

MONROE TOWN BOARD SPECIAL MEETING MINUTES

— 08/21/2023

MONROE TOWN BOARD SPECIAL MEETING AGENDA (Monday, August 21, 2023)

Generated by Barbara Singer

Members present

Supervisor -Tony Cardone, Mike McGinn, Mary Bingham, Sal Scancarello, Dorey Houle

1. Call to Order

Discussion, Information, Procedural: 1.1 Pledge to the Flag

2. Motion to Open Town Board Meeting

Discussion, Information: 2.1 National EMS Awards of Excellence

To hear Supervisor Cardone speak about Wayne Chan's National EMS Award of Excellence, please go online to Board Docs, video clip 2.1, 0:1:56.

Action (Resolution): 2.2 Motion to Open Town Board Special Meeting of August 21, 2023

2023- #414

BE IT RESOLVED that the Town Board of the Town of Monroe Made a Motion to Open the Town Board Special Meeting of August 21, 2023, at 7:02pm.

Motion by Supervisor -Tony Cardone, second by Dorey Houle.

Final Resolution: Motion Carries

Aye: Supervisor -Tony Cardone, Mike McGinn, Mary Bingham, Sal Scancarello, Dorey Houle

3. New Business

Action (Resolution), Discussion: 3.1 Rye Hill Corridor

2023-#415

BE IT RESOLVED that the Town Board of the Town of Monroe Made the following Resolution by Councilman McGinn and seconded Councilwoman Houle:

RESOLUTION AUTHORIZING SUPERVISOR TO EXECUTE LITIGATION STIPULATION OF SETTLEMENT AGREEMENT AND CONTRACT OF SALE AUTHORIZING TOWN PURCHASE OF +/- 247 ACRES IN RYE HILL CORRIDOR

WHEREAS, certain Plaintiffs CHAB FIVE REALTY, LLC, GOLDEN RAY, LLC and EAGLE RIDGE ESTATES, LLC ("Plaintiffs") previously commenced litigations against the Town of Monroe ("Town") concerning certain parcels owned by Plaintiffs; and

WHEREAS, Plaintiff CHAB FIVE REALTY, LLC is the owner of certain parcels in the Town of Monroe, identified as Tax Map Section 31, Block 1 and Lots 18.31, 29, 62, and 63; and

WHEREAS, Plaintiff GOLDEN RAY, LLC is the owner of certain parcels in the Town of Monroe identified as Tax Map Section 31, Block 1, Lots 1.11 and 1.12; and

WHEREAS, Plaintiff EAGLE RIDGE ESTATES, LLC is the owner of a certain parcel in the Town of Monroe identified as Tax Map Section 31, Block 1 and Lot 2.4; and

WHEREAS, the parcels owned by CHAB FIVE REALTY, LLC, GOLDEN RAY, LLC and EAGLE RIDGE ESTATES, LLC are collectively referred to as “the Property”; and

WHEREAS, Plaintiff CHAB FIVE REALTY, LLC commenced litigation against the Town and additional Defendants in the United States District Court for the Southern District of New York, pending under Case No. 7:17-cv-07300; arising from the Town’s enactment of a moratorium and certain zoning changes in the Town (the “Federal Litigation”); and

WHEREAS, Plaintiff GOLDEN RAY, LLC filed an Article 78 Petition and Complaint against the Town and additional Defendants in New York Supreme Court, Orange County, Index No. 000300-2017, arising from and challenging the enactment of a moratorium and certain zoning changes in the Town; and

WHEREAS, Plaintiff CHAB FIVE REALTY, LLC filed an Article 78 Petition and Complaint against the Town and additional Defendants in the New York State Supreme Court, Orange County, pending under Index No. 000338-2017 arising from and challenging the enactment of a moratorium and certain zoning changes in the Town; and

WHEREAS, the GOLDEN RAY LLC and CHAB FIVE REALTY, LLC proceedings filed in New York State Supreme Court are collectively referred to herein as the “State Litigations”, and the State Litigations and Federal Litigation are collectively referred to herein as the “Litigations”; and

WHEREAS, Plaintiffs and the Town previously entered into a global settlement of the pending Federal Litigation and State with intent of resolving all pending and potential Federal Litigation and State Litigations, disputes, claims, causes of action including any and all disputes, controversies, claims and causes of action that have been brought by Plaintiffs or that could be brought by the Plaintiffs against the Town in any Court or in any jurisdiction or in any administrative proceeding; and

