

SPECIAL SESSION – MONDAY, MAY 6, 2019

The Yates County Legislature met in special session Monday, May 6, 2019 at 5:00 p.m. Chairman Paddock presiding with Legislators Holgate and Church absent.

RESOLUTION NO. 182-19

Mr. Banach offered the following resolution and moved its adoption, seconded by Mr. Cutler.

PIN 6755.14 - BRIDGE REPLACEMENT OF WILLIAMS STREET OVER THE WEST RIVER PROJECT

TOWN OF MIDDLESEX, YATES COUNTY

WHEREAS, the County of Yates (“County”) is proposing to replace the bridge that carries Williams Street over the West River (the “Project”); and

WHEREAS, the Project is located in the Town (and Hamlet) of Middlesex, County of Yates, State of New York; and

WHEREAS, the Project will involve the complete replacement of the existing bridge with a new bridge that meets all current design requirements; and

WHEREAS, the purpose of the Project is to maintain safe access to, through and from the Project area by providing a structurally sound bridge that requires minimal maintenance and provides a 75-year service life; and

WHEREAS, it is anticipated that it will be necessary for the County to acquire real property right of way interests in and to four (4) separate tax map parcels in order to accomplish the Project; and

WHEREAS, one of the parcels in which the County must acquire real property interests for purposes of the Project is Tax Map Parcel 22.67-1-19.1; and

WHEREAS, Tax Map Parcel 22.67-1-19.1 consists of approximately 2.50 acres of land with frontage and access on both Williams Street and NYS Route 364; and

WHEREAS, the real property interest that the County must acquire in Tax Map Parcel 22.67-1-19.1 is a permanent easement interest in, on, over and through a rectangular shaped, unimproved portion consisting of approximately 1242 square feet of area that is located immediately adjacent to the highway right of way boundary of Williams Street; and

WHEREAS, the County has received a title certification concerning record fee title in and to Tax Map Parcel 22.67-1-19.1, which title certification indicates that fee title to such parcel is vested in Janice M. Brink, who acquired such title by means of a Quit Claim Deed dated

March 20, 1987 and recorded March 30, 1987 in Liber 341, Page 118, from Roland A. Brink; and

WHEREAS, it appears that Janice M. Brink died a resident of Yates County, with no record of the probate of her estate in the Yates County Surrogate's Court Clerk records; and

WHEREAS, to date, the County has been unable to acquire by conveyance the necessary permanent easement interest in and to a portion of Tax Map Parcel 22.67-1-19.1; and

WHEREAS, the County, through its right-of-way agents, has been unable to locate surviving heirs or distributees of the late Janice M. Brink, as a consequence of which the County is unable to acquire by conveyance the necessary permanent easement interest in and to a portion of Tax Map Parcel 22.67-1-19.1; and

WHEREAS, the Project is subject to compliance with the New York State Eminent Domain Procedure Law (EDPL); and

WHEREAS, as a consequence of the foregoing, it is necessary for the County to acquire the permanent easement interest in, to, over and through a portion of Tax Map Parcel 22.67-1-19.1 by means of an EDPL Article 4 acquisition proceeding; and

WHEREAS, EDPL Article 2 requires, as a condition precedent to acquiring title by means of an EDPL Article 4 proceeding, that the County conduct a public hearing to inform the public and to review the public use to be served by the proposed project and the impact on the environment and residents of the locality where the proposed project will be constructed unless such project is exempt from the EDPL Article 2 hearing requirements in accordance with EDPL §206; and

WHEREAS, EDPL §206 (A) provides that the County is exempt from compliance the provisions of Article 2 when pursuant to other state, federal, or local law or regulation it considers and submits factors similar to those enumerated in Article 2, subdivision (B) of section 204, to a state, federal, or local government agency, board, or commission before proceeding with the acquisition and obtains a license, a permit, a certificate of public convenience or necessity, or other similar approval from such agency, board, or commission; and

WHEREAS, the Project is a Locally Administered Federal Aid Transportation Project administered by the County; and

WHEREAS, as a Federally funded project, the Project is subject to the provisions of 23 U.S.C.A. §128, which requires, among other things, that prior to the acquisition, a public hearing be held, or the opportunity for such be afforded, at which public hearing there is considered factors similar to those enumerated in subdivision (B) of Eminent Domain Procedure Law §204; and

WHEREAS, the Project is being progressed by the County Highway Department, with oversight by the New York State Department of Transportation ("NYSDOT") Region 6, in

accordance with the requirements of the NYSDOT “Procedures for Locally Administered Federal Aid Projects” manual and other applicable NYSDOT documents; and

