



CITY OF BEACON, NEW YORK
ONE MUNICIPAL PLAZA
BEACON, NY 12508

Mayor Randy Casale
Councilman Lee Kyriacou, At Large
Councilman George Mansfield, At Large
Councilwoman Peggy Ross, Ward 1
Councilman Omar Harper, Ward 2
Councilwoman Pam Wetherbee, Ward 3
Councilman Ali Muhammad, Ward 4
City Administrator Anthony Ruggiero

City Council Workshop Agenda
August 14, 2017
7:00 PM

Workshop Agenda Items:

1. Tennis Court Rehabilitation: Skate Park and Batting Cage Proposal
2. Discussion of Park Pavilion Dedication
3. Discussion of a Local Law to Amend the Code as it Relates to Cross Connections
4. Recommendation of a Consultant to Rehab the Septage Receiving Station at the Wastewater Treatment Plant
5. Consideration of a Local Law to Repeal Chapter 191, Article III Concerning the Installation of Water and Sewer Utilities
6. Beacon 248 Update
7. 344 Main Street 1) review of parking license agreement 2) review of compliance of terms and conditions
8. Discussion of a Local Law to Amend the Code as it Relates to the Disclosure of Information from Applicants
9. "No Knock" Local Law
10. Sale of Real Property Located at 36 N. Cedar Street
11. Charter Revisions
12. Budget Amendments for August 21
13. Discussion of a Proposed Temporary Building Moratorium
14. Fishkill Avenue Rehabilitation Project - NYS DOT Supplemental Agreement No. 4
15. Consideration of CAC Appointment

City of Beacon Workshop Agenda
8/14/2017

Title:

Tennis Court Rehabilitation: Skate Park and Batting Cage Proposal

Subject:

Background:

City of Beacon Workshop Agenda
8/14/2017

Title:

Discussion of Park Pavilion Dedication

Subject:

Background:

City of Beacon Workshop Agenda
8/14/2017

Title:

Discussion of a Local Law to Amend the Code as it Relates to Cross Connections

Subject:

Background:

ATTACHMENTS:

Description	Type
Memo Cross Connection Aug	Cover Memo/Letter
Memo Cross Connection June	Cover Memo/Letter
LL Cross Connection	Local Law

MEMORANDUM

TO: City of Beacon City Council

FROM: Keane & Beane, P.C.

RE: Proposed Local Law on Water Cross-Connection Control Program

DATE: August 7, 2017

On June 12, 2017, the City Council reviewed the draft local law regarding water cross-connections. The proposed local law has been revised to address the Council's concerns and incorporate recommendations discussed by the City Council and by City staff. This memorandum is a follow-up to our memorandum dated June 9, 2017 (copy attached) and focuses on the revisions made to the proposed local law.

Under the revised local law, the City will not be issuing permits for the construction of backflow devices. Staff believed that the permitting requirement imposed a significant burden on the City's Building and Water and Sewer Departments to issue the permits and set and collect any associated fees. The City's role under the revised local law is to determine whether a backflow device is needed and to determine what backflow device is required. Property owners are still required to obtain a permit from the New York State Department of Health (NYSDOH) to construct and install the City approved backflow preventer device. In addition, property owners are required to submit to the NYSDOH certification from an engineer which states that the installation of the work is in compliance with the approved plans and certification from an approved tester of backflow prevention devices that the installation was tested and is working as designed. Under the revised local law, these certifications must also be submitted to the City of Beacon.

The proposed local law applies to all properties in the City of Beacon that have a cross-connection. Under the proposed law, the Water and Sewer Department has the ability to determine whether an approved backflow device is required. The Water and Sewer Department will perform on-site evaluations and review plans for both new and existing installations to determine the type of backflow preventer required. The Building Department and the Water and Sewer Department will work together to carry out the Cross-Connection Control Program.

The revised local law also includes an exemption to the periodic testing requirement. All backflow preventer devices must be periodically tested, however, the revised local law provides that such testing is not required when the fixture isolation is achieved with the utilization of a non-testable backflow preventer. This revision came as a

recommendation from the Building Inspector and the Water and Wastewater Superintendent.

In addition, the revised local law adds a provision (Section 223-12.J) to specifically address new residential developments. All new residential buildings, which includes one-family, two-family, multiple dwelling, and mixed occupancy buildings, must install a residential dual check assembly. While residential properties are generally covered by the law, this provision clearly establishes a standard for new residential properties. In addition, please note that Section 135-29.A. provides that the water supply used for filling or for cleaning of swimming pools shall be clean and shall be protected against potential pollution from all sources, including cross-connection and backflow.

Under the revised local law, the penalties for any violation of the proposed local law are now the same as prescribed in City Code § 1-3. A violation shall be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding 15 days. Each day any violation continues constitutes a separate offence. The first draft of the local law did not reference City Code § 1-3 and only imposed a fine of \$250.

ecc: Anthony Ruggiero, City Administrator
Tim Dexter, Building Inspector
Ed Balicki, Water and Wasterwater Superintendent
John Russo, P.E.

MEMORANDUM

TO: City of Beacon City Council

FROM: Keane & Beane, PC.

RE: Water Cross-Connection Control Proposed Local Law

DATE: June 9, 2017

Included on your agenda is a draft local law regarding water cross-connections. When drinking water piping connects to various plumbing fixtures or water utilizing equipment a cross-connection is created. If improperly protected, contamination can result when a backflow event occurs, allowing contaminants to reverse flow from the fixture/equipment back into the drinking water piping. The purpose of the proposed cross-connection control local law is to protect the public water supply served by the City from the possibility of contamination or pollution which could backflow or back-siphon into the public water system.

The City of Beacon Water and Sewer Department will be responsible for the inspection of possible cross-connections. Under the cross-connection control program, the Water and Sewer Department shall not allow any cross-connection to remain unless it is protected by an approved backflow preventer device for which a permit has been issued and which will be regularly tested to insure satisfactory operation

If, in the judgment of the City, an approved backflow device is required at the City's water service connection to any customer's premises, the City shall give notice in writing to said customer to install an approved backflow prevention device at each service connection to said premises. The customer must then install an approved backflow prevention device. Customers shall be required to submit an application for the installation of the backflow device to the City of Beacon for approval. Under the proposed local law, the owner of the premises is responsible for the installation, maintenance and testing of any and all backflow preventers located on his or her premises.

cc: Anthony Ruggiero, City Administrator
Ed Balicki, Chief Wastewater Treatment Plant Operator
John Russo, P.E.

LOCAL LAW NO. ____ OF 2017

CITY COUNCIL
CITY OF BEACON

PROPOSED LOCAL LAW AMENDING
CHAPTER 219 OF THE CODE OF THE CITY OF BEACON

A LOCAL LAW to
amend Chapter 219,
Article III, Section 12
concerning Cross-
Connections

A LOCAL LAW to amend Chapter 223, Article III, Section 12 concerning Cross-connections.

