

RESOLUTION NO. 2015037

RE: SETTING A PUBLIC HEARING WITH RESPECT TO THE COUNTY'S PARTIAL FUNDING OF THE CITY OF BEACON'S ACQUISITION OF THE HIDDENBROOKE PROPERTY IN THE CITY OF BEACON, DUTCHESS COUNTY, NEW YORK AND THE AUTHORIZATION FOR THE COUNTY EXECUTIVE TO EXECUTE A CONSERVATION EASEMENT IN CONNECTION WITH SAID ACQUISITION.

Legislators MICCIO, HUTCHINGS, FARLEY, and SAGLIANO offer the following and move its adoption:

WHEREAS, the City of Beacon (hereinafter the "City") submitted an application for a \$550,000 Matching Grant from the Partnership for Manageable Growth Open Space and Farmland Protection Matching Grant Program (hereinafter the "Program") in January 2007 for the purpose of acquiring a portion of the Hiddenbrooke Property so that the property could be converted to a public park, and

WHEREAS, the application indicated that funding to acquire the Hiddenbrooke Property would come from several sources, including the State of New York, and

WHEREAS, the Dutchess County Planning Board approved the City of Beacon's application in February 2007 in Resolution No. 2/07 and,

WHEREAS, the City purchased the Hiddenbrooke Property in November 2007 without funding from the County or the State of New York due to several legal issues concerning the Hiddenbrooke Property, and

WHEREAS, the legal issues concerning the Hiddenbrooke Property have been resolved, and

WHEREAS, the City recently received the grant funds from New York State in connection with the acquisition of the Hiddenbrooke Property, and

WHEREAS, the Dutchess County Planning Board reaffirmed its approval of the City's revised application in Resolution No. 1/13, a copy of the 2013 resolution is annexed hereto, with one of the conditions being the City and the County enter into a Conservation Easement, and

WHEREAS, the Conservation Easement shall provide, among other things, that the Hiddenbrooke Property will remain a public park open to the public for passive recreational uses such as hiking, and

WHEREAS, the Program and General Municipal Law §247 require a public hearing on the issue of County funding with respect to the Conservation Easement before final authorization thereof, now, therefore, be it

RESOLVED, that this Legislature shall conduct a public hearing on the 9 day of March 2015, at 7 P.M. in the Dutchess County Legislative Chambers, County Office Building, 22 Market Street, Poughkeepsie, New York, on the proposed award of \$550,000.00 in matching grant funds through the Dutchess County Partnership for Manageable Growth/Open Space and Farmland Protection Matching Grant Program to partially fund the purchase of approximately 88.5 acres of Property, known as the Hiddenbrooke Property (Tax Grid Number 130200-6054-02-596808-0000) located at 1 Hiddenbrooke Drive, Beacon, Dutchess County, New York, , and be it further

RESOLVED, that the Clerk of the Legislature is directed and empowered to give notice of said hearing pursuant to law.

CA-021-15

CAB/kvh

R-0913

1/14/15

Fiscal Impact: See attached statement

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

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 9th day of February, 2015, 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 9th day of February, 2015.

GAROLYN MORRIS, CLERK OF THE LEGISLATURE

FISCAL IMPACT STATEMENT

NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS (To be completed by requesting department)

Total Current Year Cost \$ 550,000

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):
HO400.8020.3006 Conservation Open Space

Related Expenses: Amount \$ 0

Nature/Reason:

Anticipated Savings to County: \$ 0

Net County Cost (this year): \$550,000
Over Five Years: \$550,000

Additional Comments/Explanation:

The source of County funds is a bond approved by the Dutchess County Legislature in 2008 (Resolution No. 208206) to support the Partnership for Manageable Growth Open space and Farmland Protection Matching Grant Program (PMG).

The Hiddenbrooke project is the last of the seven pending PMG projects cited in the Bond Resolution to be completed.

