

FAMILY & HUMAN SERVICES

RESOLUTION NO. 2014286

RE: AUTHORIZING THE COUNTY OF DUTCHESS TO ASSUME OWNERSHIP AND MAINTENANCE OF THE DUTCHESS COUNTY WAR MEMORIAL IF APPROVED BY THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION

Legislators FLESLAND, KELSEY, WEISS, NESBITT, INCONRONATO, SAGLIANO, JETER-JACKSON, JOHNSON, and STRAWINSKI offers the following and moves its adoption:

WHEREAS, the County Executive has requested authorization for the County of Dutchess to assume ownership and maintenance of the Dutchess County War Memorial situated at the northeast intersection of Main Street and Raymond Avenue Extension in the Town of Poughkeepsie, if approved by the New York State Department of Transportation, and

WHEREAS, the parcel of land on which the Dutchess County War Memorial is situated is presumed to be currently owned by New York State as part of its right-of-way to Raymond Avenue Extension, over which the State of New York Department of Transportation has maintenance jurisdiction for State highway purposes, and

WHEREAS, the Dutchess County War Memorial is currently maintained by the Dutchess County War Memorial Committee, Inc., a not-for-profit corporation which has requested that the responsibility for maintenance of the monument, the parcel of real property on which it sits, and the adjacent parking lot be transferred to the County of Dutchess, and

WHEREAS, New York State Highway Law Section 10(32) authorizes the Commissioner of Transportation upon proper request, to abandon a State Highway, or portion thereof, to a municipality, when such parcel is no longer needed by, or useful to the State Highway System, and

WHEREAS, New York Highway Law Section 10(32) requires that such abandoned highway or portion thereof shall thereafter be maintained as a part of the highway or road system of such municipality, and

WHEREAS, the County of Dutchess has initiated the process to assume ownership by letter of request dated September 4, 2014 from Robert H. Balkind, P.E., Deputy Commissioner of Public Works, to the New York State Department of Transportation, and

WHEREAS, the County shall continue to maintain and utilize such abandoned highway or portion thereof for public transportation purposes, and

WHEREAS, the County's obligation of maintenance shall minimally consist of monument repairs, adding names to the monument, providing tents and chairs for ceremonies, and maintaining insurance coverage, and

WHEREAS, the County will request that the Town of Poughkeepsie continue to provide snow removal and lawn care services, and

WHEREAS, New York General Municipal Law §77-a and New York County Law §226 require a two-thirds vote of the total membership of the Dutchess County Legislature for the County to construct and/or maintain monuments and memorials in commemoration of the members of the armed forces of the United States in any of its wars, and

WHEREAS, New York General Municipal Law §77-a requires that the resolution authorizing the maintenance of a memorial site shall create a committee, to be at all times comprised of members of the Dutchess County Legislature to have charge of such maintenance, and direct expenditures therefor, now, therefore, be it

RESOLVED, that this Legislature authorizes the County of Dutchess to assume ownership and maintenance of the Dutchess County War Memorial situated at the northeast intersection of Main Street and Raymond Avenue Extension in the Town of Poughkeepsie, if approved by the New York State Department of Transportation, and to execute such documents as may be necessary as authorized by Dutchess County Administrative Code Section 32.01, and be it further

RESOLVED, that pursuant to the provisions of New York State General Municipal Law Section 77-a, the Dutchess County Legislature's Veteran Affairs Committee shall exercise oversight responsibility of such maintenance and expenditures. Such Legislative Committee may seek input from the members of the current citizens' Dutchess County War Memorial Committee.

CA-170-14
CRC/ca/G-0203
9/12/14; revised 9/16/14; 10/2/14
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 \$ 0

Total Current Year Revenue \$ 0
and Source

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

Identify Line Items(s):

Related Expenses: Amount \$ _____

Nature/Reason:

Anticipated Savings to County: _____

Net County Cost (this year): _____
Over Five Years: \$12,500

Additional Comments/Explanation:

Costs for the remainder of 2014 are expected to be minimal and can be absorbed in the 2014 Adopted budget. The annual projection for maintenance, monument repairs, adding names to the monument, providing tents and chairs for ceremonies totals \$2,500 and will be included in the 2015 budget.