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1. Chapter 223, Article III, Section 12, of the Code of the City of Beacon entitled “Cross-connections with other sources” is hereby amended as follows:

§ 223-12. Water Cross-Connections with other sources Control.

No pipe or fixtures connected with the mains of the City shall also be connected with pipes or fixtures supplied with water from any other sources, unless specifically approved by the Department of Health of the State of New York.

A. The intent of this article is:

- (1) To protect the public water supply served by the City of Beacon Water and Sewer Department from the possibility of contamination or pollution which could backflow or back-siphon into the public water system.
- (2) To promote the elimination or control of existing cross-connections, actual or potential, between its customer’s potable water system and nonpotable systems.
- (3) To provide for the maintenance of a continuing program of cross-connection control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection.

B. Authority

Pursuant to the Federal Safe Drinking Water Act of 1974 and statutes promulgated in Article 2 of the Public Health Law and in Part 5, Section 5-1.31, of the State Sanitary Code (10 NYCRR Part 5), the New York State Department of Health (NYSDOH) has undertaken a program for preventing water from unapproved sources from entering the public potable water system. Subpart 5-1 of the State Sanitary Code, Section 5-1.32, requires that the supplier of all public water shall protect the public water system by containing potential contamination within the premises of each individual water user.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

AIR GAP

A physical separation sufficient to prevent backflow between the free flowing discharge end of the potable water system and any other system; physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one (1) inch.

APPROVED

Accepted by the New York State Department of Health, Dutchess County Department of Health and City of Beacon Water and Sewer Department meeting applicable specifications stated or cited in this regulation, or as suitable for the proposed use.

ATMOSPHERIC VACUUM BREAKER

A device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in a water system.

AUXILIARY WATER SUPPLY

Any water supply on or available to the premises other than the surveyor's approved public potable water supply.

BACKFLOW

The flow of water or other liquids, mixtures or substances and/or positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.

BACKFLOW PREVENTION DEVICE

A device or means designed to prevent backflow or backsiphonage. Most commonly categorized as air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bibb vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.

BACK PRESSURE

A condition in which the owner's system pressure is greater than the supplier's system pressure.

BACK-SIPHON

The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source, caused by a sudden reduction of pressure in the potable water supply system.

BAROMETRIC LOOP

A fabricated piping arrangement rising at least thirty-five (35) feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage.

CONTAINMENT

A method of backflow prevention which requires a backflow prevention device at the water service entrance immediately after the water meter or, in the event of no meter, immediately after the point of entry.

CONTAMINANT

Any physical, chemical, microbiological or radiological substance or matter in water.

CROSS-CONNECTION

Any actual or potential connection between the public water supply and a source of contamination or pollution.

DEPARTMENT

The City of Beacon Water and Sewer Department.

DEPARTMENT OF HEALTH

The State of New York Health Department and its agent, the Dutchess County Department of Health.

DOUBLE CHECK VALVE ASSEMBLY (DCV)

An assembly of two (2) independently operating spring-loaded check valves with tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.

DOUBLE-CHECK VALVE WITH INTERMEDIATE ATMOSPHERIC VENT

A device having two (2) spring-loaded check valves separated by an atmospheric vent chamber.

DWELLING, ONE-FAMILY

A building containing not more than one dwelling unit occupied exclusively for residential purposes by one family.

DWELLING, TWO-FAMILY

A building containing not more than two dwelling units occupied exclusively for residential purposes by two families living independently of each other.

DWELLING UNIT

One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family.

FIXTURE ISOLATION

A method of backflow prevention in which a backflow prevention device is located to correct a cross-connection at an in-plant location rather than at a water service entrance.

HOSE BIBB VACUUM BREAKER

A device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker.

OWNER

Any person who has a legal title to or license to operate or habitat in a property upon which a cross-connection is present.

PERSON

Any individual, partnership, company, public or private corporation, political subdivision or agency of the State Department, agency or instrumentality of the United States or any other legal entity.

POLLUTANT

A foreign substance that, if permitted to get into the public water system, will degrade its quality so as to constitute a moderate hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such water for domestic use.

PRESSURE VACUUM BREAKER

A device containing one (1) or two (2) independently operated spring-loaded check valves and an independently operated spring-loaded air inlet valve located on the discharge side of the check or checks. Such device includes tightly closing shutoff valves on each side of the check valves and properly located test cocks for the testing of the check valves.

REDUCED-PRESSURE-PRINCIPLE BACKFLOW PREVENTER (RPZ)

An assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between two (2) check valves, tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of the check valves and the relief valve.

WATER SERVICE ENTRANCE

The point in the owner's water system beyond the sanitary control of the City; generally considered on the outlet end of the water meter and always before any unprotected branch.

WATER, NONPOTABLE

Water that is not safe for human consumption or that is of questionable potability.

WATER, POTABLE

Water free from impurities in amounts sufficient to cause disease or harmful physiological effects.

D. Enforcement

The Water Superintendent and/or City Engineer or his or her designee shall enforce this article and the cross-connection and backflow protection requirements, specifications, guidelines and facilities classifications of the NYSDOH and the Dutchess County Department of Health (DCDOH). Specifications, guidelines, facilities, classifications and other administrative requirements and information which shall be used to implement the requirements shall be on file in the Department and available for review.

E. Administration

- (1) The Department will operate a cross-connection control program to include the keeping of necessary records, which fulfills the requirements of the NYSDOH's cross-connection regulations and testing of backflow prevention equipment.
- (2) The owners shall allow their property to be inspected for possible cross-connections and shall follow the provisions the Department's cross-connection control program as set forth by the City of Beacon.
- (3) If the Department requires that the public supply be protected by containment, the owners shall be responsible for water quality beyond the outlet end of the containment device and should utilize fixture outlet protection for that purpose.

F. Responsibilities.

(1) Department

- (a) The Department will not allow any cross-connection to remain unless it is protected by an approved backflow prevention device, which will be regularly tested to insure satisfactory operation. If, in the judgment of the City, an approved backflow prevention device is required for existing installations, the City shall give notice in writing to said owner to install an approved backflow prevention device at each service connection to said premises. Hazardous conditions shall be addressed immediately. On new installations, the Department will provide on-site evaluation and/or review of plans in order to determine the type of backflow prevention device, if any, that will be required. Plans shall be signed and sealed by a currently licensed New York State professional engineer.