WHEREAS, in order to progress to the Project through design and acquisition phases, it was necessary for the County to obtain from NYSDOT and FHWA approval that the County has satisfied the requirements of the NYSDOT “Procedures for Locally Administered Federal Aid Projects” manual and other applicable NYSDOT documents; and

WHEREAS, the County, in conjunction with its consultant, completed a Final Design Report for the Project in December, 2018; and

WHEREAS, the NYSDOT Region 6 completed a review of the Final Design Report in December, 2018, and provided project approval to the County and issued design approval and an Authorization to Proceed With ROW Acquisition; and

WHEREAS, the preferred alternative as described in the Final Design Report was approved by the County on December 13, 2018, and by the NYSDOT on December 14, 2018; and

WHEREAS, EDPL §206 (C) provides that the County is exempt from compliance with the hearing and determination and findings requirements of EDPL Article 2 when, “pursuant to other law or regulation it undergoes or conducts or offers to conduct prior to an acquisition one or more public hearings upon notice to the public and owners of property to be acquired, and provided further that factors similar to those enumerated in subdivision (B) of section two hundred four herein may be considered at such public hearings”; and

WHEREAS, in accordance with the requirements of the NYSDOT, the County conducted a public informational meeting on October 30, 2018, to present information regarding the Project, including the use, benefit and purpose of the Project, the approximate location of the Project and the reasons for selecting the location, and the general effect of the Project on the environment and residents of the locality, and to obtain comments from individuals, groups, officials, and local agencies; and

WHEREAS, EDPL §206 (D) provides that the County is exempt from compliance with the hearing and determination and findings requirements of EDPL Article 2 “when in the opinion of the condemnor the acquisition is de minimis in nature so that the public interest will not be prejudiced by the construction of the project or because of an emergency situation the public interest will be endangered by any delay caused by the public hearing requirement in this article”; and

WHEREAS, the Project and the nature and extent of the County’s acquisition of the aforementioned permanent easement interest in, on, over and through Tax Map Parcel 22.67-1-19.1 is de minimis in nature such that the public interest will not be prejudiced by the construction of the Project;

NOW, THEREFORE, BE IT RESOLVED, that the Legislature of the County of Yates has considered all relevant information pertaining to the proposed Williams Street Bridge over West River Project and has determined the project development process implemented by the County, as well as the de minimis nature of the proposed acquisition of a permanent easement interest in, on, over and through a portion of Tax Map Parcel 22.67-1-19.1 qualify the County for exemptions from the requirements of EDPL Article 2, pursuant to EDPL Section 206 (A), (C) and (D); and be it further

RESOLVED, the County hereby authorizes and directs the Chairman of the County Legislature and/or County Highway Superintendent to take such steps and perform such acts as are necessary for the County to acquire the permanent easement interest in, on, over and through a portion of Tax Map Parcel 22.67-1-19.1 and all other real property interests that may be necessary to accomplish for the Project, including acquisition by the right of eminent domain in accordance with the provisions of the New York State Eminent Domain Procedure Law; and be it further

RESOLVED, that the County affirms its prior determination that the Project is classified as a SEQRA Type II action.

VOTE: Unanimous

RESOLUTION NO. 183-19

Dr. Dennis offered the following resolution and moved its adoption, seconded by Mrs. Percy.

AUTHORIZE CHAIRMAN TO SIGN AGREEMENT FOR A NON-UNION CLASSIFICATION AND COMPENSATION STUDY

WHEREAS, it is the desire of the Yates County Legislature to:

1. Perform an evaluation of non-union positions in County government;
2. Update and revise current position descriptions;
3. Classify positions appropriately;
4. Determine whether compensation adjustments are necessary;
5. Receive recommendations for methods to achieve such adjustments, as appropriate;
6. Create a method for evaluating future positions; and

WHEREAS, a Request for Proposals to conduct a Non-Union Classification and Compensation Study was sent to sixteen (16) firms; and

WHEREAS, of the sixteen firms, three (3) returned proposals; and

WHEREAS, the three proposals have been reviewed by the Ad Hoc Compensation Task Force; and

WHEREAS, the proposal received from D. I. Jacobs Consulting Company of Holden, MA is the most complete and meets the County's needs; and

WHEREAS, checks by the Ad Hoc Compensation Task Force have determined that the said firm is fully capable of conducting said study;

NOW, THEREFORE, BE IT RESOLVED, that upon the approval of the County Attorney, the Chairman of the Legislature is authorized to sign an agreement in the amount of \$33,000.00 with D. I. Jacobs Consulting Company to conduct a Non-Union Classification and Compensation Study; and be it further

RESOLVED, that copies of this resolution be provided to D. I. Jacobs Consulting Company and the Acting County Administrator.

VOTE: Unanimous

Meeting adjourned at 5:27 p.m.