WHEREAS, the Town performed all required obligations under such settlement, including the adoption of certain zoning enactments known as the Conservation Cluster Residential Zone (“CCR”) and Plaintiffs subsequently entered into an agreement with Sun Brook Partners, LLC (“Sun Brook”) which involved Sun Brook acquiring and developing portions of the Property and preserving the majority of the Property as open space; and

WHEREAS, litigation ensued between Sun Brook and Plaintiffs arising from a contract between Sun Brook and Plaintiffs which did not involve the Town (“Sun Brook Litigation”); and

WHEREAS, Sun Brook failed to file an answer in the Sun Brook Litigation; and

WHEREAS, following the initiation of the Sun Brook Litigation, Sun Brook stopped responding to the Town and ceased pursuing the proposed CCR project; and

WHEREAS, Plaintiffs requested that the Court remove the Litigation Hold that had been previously put in place as between the Town and Plaintiffs in the Litigations and Plaintiffs then sought to engage in settlement discussions with the Town; and

WHEREAS, the Parties, with the assistance of the State Court, engaged in settlement discussions in an effort to resolve the pending Litigations; and

WHEREAS, the Parties have reached a proposed settlement of the Litigations in which the Town would purchase the parcels owned by Plaintiffs in order to minimize development of the Property, maintain the majority of the Property as open space, protect the watershed, consider active and passive recreation uses, and reserve a small portion of the Property for future use to serve public purposes and to provide public benefits; and

WHEREAS, the Town Board desires to authorize the Town Supervisor to execute the final Stipulation of Settlement and Contract of Sale in a form satisfactory to the Town’s legal counsel that would authorize the purchase of the Property and discontinuance of the Litigation against the Town with prejudice; and

WHEREAS, on August 14, 2023, the Town Board declared itself lead agency for SEQRA purposes; and

WHEREAS, the Town Board has reviewed Full Environmental Assessment Forms Part 1, 2 and 3.

NOW THEREFORE BE IT RESOLVED that:

Section 1. The above "WHEREAS" clauses are incorporated herein as if set forth in full.

Section 2. The Town Board, after review and consideration of the Part 1, 2 and 3 Full Environmental Assessment Form hereby determines that the proposed acquisition of the Property described herein will not have any adverse environmental impact and the Town Board hereby adopted the negative declaration in the form presented to the Town Board.

Section 3. The Town Board hereby authorizes the Town Supervisor to execute the Stipulation of Settlement, Contract of Sale and any other documents necessary to carry out the provisions of this Resolution in a final form approved by the Town's legal counsel and subject to Town Board review of any proposed changes to the documents by Plaintiffs.

Section 4. The Town Supervisor, and any other officer, employment or consultant as directed by the Town Supervisor is hereby authorized to take any and all actions necessary to carry out the provisions of this Resolution.

Section 5. This Resolution shall be effective immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Yea Nay Abstain Absent

Anthony Cardone, Supervisor [X] [] [] []

Michael McGinn, Councilperson [X] [] [] []

Mary Bingham, Councilperson [X] [] [] []

Sal Scancarello, Councilperson [X] [] [] []

Dorey Houle, Councilperson [X] [] [] []

The Resolution was thereupon duly adopted.

Motion by Mike McGinn, second by Dorey Houle.

Final Resolution: Motion Carries

Aye: Supervisor -Tony Cardone, Mike McGinn, Mary Bingham, Sal Scancarello, Dorey Houle

2023-#416

BE IT RESOLVED that the Town Board of the Town of Monroe Made the following Resolution by Councilwoman Houle and seconded by Supervisor Cardone:

BOND RESOLUTION OF THE TOWN OF MONROE, NEW YORK, ADOPTED AUGUST 21, 2023, AUTHORIZING THE ISSUANCE OF BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$19,500,000 TO FINANCE THE ACQUISITION OF REAL PROPERTY CONSTITUTING APPROXIMATELY 247 ACRES AND CONSISTING OF SEVEN (7) PARCELS LOCATED IN THE TOWN, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$19,500,000 AND APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE

Recitals

WHEREAS, the Town of Monroe (the "Town"), in Orange County, New York, proposes to purchase approximately 247 acres of undeveloped vacant land known as the "Rye Hill Corridor" tract. The land has been the subject of several past development proposals, and the purchase by the Town will be a component of a settlement of lawsuits brought against the Town by the owners of the land in question;

