

RESOLUTION NO. 2016257

RE: SETTING A PUBLIC HEARING WITH RESPECT TO ACQUISITION OF AN AGRICULTURAL CONSERVATION EASEMENT ON THE LOCUST GROVE FARM A/K/A THE ATKINS FARM IN THE TOWN OF PLEASANT VALLEY, DUTCHESS COUNTY, NEW YORK

Legislators FORMAN, BOLNER, WASHBURN, STRAWINSKI, SAGLIANO, and PULVER offer the following and move its adoption:

WHEREAS, the County is considering a recommendation of the Dutchess County Planning Board (Resolution No. 01/2016) for an award in an amount not to exceed \$133,536 in grant funds available through the Dutchess County Partnership for Manageable Growth Grant Program (the "Program"), and

WHEREAS, this award shall be used to partially fund the purchase of an agricultural conservation easement, to be held by the Dutchess Land Conservancy, on approximately 166.56 acres of Property, known as the Locust Grove Farm a/k/a Atkins Farm (Tax Grid Number: 6465-02-586756, 6465-02-737695, and 6465-02-658682) located on Salt Point Turnpike, Town of Pleasant Valley, Dutchess County, New York, and

WHEREAS, as a result of the Dutchess Land Conservancy's organizing efforts and an application to the Program, New York State Department of Agriculture and Markets shall contribute up to \$812,850, Dutchess County shall contribute up to \$133,536, Scenic Hudson Land Trust shall contribute up to \$133,536, and the balance of the funding \$5,000 shall be contributed by the Dutchess Land Conservancy, towards the purchase of the agricultural conservation easement on the Property, for a total contribution of up to \$1,084,922, and

WHEREAS, the easement shall provide, among other things, that it shall be held by the Dutchess Land Conservancy, which shall assume primary responsibility to monitor and enforce the easement, and

WHEREAS, the Dutchess County Planning Board Resolution recommending acquisition of that conservation easement and a matching share Grant of up to \$133,536 through the Program is attached, and

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

RESOLVED, that this Legislature shall conduct a public hearing on the 8TH day of December, 2016, at 7 P.M. in the Dutchess County Legislative Chambers, County Office Building, 22 Market Street, Poughkeepsie, New York, on the proposed award of up to \$133,536 in matching grant funds through the Dutchess County Partnership for Manageable Growth Program to partially fund the purchase of an agricultural conservation

easement, to be held by the Dutchess Land Conservancy, on approximately 166.56 acres of Property, known as the Locust Grove Farm a/k/a the Atkins Farm (Tax Grid Number : 6465-02-586756, 6465-02-737695, and 6465-02-658682) located on Salt Point Turnpike in the Town of Pleasant Valley, Dutchess County, New York, with additional funds from the New York State Department of Agriculture and Markets in the amount of up to \$812,850, Scenic Hudson Land Trust shall contribute up to \$133,536 and the balance in the amount of \$5,000 shall be contributed by Dutchess Land Conservancy for a total contribution of \$1,084,922, 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-161-16

AMS/kvh

G-1679

10/14/16

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 7th day of November 2016, 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 7th day of November 2016.

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):

HO476.8020.3006.(TBD) - Easement-Conservation Atkins Farm

Related Expenses: Amount \$ 0

Nature/Reason:

Anticipated Savings to County: \$ 0

Net County Cost (this year): \$ 0
Over Five Years: \$ 0

Additional Comments/Explanation:

The total cost of the Atkins Farm acquisition is \$1,084,922. Primary funding of \$812,850 is to be provided by the New York State Department of Agriculture and Markets and constitutes 75% of total acquisition cost. The County's PMG grant and the Scenic Hudson Land Trust will each provide \$133,536, and the Dutchess Land Conservancy will contribute \$5,000, together providing the remaining 25% project funding.

The source of County funds is Capital Account H0476, bonds approved by Dutchess County Legislature Resolution No. 2014323 to support the Partnership for Manageable Growth Open Space and Farmland Protection Matching Grant Program.