Prepared by: Nelson Eddy Rivera, Director of Veterans Affairs

MARCUS J. MOLINARO
COUNTY EXECUTIVE



NOEL H.S. KNILLE, AIA, ASLA
COMMISSIONER

ROBERT H. BALKIND, P.E.
DEPUTY COMMISSIONER

COUNTY OF DUTCHESS
DEPARTMENT OF PUBLIC WORKS

September 4, 2014

Kathy Busa, Real Estate Specialist 1
NYS Department of Transportation
4 Burnett Blvd.
Poughkeepsie, NY 12603

**RE: DUTCHESS COUNTY WAR MEMORIAL:
ABANDONMENT OF MAINTENANCE JURISDICTION TO
DUTCHESS COUNTY; PARCEL ALONG THE FRONTAGE OF
MAIN STREET AND RAYMOND AVENUE
TOWN OF POUGHKEEPSIE, DUTCHESS COUNTY**

Dear Ms. Busa:

The County of Dutchess is seeking to acquire maintenance jurisdiction for the parcel of real property containing the Dutchess County War Memorial and the adjacent parking lot as shown on the accompanying sketch. This parcel is currently being maintained by Dutchess County Veterans who no longer have the funding to properly maintain the property. Dutchess County is willing to acquire this parcel and assume all maintenance responsibilities. This parcel will continue to be used as the site of the Dutchess County War Memorial and for public parking.

Please contact Matthew W. Davis at (845) 486-2929 with any questions concerning this matter. Thank you for your consideration in this matter.

Very truly yours,

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

Is:

Enc.

c: Carol A. Bogle, Chief Assistant County Attorney

municipality to the state. Such agreements may also provide for the clearance of such property, necessary for highway purposes, by the Kingston urban renewal agency and the transfer thereof to the state upon payment by the state to the Kingston urban renewal agency of an equitable share of the cost of such clearance.

29-b. The commissioner of transportation, subject to the approval of the division of the budget, is hereby authorized to enter into cooperative agreements with the official authorized by the governing body of the city of Yonkers, relating to the acquisition and clearance of property deemed necessary for the effectuation of any of the purposes of this chapter which lies within or immediately adjacent to a development area, as defined herein, within the city of Yonkers and the equitable sharing of the costs of such acquisition and clearance. When the acquisition of such property as is deemed necessary for highway purposes would result in consequential damages to the owner's remaining property and all or a portion of such remaining property lies within a development area in the city of Yonkers, the commissioner of transportation may acquire such remaining property and transfer the same to the city of Yonkers upon payment by such city to the state, pursuant to the terms of a cooperative agreement as herein authorized, of an equitable share of the cost of the acquisition of such property and the clearance thereof where such clearance is deemed necessary or appropriate by the commissioner. Such cooperative agreements may also provide for the acquisition and clearance of such property, necessary for highway purposes, by the city of Yonkers and the transfer thereof to the state upon payment by the state to such city of an equitable share of the cost of such acquisition, and clearance if any. As used in this subdivision the term "development area" shall mean an area adjacent to a state highway facility in the city of Yonkers which has been designated as such by the governing body of the city of Yonkers, on its own initiative, upon a finding that such area is appropriate for development and that it is in the public interest for the city to control development thereof in conjunction with the state highway facility.

30. Have power, on behalf and in the name of the state, whenever he deems it to be necessary and in the best interests of the state, to enter into cooperative contracts with any adjoining state, commonwealth, nation, province, or any agency of the government of the United States for data collection, studies, design, construction, reconstruction and maintenance of state highway connections, including, but not limited to, border crossing facilities, within any such adjoining state, commonwealth, nation or province notwithstanding the provisions of any general, special or local law to the contrary; provided, however, that before any such contract shall take effect, it shall be approved by the governor and attorney general and thereafter approved by the state comptroller and filed in his or her office; and further provided, that such contract shall provide for the manner in which the costs are to be borne, including, but not limited to, the cost of data collection, studies, design, surveys, the preparation of plans and specifications, the acquisition of real property required for rights of way, construction, reconstruction and maintenance of such highway connections and bridges thereon and of approaches thereto, and border crossing facilities, and such other costs incidental thereto. In no event, however, shall such contract require any fixed annual payment or subsidy by the state of New York to any adjoining state, commonwealth, nation or province for the maintenance or repair of any such highway connection lying outside of the state of New York. The costs incurred by the state pursuant to any such cooperative contracts as authorized herein shall be payable from appropriations made to the department for the planning, construction, reconstruction and improvement of state highways, with or without federal aid.

31. Cause signs to be erected and maintained designating the point of intersection of each state highway with the "Appalachian Trail".

✓ 32. Have power, upon the request of a county, city, town or village, whenever such commissioner deems an existing state highway or portion thereof lying within such municipality to be no longer needed or useful to the state highway system, to enter into an agreement with the appropriate authorities of such municipality to abandon by an official order to such municipality such highway or portion thereof. Upon the filing of certified copies of such official order with the county clerk, the county board of supervisors or county legislative body and the county finance officer of the county in which such municipality lies, the clerk of such municipality, the appropriate officer of such municipality having general direction and supervision of the public

✓ highways thereof and the state comptroller, the state shall cease to maintain such highway or portion thereof and all the rights and obligations of the state therein shall be turned over and surrendered to such municipality and such highway or portion thereof shall thereafter be maintained as a part of the highway or road system of such municipality.

