragraph two of subdivision (B) of this section; (2) state that copies of the determination and findings will be forwarded to such individuals upon written request and without cost; (3) inform such individual that, under section two hundred seven of this article, there are thirty days from the completion of the condemnor's newspaper publication requirement to seek judicial review of the condemnor's determination and findings; and (4) inform such individual that, under sections two hundred seven and two hundred eight of this article, the exclusive venue for judicial review of the condemnor's determination and findings is the appellate division of the supreme court in the judicial department where any part of the property to be condemned is located.

Credits

(L.1977, c. 839, § 1. Amended L.1982, c. 356, § 5; L.2004, c. 450, § 3, eff. Jan. 12, 2005.)

McKinney's Consolidated Laws of New York Annotated
Eminent Domain Procedure Law (Refs & Annos)
Chapter 73. Of the Consolidated Laws
Article 1. Purpose; Short Title; Definitions; Applicability

McKinney's EDPL § 103

§ 103. Definitions

Effective: January 12, 2005
Currentness

As used in this law:

(A) "Acquisition" means the act of vesting of title, right or interest to, real property for a public use, benefit or purpose, by virtue of the condemnor's exercise of the power of eminent domain.

(B) "Acquisition map" means the representation of the real property acquired by either a delineation of the perimeter of the particular project covering the acquisition; together with a description of the project's perimeter boundaries and of the estate, right or interest in and to such property so acquired or an individual property map representing the estate, right or interest in and to such property so acquired.

✓ (B-1) "Assessment record billing owner" means the owner, last known owner, or reputed owner, at such person's tax billing address, of each parcel or portion thereof, of real property which may be acquired by the condemnor for such public project, as shown on the assessment records of the political subdivision in which such parcel or portion thereof is located, as this information, in its most current form, may be obtained from and ascertained by the assessor of each such political subdivision.

(C) "Condemnee" means the holder of any right, title, interest, lien, charge or encumbrance in real property subject to an acquisition or proposed acquisition.

(D) "Condemnor" means any entity vested with the power of eminent domain.

(E) "Person" means any individual, partnership, corporation, association, trust, or legal entity.

(F) "Real property" includes all land and improvements, lands under water, waterfront property, the water of any lake, pond or stream, all easements and hereditaments, corporeal or incorporeal, and every estate, interest and right, legal or equitable, in lands or water, and right, interest, privilege, easement and franchise relating to the same, including terms for years and liens by way of mortgage or otherwise.

(G) "Public project" means any program or project for which acquisition of property may be required for a public use, benefit or purpose.

McKinney's Consolidated Laws of New York Annotated
Eminent Domain Procedure Law (Refs & Annos)
Chapter 73. Of the Consolidated Laws
Article 2. Determination of the Need and Location of a Public Project Prior to Acquisition

McKinney's EDPL § 207

§ 207. Judicial review

Currentness

(A) Any person or persons jointly or severally, aggrieved by the condemnor's determination and findings made pursuant to section two hundred four of this article, may seek judicial review thereof by the appellate division of the supreme court, in the judicial department embracing the county wherein the proposed facility is located by the filing of a petition in such court within thirty days after the condemnor's completion of its publication of its determination and findings pursuant to section two hundred four herein. Such petition shall be accompanied by proof of service of a demand on the condemnor to file with said court a copy of a written transcript of the record of the proceeding before it, and a copy of its determination and findings. Upon receipt of such petition and demand, the condemnor shall forthwith deliver to the court a copy of the record and a copy of its determination and findings. The proceeding shall be heard on the record without requirement of reproduction. If such proposed public improvement is located in more than one judicial department such proceeding may be brought in any one, but only one of such departments and all such proceedings with relation to any single public project shall be consolidated with that first filed.

(B) The jurisdiction of the appellate division of the supreme court shall be exclusive and its judgment and order shall be final subject to review by the court of appeals in the same manner and form and with the same effect as provided for appeals in a special proceeding. All such proceedings shall be heard and determined by the appellate division of the supreme court, and by the court of appeals, as expeditiously as possible and with lawful preference over other matters.

(C) The court shall either confirm or reject the condemnor's determination and findings. The scope of review shall be limited to whether:

- (1) the proceeding was in conformity with the federal and state constitutions,
- (2) the proposed acquisition is within the condemnor's statutory jurisdiction or authority,
- (3) the condemnor's determination and findings were made in accordance with procedures set forth in this article and with article eight of the environmental conservation law, and
- (4) a public use, benefit or purpose will be served by the proposed acquisition.

Credits

(L.1977, c. 839, § 1. Amended L.1982, c. 356, § 6; L.1991, c. 356, § 1.)

McKinney's Consolidated Laws of New York Annotated
Eminent Domain Procedure Law (Refs & Annos)
Chapter 73. Of the Consolidated Laws
Article 2. Determination of the Need and Location of a Public Project Prior to Acquisition

McKinney's EDPL § 208

§ 208. Jurisdiction of courts

Currentness

Except as expressly set forth in section two hundred seven, and except for review by the court of appeals of an order or judgment of the appellate division of the supreme court as provided for therein, no court of this state shall have jurisdiction to hear and determine any matter, case or controversy concerning any matter which was or could have been determined in a proceeding under this article.

Credits

(L.1977, c. 839, § 1.)

Notes of Decisions (7)

McKinney's E. D. P. L. § 208, NY EM DOM PROC § 208

Current through L.2014, chapters 1 to 351, 359, 369, 382 to 383, 386 to 387, 390, 395, 397 to 398.

End of Document

© 2014 Thomson Reuters. No claim to original U.S. Government Works.