

MEMORANDUM

TO: City of Beacon City Council

FROM: Nicholas M. Ward-Willis

RE: Outline of Steps Related to Alienation of Parkland

DATE: May 3, 2017

Based upon the City Council's discussion at its April 24, 2017 work session, I understand there is an initial preference to construct the new Fire Department at Memorial Park, on the site of the existing dog park. As the Board is aware, this will require legislation from Albany to alienate park land. The process described below only pertains to the Memorial Park site and the steps outlined below, in terms of approval schedule, would be different if another site were selected. With respect to Memorial Park, the steps are as follows:

- 1) Direction from the City Council to proceed with constructing the new fire house at Memorial Park;
- 2) Proceed with the alienation process which requires the following:
 - a) A survey of the land area to be alienated is prepared along with a metes and bounds description.
 - b) Adoption of a resolution for a municipal home rule request by the City Council.
 - c) Completion of the Parkland Alienation Municipal Information Form and commence discussions with the Office of Parks, Recreation and Historic Preservation.
 - d) Coordination of the drafting of legislation with the local State Senator and Assembly person.
 - e) Note that the alienation of Parkland is subject to SEQRA and that an environmental assessment form will likely need to be prepared at this stage.
 - f) Coordinate adoption of State legislation and signature by Governor with local, State Senator and Assembly person and Office of Parks, Recreation and Historic Preservation.

- 3) Determination by City Council whether the construction of a new firehouse is immune from zoning (site plan and subdivision review by the Planning Board). New York State Case Law provides that in determining whether the action of governmental units are exempt from local zoning regulations, the governing body must use the balancing of public interest analytical approach. In its determination, the City Council is required to follow the nine factors set forth by the New York Court of Appeals in the case of *Matter of County of Monroe v. City of Rochester* in what is commonly referred to as the Monroe Doctrine. The nine factors are as follows:
 - 1) the nature and scope of the instrumentality seeking immunity;
 - 2) the encroaching government's legislative grant of authority;
 - 3) the kind of function or land use involved;
 - 4) the effect local land use regulation would have upon the enterprise concerned;
 - 5) alternative locations for the facility in less restrictive zoning areas;
 - 6) the impact upon legitimate local interests;
 - 7) alternative methods of providing the proposed improvement;
 - 8) the extent of the public interest to be served by the improvements; and
 - 9) intergovernmental participation in the project development process and an opportunity to be heard.
- 4) The City will also be required to perform SEQRA analysis by the lead agency (either the City Council or, if the project will be subject to local land use laws, the Planning Board) for the site plan and actual construction of the fire house.
- 5) The above steps do not obviously take into account the fact that there is engineering and architecture design work that will need to be performed before approval or formal site plan and subdivision approval by the Planning Board.
- 6) Obviously, after the project has undergone its SEQRA review and received approval from the City Council (or land use approvals from the Planning

Board) and Parkland has been alienated, the project would then be placed out for public bidding.

The above steps are only a preliminary overview of the steps required for the City Council to move this project along.

ecc: Anthony Ruggiero
Tim Dexter
Chief Gary VanVoorhis