33. Have power, whenever such commissioner of transportation deems it to be in the best interest of the state and necessary, as a result of work authorized pursuant to this chapter, the transportation law or chapter six hundred seventy-eight of the laws of nineteen hundred twenty-eight, as amended, constituting the grade crossing elimination act, and upon the request of a public utility corporation, to provide for the removal, relocation, replacement or reconstruction of pipes, mains, wires, poles, lights, and other similar facilities of such utility corporation. The expense of such removal, relocation, replacement or reconstruction shall be borne entirely by the utility corporation except so much thereof as would constitute compensable damages under any provision of law. Whenever the commissioner of transportation shall approve such a request of a public utility corporation, he shall, with the assistance of such utility corporation, make an estimate of the cost of the work which he is requested to perform in accordance with plans and specifications submitted to him by such utility corporation. Such utility corporation shall thereupon deposit with the state comptroller, who is authorized to receive and accept the same for the purposes of this subdivision, a sum equal to such estimate and subject to the draft or requisition of the commissioner of transportation. If at any time during the course of the work the commissioner of transportation deems the sum submitted by the utility corporation to be insufficient to meet anticipated costs of the work, he shall notify the utility corporation of such anticipated deficiency, whereupon the utility company shall deposit with the state comptroller, who is authorized to receive and accept the same subject to the draft or requisition of the commissioner of transportation, such additional sum as is deemed necessary by the commissioner of transportation to meet anticipated costs. When the work authorized by this subdivision has been completed the commissioner of transportation shall render to the utility corporation an itemized statement showing in full (a) the amount of money that has been deposited by such utility company with the state comptroller as hereinbefore provided, and (b) all disbursements made pursuant to this subdivision including a proportionate charge for engineering. Any surplus money shall be paid to such utility company, without interest, on the warrant of the comptroller on vouchers therefor approved by the commissioner of transportation.

34. Have power to utilize federal aid to undertake the federal traffic operations program to increase capacity and safety on existing street and highway systems in urban areas. Before any project under such program is commenced, the city or municipality in which the improvement is to be made shall consent to and approve of the project. If such project requires additional property, the commissioner of transportation may acquire such property as may be necessary for the purposes of this subdivision, in the same manner as other property is acquired for state highway purposes pursuant to this chapter, and he may enter into a written agreement with the municipality involved to convey such property as deemed necessary for the purposes of this subdivision to such municipality on terms beneficial to the state. The cost of the acquisition of additional property as provided in this subdivision shall be a proper charge against funds available for the project. If such project requires the removal, relocation, replacement, alteration or reconstruction of railroad facilities normally used for the maintenance and operation of the railroad, and including tracks, signals, communication lines, electrical lines, sewer lines, water lines, buildings, structures and their appurtenances, he may arrange through the railroad for the performance of such removal, relocation, replacement, alteration or reconstruction of such facilities as he may deem necessary. Such removal, relocation, replacement, alteration or reconstruction of facilities may be performed on property of the railroad company. If such work requires additional property or if it is necessary that the consequential relocation of such facilities be made to other property, he may acquire such property as may be necessary for the purposes of this subdivision, in the same manner as other property is acquired for state highway purposes pursuant to this chapter, and he may enter into a written agreement with the owner of the railroad lands to convey such property as deemed necessary for the purposes of this subdivision to such owner on terms beneficial to the state. The expense of such removal, relocation, replacement, alteration or reconstruction of the railroad facilities and any right of way acquisition therefor shall be a proper charge against funds available for the project and such work may be performed by contract in the same manner as provided for state highways in article three of this chapter, or, by the use of departmental forces and equipment and of materials purchased therefor. However, if the commissioner of transportation deems it to be in the interest of the public, he may contract with the railroad, upon such terms as he may deem advantageous to the state, to have such work performed (a) by the employment of the forces and the use of the equipment of such railroad and by the use of any material

McKinney's Consolidated Laws of New York Annotated
County Law (Refs & Annos)
Chapter 11. Of the Consolidated Laws
Article 5. General Powers of Board of Supervisors (Refs & Annos)

McKinney's County Law § 226

§ 226. Monuments and memorials

Currentness

1. The board of supervisors of any county may, by the affirmative vote of two-thirds of its total membership erect in the county, monuments and memorials in commemoration of the members of the armed forces of the United States in any of its wars or of any person or event. Adequate funds may be appropriated and expended for the site and structure and thereafter funds may be appropriated for its maintenance and repair. Trustees may be designated by the board who shall serve without compensation. If there already exists within the county a monument or memorial commemorating the same historical site, person or event which was erected and is maintained by a city, town or village, no tax shall be levied upon the property within such city, town or village without the approval of the governing board of such city, town or village.