Prepared by: Brian Kehoe, Department of Planning and Development

DUTCHESS COUNTY PLANNING BOARD

RESOLUTION NO 01/2016

RECOMMENDING SIX APPLICATIONS FOR CONSIDERATION THROUGH THE PARTNERSHIP FOR MANAGABLE GROWTH PROGRAM

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 to increase potential matching grant awards from a maximum of one third to a maximum of one half of the total cost of the acquisition of development rights on farmland; and

WHEREAS, by Resolution No. 2015183, Dutchess County revised the Partnership for Manageable Growth, as follows: (a) funding clarification; (b) removal of the requirement that the County be "last in" in for funding; (c) addition of a preliminary review option; (d) clarification of differences between "open space" and "farmland protection" projects; (e) stipulation that there will be no retroactive funding; (f) passive recreation only; and (g) establishment of criteria for the Municipal Planning Grants; and

WHEREAS, the Dutchess County Planning Board received six applications for matching grant funds submitted by the Dutchess Land Conservancy and/or Scenic Hudson for the acquisition of agricultural conservation easements on a total of 726 acres; and

WHEREAS, the total cost of the six farm conservation easements, including the administrative costs associated with finalizing the acquisitions, are estimated to be \$4,482,170; and

WHEREAS, the owners of the properties have signed letters of intent stating their interest in selling the development rights on the properties and granting a conservation easement restricting or limiting future non-farm development on said property; and

WHEREAS, the properties are included in an Agricultural Priority Area identified in the 2015 County Agricultural and Farmland Protection Plan; and

WHEREAS, the board finds that each of the six applicants met or exceed the program criteria; and

WHEREAS, the board has reviewed the six applications based on the program criteria, toured the farms and subsequently prioritized the projects as shown in Attachment A; therefore be it

RESOLVED, that the Dutchess County Planning Board recommends that up to \$935,855 of the total project cost described above, be awarded for the acquisition of development rights on the farms, based on the following contingencies:

- 1) Completion of administrative tasks including but not limited to survey, title search, and base line documentation pursuant to negotiation of an appropriate conservation easement;
- 2) Negotiation of an agricultural conservation easement conveying the development rights on the Farm property to the appropriate land conservancy, with such rights in New York State, Dutchess County, and the Town as appropriate for program purposes and restricting future use of the property under easement to agriculture-related uses;
- 3) Development of a Monitoring Agreement between Dutchess County and the appropriate land conservancy for the purpose of enforcing the provisions of the conservation easement acquired with Partnership for Manageable Growth Program funds;
- 4) 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 appropriate land conservancy, the landowners, 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 be established for the purpose of completing the acquisition.

Approved by the Dutchess County Planning Board
February 23, 2016

WESTLAW

NOTES OF DECISIONS (20)

- Purpose
- Lands subject to acquisition
- Consent to acquisition
- Eminent domain
- Easements
- Covenants
- Limitations on future use
- Taxation
- Appropriations

McKinney's Consolidated Laws of New York Annotated
 General Municipal Law (Refs & Annos)

§ 247. Acquisition of open spaces and areas
 McKinney's Consolidated Laws of New York Annotated, General Municipal Law (Approx. 2 pages)
 Article 13. Playgrounds and Neighborhood Recreation Centers (Refs & Annos)

Proposed Legislation

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.)

Editors' Notes

RESEARCH REFERENCES

Forms

- McKinney's Forms, Local Gov't, General Municipal Law § 247 Form 5, Notice of Public Hearing Concerning Dedication of Reserved Area.
 - McKinney's Forms, Local Gov't, General Municipal Law § 247 Form 6, Resolution Accepting Grant of Conservation Easement.
 - McKinney's Forms, Local Gov't, General Municipal Law § 247 Form 7, Resolution to Schedule Public Hearing to Consider Town's Acquisition of Property for the Establishment of a Park, Nature Preserve or Recreation Area.
 - McKinney's Forms, Local Gov't, General Municipal Law § 247 Form 8, Notice of Public Hearing to Consider Town's Acquisition of Property for the Establishment of a Park, Nature Preserve or Recreation Area.
 - McKinney's Forms, Local Gov't, General Municipal Law § 247 Form 2, Attorney's Affidavit in Support of Landowner's Motion to Dismiss Abutting Landowner's Action to Enforce Scenic Easement on Ground that Abutting Landowner Lacks...
 - McKinney's Forms, Local Gov't, General Municipal Law § 247 Form 3, Judgment Dismissing Abutting Landowner's Action to Enforce Scenic Easement.
 - McKinney's Forms, Local Gov't, General Municipal Law § 247 Form 4, Notice of Public Hearing Concerning Grant of Easement.
- NOTES OF DECISIONS

Easements

The easement acquired by a municipality to preserve open spaces under General Municipal Law § 247 would be discontinued, provided that the land has not been dedicated to park or recreational uses, upon acquisition of the entire fee, by merging into the higher title and becoming extinguished. Op.Atty.Gen. (Inf.) 84-42.

McKinney's General Municipal Law § 247, NY GEN MUN § 247
Current through L.2016, chapters 1 to 395.

End of Document

© 2016 Thomson Reuters. No claim to original U.S. Government Works.