- (b) For premises existing prior to the start of this program, the Department will perform evaluations and review of plans and/or inspection of premises and inform the owner by letter of any corrective action deemed necessary, the method of achieving the correction and the time allowed for the correction to be made. Ordinarily, ninety (90) days will be allowed; however, this time period may be shortened by the Department depending upon the degree of hazard involved and the history of the device(s) in question.
- (c) The Department shall inform the owners, by letter, of any failure to comply by the time of the first reinspection. The Department will allow an additional fifteen (15) days for the correction. In the event that the owners fail to comply with the necessary correction by the time of the second reinspection, the Department will inform the owners, by letter, that the water service to the owners' premises will be terminated within a period not to exceed five (5) days. In the event that the owners inform the Department of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the Department but in no case will exceed an additional thirty (30) days.
- (d) If the Department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately. If the Department determines that terminating water service is not feasible, the owner will be subject to fines listed in another section of this chapter.
- (e) The Department shall have on file a list of private contractors who are certified backflow device testers. The owner is responsible for all costs associated with the installation and testing of any backflow prevention device.
- (f) The Department will begin initial premises inspections to determine the nature of existing or potential hazards following the approval of this program by the City Council of the City of Beacon. Initial focus will be on high-hazard industries and commercial premises.

(2) Owners

- (a) The owners shall be responsible for the elimination or protection of all cross-connections on their premises.
- (b) The owners, after having been informed by a letter from the Department, shall at their expense install, maintain, and test, or have tested, any and all backflow prevention devices on their premises. The owners shall be responsible for all costs associated with the installation and testing of backflow prevention devices.
- (c) After the Department determines the type of backflow prevention device, if any, required and approves the backflow prevention device, the owner shall submit an application to NYSDOH to obtain a permit to construct the approved backflow prevention device. The work shall be completed within ninety (90) days from receipt of the permit. Failure or refusal or inability on the part of the owner to install said device within ninety (90) days shall constitute grounds for discontinuing water service until such device has been properly installed.

- (d) After completion of installation of the backflow prevention device, the owner shall apply for a completed works permit by submitting to the NYSDOH a certification from an engineer which states that the installation of the work is in compliance with the approved plans and certification from an approved tester of backflow prevention devices that the installation was tested and is working as designed and approved and in accordance with the intent of these regulations.
- (e) The owner shall submit to the City of Beacon Water and Sewer Department and Building Department all certifications submitted to the NYSDOH including the certification that the installation of the approved backflow prevention device is in compliance with the approved plans and the certification that the installation was tested and is working as designed.
- (f) The owners shall correct any malfunction of the backflow prevention device which is revealed by periodic testing.
- (g) The owners shall inform the Department of any proposed or modified cross-connections of which the owners are aware but have not been found by the Department.
- (h) The owners shall not install a bypass around any backflow prevention device unless there is a backflow prevention device of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.
- (i) The owners shall install only backflow prevention devices which are shown on a NYSDOH list of approved backflow prevention devices.
- (j) Any owners having a private well or other private water source must obtain approval from the Department if the well or source is cross-connected to the Department's system. Permission to cross-connect may be denied by the Department. The owner may be required to install a backflow prevention device at the service entrance if a private water source is maintained, even if it is not cross-connected to the Department's system.
- (k) In the event that the owners install plumbing to provide potable water for domestic purposes which is on the Department's side of the backflow prevention device, such plumbing must have its own backflow prevention device installed.
- (l) The owners shall be responsible for the payment of all permit fees, penalties, annual or semiannual device testing, retesting in the case that the device fails to operate correctly, and second reinspections for noncompliance with Department and/or Department of Health requirements.

G. Determination of type of backflow protection device.

- (1) Categories; rating system; regulation.

- (a) An acceptable backflow prevention device must be installed in every service connection to a facility. Three categories shall be considered when determining the degree of hazard posed by a facility and making the subsequent determination of the type of protection device required. The City of Beacon recognizes the threat to the public water system arising from cross-connections. All threats will be classified by degree of hazard and will require the installation of approved reduced pressure principle backflow prevention devices, "reduce pressure zone assembly," (RPZA) or "double-check valve assembly" (DCVA). The considerations are:
 - [1] Use, toxicity and availability of contaminants.
 - [2] Availability of a supplementary supply of water.
 - [3] Fire-fighting system evaluation
- (b) Based on these considerations the water supply operator and/or the City Engineer shall rate a facility as "hazardous," "aesthetically objectionable" or "nonhazardous."
 - [1] A hazardous facility must be contained through the use of an RPZA or properly designed air gap.
 - [2] An aesthetically objectionable facility must be contained through the use of a DCV, RPZA, or air gap.
 - [3] Nonhazardous facilities should be protected through an internal plumbing control program to ensure that plumbing cross-connections are adequately protected or eliminated; or through the use of a DCVA, RPZA or air gap.
- (2) The Water Superintendent and/or the City Engineer as designated by the City Council shall determine the type of device required for each property and facility. In making this determination, the water supply operator may utilize the Sample List of Facilities Requiring Backflow Prevention, prepared by the NYSDOH and, if necessary, shall consult with the DCDOH.
- (3) Cross-connection control by facility type
 - (a) Hazardous types of facilities which shall require installation of an approved reduce pressure zone assembly (RPZA) or air gap in the service connection to the public water distribution system include but are not limited to:
 - [1] Sewage and industrial wastewater treatment plants and pumping stations and sewer flushers.
 - [2] Paper manufacturing or processing, dye plants, petroleum processing, printing plant, chemical manufacturing or processing, industrial fluid systems, steam generation, rubber processing and tanneries.
 - [3] Canneries, breweries, food processing, milk processing, ice manufacturing, meat packers, poultry processing and rendering companies.

- [4] Hospitals, clinics, laboratories, veterinary hospitals, mortuaries and embalmers.
 - [5] Metal plating, photo processing, laundries, commercial car washes, commercial refrigeration systems and dry-cleaning establishments.
 - [6] Commercial greenhouses, spraying and irrigation systems using weedicides, herbicides and exterminators.
 - [7] Boiler systems, cooling towers or internal firefighter systems using conditioners, inhibitors and corrosion control chemicals.
 - [8] Residential units with lawn and irrigation systems with chemical injection.
 - [9] Residential units or facilities with service provided by both the village water distribution system and private well or water supply.
- (b) Aesthetically objectionable types of facilities which shall require installation of an approved double-check valve, RPZA or air gap in the service connection of the public water distribution system are those which include but are not limited to:
- [1] Customer fire-protection loops and fire-storage tanks with no chemical additives.
 - [2] High-temperature potable water.
 - [3] Utilization for food-grade dyes.
 - [4] Complex plumbing systems in commercial buildings, such as but not limited to beauty salons, churches, apartment buildings, gas stations, supermarkets, nursing homes, construction sites and carnivals.
 - [5] Residential units with lawn and irrigation systems.
- (c) It is not possible to list every circumstance and facility type that may be encountered by the Department while evaluating all users. The Department, while evaluating a facility, will rely on experience, assistance from local Health Department officials and the Cross Connection Control Program Manual.