2. Any county may, before acting under subdivision one of this section, by resolution of its board of supervisors, cause to be submitted to the qualified electors of said county, in the manner provided for the submission of a question to electors by the election law and article three of this chapter, a proposition or question as to whether a monument or memorial as provided for in such subdivision should be erected.

3. Expenditures for county monuments and memorials erected pursuant to section seventy-seven-a of the general municipal law shall be levied upon all taxable real property within the county without approval of local authorities, even though there exists honor rolls or other monuments or memorials in commemoration of the members of the armed forces of the United States from such cities, towns and villages.

Credits

(L.1950, c. 691. Amended L.1958, c. 814, § 1.)

Notes of Decisions (2)

McKinney's County Law § 226, NY COUNTY § 226

Current through L.2014, chapters 1 to 350.

McKinney's Consolidated Laws of New York Annotated
General Municipal Law (Refs & Annos)
Chapter 24. Of the Consolidated Laws
Article 5. Powers, Limitations, and Liabilities

McKinney's General Municipal Law § 77-a

§ 77-a. Construction and maintenance of memorial building or monument by county or city

Currentness

A county, or a city by resolution adopted by the governing board of such municipality by a two-thirds vote of its members, may construct and maintain a memorial building, park or a monument at a place within the municipality or upon any public park thereof, in commemoration of soldiers and sailors of the United States in any war or wars in which the United States shall have engaged, at an expense to be borne by the city or county at large. Such resolution shall create a committee, to be at all times composed of members of such governing boards, to have charge of such construction and of such maintenance, direct expenditures therefor and let a contract or contracts for such construction. Upon the adoption of such resolution, the governing board or other proper authorities of such municipality shall appropriate, raise by tax in the city or county, as the case may be, and make available from time to time to the order of such committee, the amount chargeable to the city or county for such construction and maintenance. In a city having a board of estimate and apportionment, the concurrence of such board, with any action by the governing board, shall be necessary to any action by the city under this section. A county and a city wholly contained therein may unite in the construction and maintenance of such a memorial by such resolution being so adopted by the governing board of each municipality, at an expense to be borne by the city and county at large, or by the city and taxable property of the county outside of the city, in such manner and in such proportions as the resolution shall prescribe. Such resolution shall create a committee to be at all times composed of members of each of such governing boards, to have charge of construction and of such maintenance, direct expenditures therefor and let a contract or contracts for such construction. Upon adoption of such resolutions the governing board or other proper authorities of such municipality shall appropriate, raise by tax in the city or county, as the case may be, and make available from time to time to the order of such committee, the amount chargeable to the city or county for such construction and maintenance.

Credits

(Added L.1919, c. 372, § 1. Amended L.1921, c. 421, § 1.)

Notes of Decisions (1)

McKinney's General Municipal Law § 77-a, NY GEN MUN § 77-a
Current through L.2014, chapters 1 to 350.

Section 32.01. Approval Of Contracts By County Legislature.

Except as otherwise provided in the Charter or this Code, any contract to which the County is a party shall require approval by the County Legislature, if said contract is for:

- (a) The sale, lease, or purchase of real property.
- (b) The alteration or demolition of a building or other structure.
- (c) The erection or construction of a building or other structure, whether constructed on site or off site, and whether leased or purchased.
- (d) The provision of facilities or the rendering of services by, for or with any municipality, public authority, or combination thereof.

As used herein, the term building shall include a trailer, modular unit, or other type structure either attached to an existing county building or free standing.

The County Executive shall execute all contracts on behalf of the County except as otherwise provided in the Charter or this Code.

Section 32.02. Approval Of Contracts By County Attorney.

All contracts to be executed by any person authorized by the Charter or this Code on behalf of the County shall first be approved as to form by the County Attorney. A copy of such contract, when executed, shall be filed with the Commissioner of Finance, the Comptroller, and the County Legislature when approval of said board is required for such contract.

Section 32.03. Compensation Of Officers.

Any salary fixed by the County Legislature of an officer paid from County funds shall be in lieu of all fees, percentages, emoluments, or other form of compensation payable for services rendered in the performance of the powers and duties of the office, provided, however, that any officer required by law to reside at a County institution, or authorized and directed by the County Executive, may be furnished maintenance or any part thereof at a County institution. Such maintenance shall be defined and the value thereof determined by resolution of the Board, and the amount so determined shall constitute a part of the salary fixed for any such officer.

Section 32.04. Compensation Where More Than One Position Held.

Whenever the Charter or this Code provides that the head of a unit of county government may act as the head of a sub-unit of such unit, the head of such unit shall not receive any additional compensation for acting as the head of such sub-unit. Whenever the County Legislature authorizes any person paid from County funds to perform the duties of more than one position, such person shall be paid the salary for only one position as the County Executive shall designate.