Prepared by: Noela Hooper

Prepared On: 02/09/2015

**Dutchess County Planning Board
Resolution No. 01/13**

RE: RECOMMENDING AN AWARD OF PARTNERSHIP FOR MANAGEABLE GROWTH OPEN SPACE AND FARMLAND PROTECTION MATCHING GRANT PROGRAM FUNDS TO THE CITY OF BEACON TO PARTIALLY FUND THE ACQUISITION BY THE CITY OF BEACON OF THE HIDDENBROOKE PROPERTY

WHEREAS, by Resolution No. 990382, Dutchess County established the Open Space and Farmland Protection Matching Grant Program and authorized the Dutchess County Planning Board to review applications for and recommend awards of said funds; and

WHEREAS, by Resolution No. 201276, Dutchess County revised the Matching Grant Program to create the Dutchess County Partnership for Manageable Growth; and

WHEREAS, the City of Beacon submitted an application for a \$550,000 Matching Grant from the Partnership for Manageable Growth Open Space and Farmland Protection Matching Grant Program in January, 2007 for the purpose of acquiring the approximately 98-acre portion of the Hiddenbrooke property located within the City of Beacon, excluding additional acreage in the Town of Fishkill; and

WHEREAS, the City provided documentation of primary funds totaling \$1,700,000, including \$1,000,000 from the City of Beacon, \$350,000 from the State of New York, \$100,000 in proceeds from the sale of property taken by the City through tax foreclosure, and \$250,000 from the Archdiocese of New York to provide a buffer for the adjacent convent property; and

WHEREAS, a certified appraisal conducted by McGrath & Company determined "that the as is market value of the fee simple interest, as of October 21, 2005, was: \$2,275,000; and

WHEREAS, following a site visit to the Hiddenbrooke property and a review of the application the Dutchess County Planning Board unanimously approved Resolution No. 02/07 recommending that \$550,000 be awarded to the City of Beacon for the acquisition of the Hiddenbrooke property, based on contingencies itemized in said Resolution; and

WHEREAS, the Archdiocese of New York acquired a 7.75-acre portion of the original acreage at closing to provide a privacy buffer for an existing religious facility adjacent to the Hiddenbrooke property rather than contribute directly to the City's primary funding; and

WHEREAS, resolution of issues related to the City of Beacon's acquisition of the Hiddenbrooke property included reduction of the original acreage by an additional 2.0 acres; and

WHEREAS, the City of Beacon has submitted a revised application for funds from the Partnership for Manageable Growth Open Space and Farmland Protection Matching Grant Program to partially fund the City's acquisition of an 88.5-acre portion of the original Hiddenbrooke acreage; and

WHEREAS, the New York State Office of Parks, Recreation, and Historic Preservation has approved funding for the Hiddenbrooke acquisition in its current configuration based on two current certified appraisals; and

WHEREAS, the acquisition of the 88.5-acre portion of the Hiddenbrooke property maintains and enhances public access to a historic system of walking and carriage trails in the City of Beacon associated with the historic New York Highlands area; and

WHEREAS, the New York Highlands area is identified in *Directions, the Plan for Dutchess County; Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities* as a key historic, environmental, and open space resource; therefore, let it be

RESOLVED, that the Dutchess County Planning Board recommends that \$550,000 be awarded to the City of Beacon to partially fund the acquisition of the Hiddenbrooke property based on the following contingencies:

- 1) Negotiation of a conservation easement on the parcel to be acquired with such rights in Dutchess County as appropriate for program purposes.
- 2) Certification of appraisal and survey to Dutchess County.
- 3) Completion of review and approval of the proposed acquisition by the Dutchess County Legislature in its capacity as Lead Agency under the State Environmental Quality Review Act (SEQRA). And be it further

RESOLVED, that an implementation team consisting of representatives from the City of Beacon, the Dutchess County Attorney's Office, the Dutchess County Department of Planning and Development, and others as appropriate to complete administrative tasks associated with the acquisition, will convene for the purpose of completing the Hiddenbrooke project

*Unanimously approved by the Dutchess County Planning Board
September 11, 2013*

Hiddenbrooke Property, City of Beacon: Project Chronology

2005

Ursuline order sold +/-103 undeveloped acres located in Beacon and Fishkill to developer. Opposition to proposed cluster subdivision led to \$2,000,000 fund-raising effort including approval by referendum of \$1,000,000 bond to purchase the property from developer and maintain Hiddenbrooke as a public park.