H. Existing in-use backflow prevention devices

Any existing backflow prevention device shall be allowed by the Department to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow prevention device, or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow prevention device must be upgraded to a reduced-pressure-principle device, or a reduced-pressure-principle device must be installed in the event that no backflow prevention device was present.

I. Periodic testing.

- (1) All testers of backflow prevention devices shall be approved by the NYSDOH pursuant to Section 1.13 of Part 5 of the NYS Sanitary Code, 10 NYCRR Section 5-1.31.
- (2) The testing of backflow prevention devices shall be performed on an annual basis by the owner of any system requiring the same, and the cost of such testing shall be borne by the owner of the system. The testing procedures shall conform to the requirements of the NYSDOH and the DCDOH. Test results shall be submitted to the Department within 30 days of the completion of such testing. Late submissions of annual test results shall be subject to an administrative processing fee in the amount of \$25.
- (3) Any backflow prevention device which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair the device will be retested at the owner's expense to ensure correct operation. High-hazard situations will not be allowed to continue unprotected if the backflow prevention device fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than 30 days after the test date will be established. The owner is responsible for spare parts, repair tools or a replacement device. Parallel installation of two devices is an effective means of the owner ensuring that uninterrupted water service during testing or repair of devices and is strongly recommended when the owner desires such continuity.
- (4) Backflow prevention devices will be tested more frequently than specified above in cases where there is a history of test failures and the water supply operator feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional testing will be borne by the owner.
- (5) Testing is not required when fixture isolation is achieved with the utilization of a nontestable backflow prevention device.

J. Residential dual check assembly.

1. Effective the date of the acceptance of this cross-connection control program for the City of Beacon, all new residential buildings, which includes one-family and two-family dwellings, will be required to install a residential dual check assembly immediately downstream of the water meter. Installation of this residential dual check assembly on the retrofit basis on existing service lines will be instituted at a time and at a potential cost to the homeowner as deemed necessary by the Department.
2. The owners must be aware that installation of a residential dual check assembly results in a potential closed plumbing system within the residence. As such, provisions may have to be made by the owners to provide for thermal expansion within the closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.

K. Strainers

The Department strongly recommends that all new retrofit installations of reduced-pressure-principle devices and double check valve backflow prevention devices include the installation of strainers located immediately upstream of the backflow prevention device. The installation of strainers will preclude the fouling of the backflow prevention devices due to both foreseen and unforeseen circumstances occurring to the water supply system, such as water main repairs, water

main breaks, fires, periodic cleaning and flushing of mains, etc. These occurrences may "stir up" debris within the water main that will cause fouling of backflow prevention devices installed without the benefit of strainers.

L. Penalties for offenses; corrective action.

- (1) Any person violating any provision of this chapter shall be subject to a penalty as prescribed in §1-3.
- (2) Notwithstanding the penalties hereinabove provided, the City of Beacon may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter.

Section 2. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 219 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 3. Numbering for Codification

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this

Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this

Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 4. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 5. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

City of Beacon Workshop Agenda
8/14/2017

Title:

Recommendation of a Consultant to Rehab the Septage Receiving Station at the Wastewater Treatment Plant

Subject:

Background:

ATTACHMENTS:

Description

WWTP rehab of septage station recommendation

Type

Cover Memo/Letter

BIPIN GANDHI, P.C.

Consulting Engineer

P.O. BOX 38
ROUTE 207
GOSHEN, N.Y. 10924

(845) 294-5404
FAX (845) 294-3857

July 28, 2017

Mr. Anthony Ruggiero
City Administrator
City of Beacon City Hall
1 Municipal Plaza
Beacon, NY 12508

RE: Rehabilitation of Septage Receiving Station
City of Beacon Wastewater Treatment Facility
Award Recommendation

Dear Mr. Ruggiero:

The Rehabilitation of Septage Receiving Station for City of Beacon Wastewater Treatment Facility was bid on July 7, 2017. Three (3) bid proposals were submitted and opened on June 27, 2017. The proposals were reviewed and found to be complete. Along with the bids, the contractors submitted Non-Collusive Bidding Certificate, and a Bid Bond.

The following tabulation shows the order from lowest bidder, the name of the bidder and the total contract amount.

<u>Name of Bidder</u>	<u>Total Contract Amount</u>
TAM Enterprises, Inc.	\$199,122
Eventus Construction Company	\$207,500
King Capital Construction Group, Inc.	\$267,800

The lowest bidder is TAM Enterprises, Inc. with the total base bid amount of \$199,122.00. TAM Enterprises, Inc. has submitted information related to several projects in which they have completed the work as outlined within the proposed project. TAM Enterprises, Inc. had successfully completed a number of projects at the City's Wastewater Treatment Facility. References supplied were checked to verify the work completed by the prospective low bidder and were found to be acceptable. In our opinion, TAM Enterprises, Inc. should be considered the lowest responsible bidder based upon the submitted information and Chapter 53 of the City Code.

If you have any questions, or need any further information, please do not hesitate to contact our office.

Very truly

BIPIN GANDHI, P.C.



Bipin Gandhi, P.E.

cc: Ed Balicki, Water & Sewer Superintendent
Nick Ward-Willis, City Attorney
John Russo, P.E.

City of Beacon Workshop Agenda
8/14/2017

Title:

Consideration of a Local Law to Repeal Chapter 191, Article III Concerning the Installation of Water and Sewer Utilities

Subject:

Background:

ATTACHMENTS:

Description
LL to Repeal 191

Type
Local Law

DRAFT LOCAL LAW NO. ____ OF 2017

**CITY COUNCIL
CITY OF BEACON**

**PROPOSED LOCAL LAW TO REPEAL
CHAPTER 191, ARTICLE III OF THE CODE OF THE
CITY OF BEACON**

A LOCAL LAW to repeal
Chapter 191, Article III
concerning the Installation
of Water and Sewer Utilities.

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1. Chapter 191, Article III of the Code of the City of Beacon entitled “Installation of Water and Sewer Utilities” is hereby repealed in its entirety.