WHEREAS, the Town anticipates maintaining the majority of this land as undeveloped for open space, watershed protection and active/passive recreation purposes;

WHEREAS, such specific purposes will be determined by the Town Board in the future after careful consideration of all options and in accordance with applicable law;

WHEREAS, the Town seeks to reserve a smaller portion of the land for possible future use to serve public purposes or to provide public benefits; however such future use is unknown at this time;

WHEREAS, such small portion is not anticipated to exceed 20% of the total site in aggregate and is anticipated to be located in that portion of the site known as "Shea Meadows," which corresponds to the area with the lowest value for scenic preservation, habitat conservation and watershed protection;

WHEREAS, the Town Board complied in every respect with all applicable federal, State and local laws and regulations regarding environmental matters, including the Town Board, acting as Lead Agency for the land acquisition, had heretofore made appropriate and necessary findings pursuant to the State Environmental Quality Review Act (SEQRA), constituting Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R., Regulations Part 617.5, and determined that no substantial adverse environmental impact will be caused by the land acquisition, and a Negative Declaration was adopted; and

WHEREAS, the Town Board wishes to adopt this immediate bond resolution to permit the Town to facilitate the efficient purchase of the property in accordance with the agreement reached with the current owner of the property;

THE TOWN BOARD OF THE TOWN OF MONROE, IN THE COUNTY OF ORANGE, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said Town Board) AS FOLLOWS:

Section 1. The Town of Monroe, in the County of Orange, New York (herein called the "Town"), is hereby authorized to issue bonds in a principal amount not to exceed \$19,500,000

pursuant to the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance the acquisition of real property constituting approximately 247 acres and consisting of seven (7) parcels identified by the following Section, Block and Lot numbers: 31-1-1.11; 31-1-1.12; 31-1-2.4; 31-1-29; 31-1-18.31; 31-1-62 and 31-1-63 on the Town of Monroe Tax Map. The real property to be acquired is generally referred to as "Rye Hill" and is located on the easterly side of Rye Hill Road near the border of the Village of Monroe. A full legal description of the real property is available for inspection in the Office of the Town Clerk.

Section 2. The estimated maximum cost of the project described herein, including preliminary costs and costs incidental thereto and the financing thereof, is \$19,500,000 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in a principal amount not to exceed \$19,500,000 to finance said appropriation, the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness applicable to the object or purpose for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 21 of the Law, is thirty (30) years; however, the bonds authorized pursuant to this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds, shall mature no later than five (5) years after the date of original issuance of said bonds or notes.

(b) The proceeds of the bonds herein authorized, and any bond anticipation notes issued in anticipation of said bonds, may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will not exceed five years.

Section 4. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board as to authorizing

bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This bond resolution shall take effect immediately and the Town Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in the "Times Herald Record," a newspaper having a general circulation in said Town, which newspaper is hereby designated as the official newspaper of the Town for such publication.

The adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

AYES: Supervisor Cardone

Councilperson McGinn

Councilperson Bingham

Councilperson Scancarello

Councilperson Houle

NOES:

The resolution was declared adopted.

Motion by Dorey Houle, second by Supervisor -Tony Cardone.

Final Resolution: Motion Carries

Aye: Supervisor -Tony Cardone, Mike McGinn, Mary Bingham, Sal Scancarello, Dorey Houle

4. Public Comment

Information: 4.1 Rules for Public Comment

Discussion, Information: 4.2 Public Comment

The following spoke during Public Comment. To hear their comments, and Town Board members responses, please go on-line to Board Doc's Video Clip #4.2, 0:24:08.

-Maureen Richardson

5. Possible motion to adjourn to Executive and or/ Attorney Client Session

Information: 5.1 Enter into Executive Session

****NO ACTION AT THIS TIME**

6. Return to Regular Meeting

Information: 6.1 Return to Regular Meeting

****NO ACTION AT THIS TIME**

7. Adjournment

Action (Resolution): 7.1 Adjournment of Meeting

2023-# 417

BE IT RESOLVED, that the Town Board of the Town of Monroe adjourns the meeting of August 21, 2023, at 7:30 pm.

Motion by Supervisor -Tony Cardone, second by Mary Bingham.

Final Resolution: Motion Carries

Aye: Supervisor -Tony Cardone, Mike McGinn, Mary Bingham, Sal Scancarello, Dorey Houle