December 2006

City of Beacon submitted application for PMG matching grant in to acquire Hiddenbrooke property.

| | |
|-----------------------------|-------------------|
| Beacon Share | \$ 1,100,000 |
| NYS EPF Funds | \$ 350,000 |
| Private (Archdiocese of NY) | \$ 250,000 |
| PMG Request | <u>\$ 550,000</u> |
| Total Est. Cost | \$ 2,250,000 |

March 2007

Planning Board approves resolution recommending PMG matching grant of \$550,000, contingent upon negotiation by City, County, and State of a conservation easement on the property.

November 2007

The Beacon portion of the Hiddenbrooke property transferred to the City, excluding 7.75 acres purchased simultaneously by the Archdiocese to provide a buffer for the adjacent convent. This purchase eliminated the \$250,000 contribution from the Archdiocese included in the original acquisition budget.

July 2008

The \$550,000 matching grant was included on the list of pending PMG projects to be funded by a \$1.6 million bond approved by the Dutchess County Legislature (Resolution No. 208206).

2008 – 2013

City of Beacon worked to resolve legal issues relating to the Purchase and Sale Agreement between the City, the developer, and a claimant to a portion of the property.

2013

The settlement of the legal challenge included conveyance of a 2-acre parcel including chapel to claimant. (Note: PMG Program Guidelines require exclusion of any buildings from PMG-funded acreage.)

The City submitted two current appraisals of the Hiddenbrooke acreage to NYS Office of Parks, Recreation, and Historic Preservation to meet funding requirements; payment of NYS grant pending.

City of Beacon presently owns +/- 88.5 acres, open to the public for passive recreation. The +/- 5-acre portion of the original 103.3 acre property in Fishkill is privately owned.

January 2015

The State of New York forwarded the EPF grant funds to the City of Beacon.

The County has been asked to proceed with final approval of PMG funding

McKinney's Consolidated Laws of New York Annotated
General Municipal Law (Refs & Annos)
Chapter 24. Of the Consolidated Laws
Article 13. Playgrounds and Neighborhood Recreation Centers (Refs & Annos)

McKinney's General Municipal Law § 247

§ 247. Acquisition of open spaces and areas

Currentness

1. Definitions. For the purposes of this chapter an "open space" or "open area" is any space or area characterized by (1) natural scenic beauty or, (2) whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources. For purposes of this section natural resources shall include but not be limited to agricultural lands defined as open lands actually used in bona fide agricultural production.

2. The acquisition of interests or rights in real property for the preservation of open spaces and areas shall constitute a public purpose for which public funds may be expended or advanced, and any county, city, town or village after due notice and a public hearing may acquire, by purchase, gift, grant, bequest, devise, lease or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right necessary to achieve the purposes of this chapter, to land within such municipality. In the case of a village the cost of such acquisition of interests or rights may be incurred wholly at the expense of the village, at the expense of the owners of the lands benefited thereby, or partly at the expense of such owners and partly at the expense of the village at large as a local improvement in the manner provided by article twenty-two in the village law entitled local improvements.

3. After acquisition of any such interest pursuant to this act the valuation placed on such an open space or area for purposes of real estate taxation shall take into account and be limited by the limitation on future use of the land.

4. For purposes of this section, any interest acquired pursuant to this section is hereby enforceable by and against the original parties and the successors in interest, heirs and assigns of the original parties, provided that a record of such acquisition is filed in the manner provided by section two hundred ninety-one of the real property law. Such enforceability shall not be defeated because of any subsequent adverse possession, laches, estoppel, waiver, change in character of the surrounding neighborhood or any rule of common law. No general law of the state which operates to defeat the enforcement of any interest in real property shall operate to defeat the enforcement of any acquisition pursuant to this section, unless such general law expressly states the intent to defeat the enforcement of any acquisition pursuant to this section.

Credits

(Added L.1960, c. 945, § 2. Amended L.1963, c. 736, § 1; L.1969, c. 996, § 1; L.1972, c. 892, § 26; L.1977, c. 964, § 1.)

Notes of Decisions (19)

McKinney's General Municipal Law § 247, NY GEN MUN § 247
Current through L.2014, chapters 1 to 550.