Section 2. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 191 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 5. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

City of Beacon Workshop Agenda
8/14/2017

Title:

Beacon 248 Update

Subject:

Background:

ATTACHMENTS:

Description	Type
Res. 067-2016 re 248 Tioronda	Resolution
Beacon 248 9-16	Cover Memo/Letter
Beacon 248 10-16	Cover Memo/Letter
Beacon 248 11-16	Cover Memo/Letter
Beacon 248 12-16	Cover Memo/Letter
Beacon 248 8-17	Cover Memo/Letter



**CITY OF BEACON
CITY COUNCIL**

RESOLUTION NO. 067 OF 2016

**GRANTING EXTENSION
OF SPECIAL PERMIT APPROVAL
FOR 248 TIORONDA AVENUE PROJECT**

WHEREAS, on August 4, 2014, the City of Beacon City Council granted Special Permit approval to Beacon 248 Development, LLC (the "Applicant") for development of residential units at 248 Tioronda Avenue; and

WHEREAS, on January 4, 2016, the City Council granted an extension of the Special Permit Approval to July 13, 2016; and

WHEREAS, the City Council is in receipt of a June 9, 2016 letter from the Applicant's attorney requesting a final 18-month extension of the Special Permit (3 extensions of 6-months each), as outlined in the June 9, 2016 letter; and

WHEREAS, prior to the City Council's approval of an extension in January 2016, the Applicant performed, including, but not limited to the following:

- 1) Completed its site plan application and obtained site plan approval from the Planning Board on January 13, 2015; and
- 2) Obtained required approval from the Dutchess County Health Department; and
- 3) Negotiated revised crossing easements with the MTA, which were signed by the Applicant and returned to the MTA on November 23, 2015; and
- 4) Revised the final plat for final review by the City Planner and Engineer, having addressed all of the City Engineer's and City Planner's comments on the site plan.

WHEREAS, the June 9, 2016 letter sets forth the following reasons supporting the grant of the requested extension:

- 1) As per the Applicant, final crossing easement agreements with MTA have "progressed," but have not yet been executed. (Although the MTA crossing easement was executed and recorded in the Dutchess County Clerk's office in February 2016, it was discovered that the description set forth in the recorded easement was incorrect and must now be corrected through a "Corrected Second Amended to Indenture" to be recorded in the Clerk's Office. According to the Applicant, a Corrected Second

Amended Indenture has been provided to MTA for review and signature.).

- 2) According to the Applicant, they have shown reasonable diligence in pursuing the required approvals.
- 3) According to the Applicant, one 6-month extension is not adequate to accommodate the amount of work that must be accomplished to prepare the project for construction, including obtaining financing; and

WHEREAS, the Council reserved to itself in Condition 17 of the August 4, 2014 Special Permit approval, the ability to extend any time period; and

WHEREAS, at the time of issuance of the Special Permit, the Council had the authority to issue unlimited number of 6 month extensions pursuant to Section 223-18.F(2) of the City of Beacon Zoning Code and the City Council's adoption of Local Law 6 of 2016, which restricts the time period to two (2) years to complete the conditions of approval for issuance of a Special Permit, does not apply to this Application.

NOW, THEREFORE, BE IT RESOLVED, that upon consideration of the Applicant's request for an extension of its Special Permit approval and based upon the Council's review and consideration of the reasons set forth above as well as the discussion had at its June 13, 2016 meeting, the Council finds that reasonable cause exists for the granting of one six month extension and two additional six month extensions, as set forth below.

BE IT FURTHER RESOLVED, that the Council hereby grants a six month extension of the August 4, 2014 special permit, to January 13, 2017, upon the condition that the Applicant shall appear at a Council work session once every three months until the issuance of a building permit for the purpose of providing the Council with a report on the status of the outstanding items to be completed by the Applicant prior to the issuance of a building permit.

BE IT FURTHER RESOLVED, that the Council hereby grants two additional six month extensions beyond the one six month extension set forth above, to January 13, 2018, on the following conditions: (1) the agreement with the MTA shall be recorded on or before January 13, 2017, and (2) the Applicant shall appear at a Council work session once every three months until the issuance of a building permit for the purpose of providing the Council with a report on the status of the outstanding items to be completed by the Applicant prior to the issuance of a building permit.

BE IT FURTHER RESOLVED, that all other conditions of the City Council's Special Permit approval remains unmodified.

Resolution No. 067 of 2016			Date: <u>June 20, 2016</u>				
<input type="checkbox"/> Amendments						<input type="checkbox"/> 2/3 Required	
X Not on roll call.			<input type="checkbox"/> On roll call			<input type="checkbox"/> 3/4 Required	
Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
	X	Ali Muhammad	X				
		Omar Harper					X
		Lee Kyriacou					X
		George Mansfield	X				
X		Pamela Wetherbee	X				
		Peggy Ross	X				
		Mayor Randy J. Casale	X				
		Motion Carried	X				

Anthony Ruggiero

From: Anthony Ruggiero
Sent: Monday, September 19, 2016 5:58 PM
To: City Council Beacon; 'Ward-Willis, Nicholas M.'
Subject: FW: Beacon 248--interim report to Council

Mayor and Council:

As requested and required by your resolution, 248 Tioranda Avenue was to give a report and update every 3 months. Please see below a brief report from Jennifer Van Tuyl. In addition, Nick contacted MTA this afternoon (Anthony Campbell, who is shearing this easement through the process). Mr. Campbell advised that the revised easement had to get a series of approvals, the latest of which was from the Director of Leasing, who had one minor correction. It will now be sent to the Legal Department for review and approval, after which it will be sent back to 248 Tioranda for signature. It will then have to be returned and then signed by the MTA. There is no guarantee how long this process will take.

Please let me know if below and above is adequate for a 3 month interim report, or does the Council desire to have this item placed on a Work Shop.

Anthony J. Ruggiero, M.P.A.

City Administrator
City of Beacon
One Municipal Plaza
Beacon, New York 12508
Ph: 845-838-5009
Fx: 845-838-5012
www.cityofbeacon.org
aruggiero@cityofbeacon.org



From: Van Tuyl, Jennifer [mailto:JVanTuyl@CUDDYFEDER.COM]
Sent: Monday, September 19, 2016 4:02 PM
To: Randy J. Casale <mayor@cityofbeacon.org>; Anthony Ruggiero <aruggiero@cityofbeacon.org>; Nicholas M. Ward-Willis <NWard-Willis@kblaw.com>
Cc: Peter DeRosa (pete.derosa@gmail.com) <pete.derosa@gmail.com>; 'Larry Boudreau' <lboudreau@chazencompanies.com>
Subject: Beacon 248--interim report to Council

Gentlemen:

As you may recall, Beacon 248 was asked to report to the Council every 3 months as to the status of the continuing discussions with MTA, and further developments after the amended indenture was approved. The legal documents were submitted to MTA and we have been informed by Anthony Campbell of MTA that they are going through customary

channels to be approved, but have not been approved as of yet. We invite your assistance in calling them to emphasize the importance of this to the City, to assist in moving this forward. We have forwarded the contact information at MTA to Nick.

I know there was some discussion of whether the reports to the Council had to include actual appearance on an agenda. If so, Pete and I are willing to come to the Council meeting on either Sept 26th or October 10th, whichever date is preferable to the City. Both are within the 3 month period as measured from the commencement of the extension on July 13, 2016. If this written report suffices for this report, please advise us of that also.

Thank you for your cooperation. I was advised by the City secretary that any requests for appearance on 9/26 should be before you prior to tomorrow morning, so sent this email today to assure that you had it in time.

Jennifer Van Tuyl



Jennifer L. Van Tuyl, Esq., LEED AP BD+C
Partner
Cuddy & Feder LLP
300 Westage Business Center, Suite 380
Fishkill, New York 12524
T 845 896 2229 | F 845 896 3672
JVanTuyl@cuddyfeder.com
cuddyfeder.com

NOTE: The information in this e-mail message and any attachments thereto have been sent by an attorney or his/her agent, and is or are intended to be confidential and for the use of only the individual or entity named above. The information may be protected by attorney/client privilege, work product immunity or other legal rules. If the reader of this message and any attachments thereto is not the intended recipient, you are notified that retention, dissemination, distribution or copying of this e-mail message and any attachments is strictly prohibited. Although this e-mail message (and any attachments) is believed to be free of any virus or other defect that might affect any computer system into which it is received and opened, the intended recipient is responsible to ensure that it is virus free. The sender and Cuddy & Feder LLP shall not have any responsibility for any loss occasioned in any manner by the receipt and use of this e-mail message and any attachments.

Pursuant to Treasury Regulations, any U.S. federal tax advice contained in this communication, unless otherwise stated, is not intended and cannot be used for the purpose of avoiding tax-related penalties.

Anthony Ruggiero

From: Anthony Ruggiero
Sent: Monday, October 03, 2016 11:50 AM
To: City Council Beacon; 'Ward-Willis, Nicholas M.'
Subject: RE: Beacon 248--interim report to Council

Mayor and Council:

Since there was no response to the email below, I wanted to confirm that this is an acceptable format for future updates and will convey this to [Jennifer Van Tuyl](#).

Thank you.

Anthony

Anthony J. Ruggiero, M.P.A.

City Administrator
City of Beacon
One Municipal Plaza
Beacon, New York 12508
Ph: 845-838-5009
Fx: 845-838-5012
www.cityofbeacon.org
aruggiero@cityofbeacon.org



From: Anthony Ruggiero
Sent: Monday, September 19, 2016 5:58 PM
To: City Council Beacon <CityCouncilBeacon@cityofbeacon.org>; 'Ward-Willis, Nicholas M.' <NWard-Willis@kblaw.com>
Subject: FW: Beacon 248--interim report to Council

Mayor and Council:

As requested and required by your resolution, 248 Tioranda Avenue was to give a report and update every 3 months. Please see below a brief report from Jennifer Van Tuyl. In addition, Nick contacted MTA this afternoon (Anthony Campbell, who is shearing this easement through the process). Mr. Campbell advised that the revised easement had to get a series of approvals, the latest of which was from the Director of Leasing, who had one minor correction. It will now be sent to the Legal Department for review and approval, after which it will be sent back to 248 Tioranda for signature. It will then have to be returned and then signed by the MTA. There is no guarantee how long this process will take.

Please let me know if below and above is adequate for a 3 month interim report, or does the Council desire to have this item placed on a Work Shop.

Anthony J. Ruggiero, M.P.A.

City Administrator
City of Beacon
One Municipal Plaza
Beacon, New York 12508
Ph: 845-838-5009
Fx: 845-838-5012
www.cityofbeacon.org
aruggiero@cityofbeacon.org



From: Van Tuyl, Jennifer [<mailto:JVanTuyl@CUDDYFEDER.COM>]
Sent: Monday, September 19, 2016 4:02 PM
To: Randy J. Casale <mayor@cityofbeacon.org>; Anthony Ruggiero <aruggiero@cityofbeacon.org>; Nicholas M. Ward-Willis <NWard-Willis@kblaw.com>
Cc: Peter DeRosa (pete.derosa@gmail.com) <pete.derosa@gmail.com>; 'Larry Boudreau' <lboudreau@chazencompanies.com>
Subject: Beacon 248--interim report to Council

Gentlemen:

As you may recall, Beacon 248 was asked to report to the Council every 3 months as to the status of the continuing discussions with MTA, and further developments after the amended indenture was approved. The legal documents were submitted to MTA and we have been informed by Anthony Campbell of MTA that they are going through customary channels to be approved, but have not been approved as of yet. We invite your assistance in calling them to emphasize the importance of this to the City, to assist in moving this forward. We have forwarded the contact information at MTA to Nick.

I know there was some discussion of whether the reports to the Council had to include actual appearance on an agenda. If so, Pete and I are willing to come to the Council meeting on either Sept 26th or October 10th, whichever date is preferable to the City. Both are within the 3 month period as measured from the commencement of the extension on July 13, 2016. If this written report suffices for this report, please advise us of that also.

Thank you for your cooperation. I was advised by the City secretary that any requests for appearance on 9/26 should be before you prior to tomorrow morning, so sent this email today to assure that you had it in time.

Jennifer Van Tuyl



Jennifer L. Van Tuyl, Esq., LEED AP BD+C
Partner
Cuddy & Feder LLP
300 Westage Business Center, Suite 380

Fishkill, New York 12524
T 845 896 2229 | F 845 896 3672
JVanTuyt@cuddyfeder.com
cuddyfeder.com

NOTE: The information in this e-mail message and any attachments thereto have been sent by an attorney or his/her agent, and is or are intended to be confidential and for the use of only the individual or entity named above. The information may be protected by attorney/client privilege, work product immunity or other legal rules. If the reader of this message and any attachments thereto is not the intended recipient, you are notified that retention, dissemination, distribution or copying of this e-mail message and any attachments is strictly prohibited. Although this e-mail message (and any attachments) is believed to be free of any virus or other defect that might affect any computer system into which it is received and opened, the intended recipient is responsible to ensure that it is virus free. The sender and Cuddy & Feder LLP shall not have any responsibility for any loss occasioned in any manner by the receipt and use of this e-mail message and any attachments.

Pursuant to Treasury Regulations, any U.S. federal tax advice contained in this communication, unless otherwise stated, is not intended and cannot be used for the purpose of avoiding tax-related penalties.

Anthony Ruggiero

From: Anthony Ruggiero
Sent: Thursday, November 17, 2016 12:39 PM
To: City Council Beacon
Cc: Elizabeth Evans; Timothy Dexter; Nicholas M. Ward-Willis
Subject: 248 Tioronda Avenue Development Update

The Developer received an email notifying them that the MTA documents have been signed by MTA and mailed to the developers Attorney. The Developers Attorney will then file the documents with the County Clerk's Office and provide Chazen Engineering, the developers Engineering Company, with a document number to be placed on the plat. After this is done, the developer will then submit to the Department of Health for the permission to file stamp.

Thank you.

Anthony J. Ruggiero, M.P.A.

City Administrator
City of Beacon
One Municipal Plaza
Beacon, New York 12508
Ph: 845-838-5009
Fx: 845-838-5012
www.cityofbeacon.org
aruggiero@cityofbeacon.org



Anthony Ruggiero

From: Anthony Ruggiero
Sent: Tuesday, December 06, 2016 5:48 PM
To: City Council Beacon
Cc: Elizabeth Evans; Timothy Dexter; Nicholas M. Ward-Willis
Subject: FW: Beacon 248: Report to City Council as required under conditions of Special Permit extension
Attachments: December 5, 2016 report to City Council.PDF

Please review the attached quarterly report from Jennifer VanTuyl and let me know if you would like them to attend a workshop and update the Council or is the attached report sufficient. Thank you.

Anthony J. Ruggiero, M.P.A.

City Administrator
City of Beacon
One Municipal Plaza
Beacon, New York 12508
Ph: 845-838-5009
Fx: 845-838-5012
www.cityofbeacon.org
aruggiero@cityofbeacon.org



From: Van Tuyl, Jennifer [mailto:JVanTuyl@CUDDYFEDER.COM]
Sent: Monday, December 05, 2016 5:39 PM
To: Anthony Ruggiero <aruggiero@cityofbeacon.org>; Randy J. Casale <mayor@cityofbeacon.org>; Nicholas M. Ward-Willis <NWARD-Willis@kblaw.com>; Timothy Dexter <tdexter@cityofbeacon.org>
Cc: Peter DeRosa (pete.derosa@gmail.com) <pete.derosa@gmail.com>; 'Larry Boudreau' <lboudreau@chazencompanies.com>
Subject: Beacon 248: Report to City Council as required under conditions of Special Permit extension

Dear Anthony,

Kindly refer to the attached, updated, copy of the Report. I realized after sending that the letter I initially sent did not include the official cover page of the recorded document that showed all the recording information and the date recorded. Accordingly, please disregard the previous attachment. After reviewing this report with the Council, I would appreciate your letting us know if the Council wants us to appear on a workshop in December to summarize the within report, or whether the written report will suffice.

Thank you for your consideration.

Jennifer Van Tuyl



Jennifer L. Van Tuyl, Esq., LEED AP BD+C
Partner
Cuddy & Feder LLP
300 Westage Business Center, Suite 380
Fishkill, New York 12524
T 845 896 2229 | F 845 896 3672
JVanTuyl@cuddyfeder.com
cuddyfeder.com

NOTE: The information in this e-mail message and any attachments thereto have been sent by an attorney or his/her agent, and is or are intended to be confidential and for the use of only the individual or entity named above. The information may be protected by attorney/client privilege, work product immunity or other legal rules. If the reader of this message and any attachments thereto is not the intended recipient, you are notified that retention, dissemination, distribution or copying of this e-mail message and any attachments is strictly prohibited. Although this e-mail message (and any attachments) is believed to be free of any virus or other defect that might affect any computer system into which it is received and opened, the intended recipient is responsible to ensure that it is virus free. The sender and Cuddy & Feder LLP shall not have any responsibility for any loss occasioned in any manner by the receipt and use of this e-mail message and any attachments.

Pursuant to Treasury Regulations, any U.S. federal tax advice contained in this communication, unless otherwise stated, is not intended and cannot be used for the purpose of avoiding tax-related penalties.

From: Van Tuyl, Jennifer
Sent: Monday, December 05, 2016 5:03 PM
To: Anthony Ruggiero <aruggiero@cityofbeacon.org>; Randy Casale (mayor@cityofbeacon.org) <mayor@cityofbeacon.org>; Nicholas M. Ward-Willis (nward-willis@kblaw.com) <nward-willis@kblaw.com>; 'Timothy Dexter' <tdexter@cityofbeacon.org>
Cc: Peter DeRosa (pete.derosa@gmail.com) <pete.derosa@gmail.com>; 'Larry Boudreau' <lboudreau@chazencompanies.com>
Subject: Beacon 248: Report to City Council as required under conditions of Special Permit extension

Dear Anthony:

Enclosed is our quarterly report of progress, and documentation of recording of the MTA corrected second amendment to Indenture. After reviewing same with the Council, I would appreciate your letting us know if the Council wants us to appear on a workshop in December to summarize the within report, or whether the written report will suffice. A copy of the recorded document is attached to this report.

Thank you for your consideration.

Jennifer Van Tuyl



300 Westage Business Center, Suite 380
Fishkill, New York 12524
T 845 896 2229
F 845 896 3672
cuddyfeder.com

December 5 , 2016

Hon. Anthony Ruggiero
City Administrator
City of Beacon
One Municipal Plaza
Beacon, New York 12508

Re: Beacon 248-periodic report to City Council of progress with MTA/building permit

Dear Mr. Ruggiero:

This letter is submitted as a 3-month update report of progress with the MTA and progress toward obtaining a building permit. The Council required these periodic reports when it granted an extension through January 13, 2018 for the Special Permit for the above project.

A condition of the extension from January 13, 2017 to January 13, 2018 was that:

- (1) "The agreement with the MTA shall be recorded on or before January 13, 2017."

I am very pleased to report that the MTA has signed the Corrected Second Amendment and it has been recorded in the Dutchess County Clerk's Office as Document No. 02-2016-8347, on November 30, 2016. A copy of the fully executed and recorded document is attached.

At this point, having accomplished the recording of the documents, our attention is focused on finalizing the conditions of the Planning Board approval. We will appear on the Planning Board agenda on December 13, 2016 to request two 90-day extensions of the subdivision approval to finalize the outstanding conditions, including finalization of the plat (which will include the revised crossing information) and the Greenway Trail agreement. We continue to meet with the City Attorney to discuss the terms of that document.

Mr. De Rosa has met with Tim Dexter to discuss his plans in detail, and I'm sure Mr. Dexter would be happy to update you on the substance of these discussions.

I believe that all of the above confirms the continued diligent good faith efforts to finalize the approvals and commence construction.



December 5, 2016
Page 2

Based on this report, kindly advise if the Council would like us to appear at a workshop in December to give provide this report verbally, or whether the within written report will suffice for such purpose.

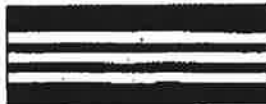
We thank you for your consideration of this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "JL Van Tuyl".

JENNIFER L. VAN TUYL

cc: Nicholas M. Ward-Willis, Esq.
Mayor Randy Casale and City Council
Timothy Dexter, Building Inspector
Pete DeRosa
Larry Boudreau



Dutchess County Clerk Recording Page

Record & Return To:

Date Recorded: 11/30/2016

Time Recorded: 10:22 AM

PAUL J EPSTEIN ESQ
621 ROUTE 52
PO BOX 2
BEACON, NY 12508

Document #: 02 2016 8347

Received From: SNEERINGER MONAHAN PROVOST REDGRAVE

Grantor: METRO NORTH COMMUTER RAILROAD CO

Grantee: BEACON 248 DEVELOPMENT LLC

Recorded In: Deed

Tax District: City of Beacon

Instrument Type: AMEND

Examined and Charged As Follows :

Recording Charge: \$100.50

Transfer Tax Amount: \$0.00

Includes Mansion Tax: \$0.00

Transfer Tax Number: 2756

Number of Pages: 11

*** Do Not Detach This Page

*** This Is Not A Bill

Red Hook Transfer Tax:

RP5217: N

TP-584: Y

County Clerk By: ste

Receipt #: 39721

Batch Record: 261

Bradford Kendall
County Clerk



0220168347

CORRECTED SECOND AMENDMENT TO INDENTURE

THIS AMENDMENT TO INDENTURE, made the 7th day of November 2016,

between

METRO-NORTH COMMUTER RAILROAD COMPANY, a public benefit subsidiary
corporation of the Metropolitan Transportation Authority, having its principal office at 2
Broadway, New York, NY 10004, hereinafter referred to as "GRANTOR" and

BEACON 248 DEVELOPMENT, LLC having an address of 104 Rochelle Avenue,
Rochelle Park, NJ 07662, hereinafter referred to as "GRANTEE".

WITNESSETH:

WHEREAS, Grantor is the owner of certain lands located in the City of Beacon, New
York, and located adjacent to a public street known as Tioronda Avenue, on which are located
railroad tracks; and

WHEREAS, Grantee is the owner of certain lands located in the City of Beacon, New
York, identified as tax parcel #130200-5954-16-993482-0000 and as further depicted as Parcel 1B
on a map entitled "Subdivision Plat prepared for Advantage Mortgage" prepared by Badey &
Watson Surveying and Engineering, P.C., filed in the Dutchess County Clerk's Office on February
22, 2000, as Filed Map No. 10970; and

WHEREAS, a grade crossing exists across Grantor's property to Grantee's property (the
"Grade Crossing") as provided for in a certain indenture between the New York Rubber Company,
a predecessor of Grantee and the Newburgh, Dutchess and Connecticut Railroad Company, a
predecessor of Grantor (the "Original Indenture") and recorded in the Dutchess County Clerk's
Office in Liber 257 of Deeds at page 32; and

WHEREAS, the parties hereto previously executed an Amendment to Indenture dated
March 5, 2009 ("First Amendment"), which was filed in the office of the Dutchess County Clerk
as Document Number 02-2009-1123, which established the original easement area of the Grade

Recorded by:

Sneeringer Monahan Provost

Redgrave Title Agency, Inc.

800 724-7856 Title No.: M - 065771

P10
clB
EASE
95.52
5.-
100.523

CORRECTED REVISED SCHEDULE A

SURVEY DESCRIPTION

ALL that plot, piece or parcel of land, situate and being in the City of Beacon, County of Dutchess, State of New York and being more particularly bounded and described as follows;

BEGINNING at the southeasterly corner of the herein described easement, said point being located N 18° 10' 10" E 76.78 feet from the southwesterly corner of the lands now or formerly of Beacon 248 Development, LLC as described in Deed Document No. 02-2006-4859 and said point being on the easterly bounds of the lands now or formerly of Metro North Commuter R.R. Co., described in Liber 1956 of deeds at page 339; thence westerly through said lands of Metro North Commuter R.R. Co., N 58° 59' 54" W 41.42 feet and S 45° 37' 02" W 23.26 feet to a point on the assumed easterly right of way line of Tioronda Avenue; thence along the assumed easterly right of way line of Tioronda Avenue N 09° 20' 11" E 1.88 feet, along a curve to the right having a radius of 1935.08 feet, an arc length of 162.34 feet, said arc having a chord bearing N 14° 45' 39" E 162.29 feet to the point of tangency; thence continuing along the assumed easterly right of way line of Tioronda Avenue, N 17° 09' 51" E 14.79 feet to the northwesterly corner of the herein described easement; thence easterly through said lands of Metro North Commuter R.R. Co., S 71° 49' 50" E 14.84 feet to the northeasterly corner of herein described easement; thence continuing through said lands of Metro North Commuter R.R. Co., S 16° 02' 00" W 99.11 feet, S 00° 20' 10" W 11.57 feet and S 58° 59' 54" E 40.23 feet; thence along the division line between the herein described easement and said lands of Beacon 248 Development, LLC, S 18° 10' 10" W 48.23 feet to the point or place of beginning.

Containing: 0.103 acre of land more or less.

March 23, 2015

April 26, 2016 – Revised

Crossing as set forth in the metes and bounds description prepared by Badey & Watson Surveying and Engineering, P. C., dated August 19, 2008 ("Original Easement Area"), which was attached to the First Amendment as Exhibit A, and

WHEREAS, the parties hereto previously executed a Second Amendment to Indenture dated December 28, 2015, ("Second Amendment"), which was filed in the office of the Dutchess County Clerk as Document Number 02-2016-795, which re-established the original easement area of the Grade Crossing as set forth in the metes and bounds description prepared by the Chazen Companies, dated March 23, 2015, (the "New Easement Area") which was attached to the Second Amendment as Exhibit A (the Original Indenture, the First Amendment, and the Second Amendment collectively hereinafter referred to as the "Existing Indenture"); and

WHEREAS, the parties desire to correct the Existing Indenture to further revise the metes and bounds description of the Grade Crossing.

NOW, THEREFORE, in consideration of the sum of ONE (\$1.00) DOLLAR, payment hereby waived, the parties hereto agree to amend the Existing Indenture as follows (the Existing Indenture as amended by this Amendment is herein referred to as the "Indenture"):

1. Grade Crossing. The parties agree that the metes and bounds set forth on Schedule A to the Existing Indenture shall be deleted in its entirety and replaced with the metes and bounds description prepared by the Chazen Companies, dated April 26, 2016, ("New Easement Area") contained in Corrected Revised Schedule A attached hereto and made a part hereof and as depicted on the survey revised April 29, 2016, by the Chazen Companies attached hereto as Exhibit A and made a part hereof.

2. Schedule A of the Existing Indenture is deleted in its entirety and replaced with the "Corrected Revised Schedule A".

3. GRANTEE will construct the improvements as shown on the plan attached hereto as Exhibit B. Grantee shall maintain the Improvements paving of the roadway up to the grade

crossing and improvements as set forth in the plans prepared by The Chazen Companies (Utility Plan SP5) and dated June 30, 2013, and revised May 19, 2016. Prior to commencing any Improvements, or any further maintenance, repairs, or replacements related, directly or indirectly to the Improvements, Grantee shall, in each instance, apply for, and obtain, prior to taking any action, an entry permit ("Entry Permit") from Grantor, the giving of which will not be unreasonably withheld, delayed or conditioned. The Entry Permit will specify the terms upon which Grantee may proceed, including but not limited to, the insurance requirements and other policies governing work on Grantor's property.

4. Grantee hereby covenants and agrees to at all times indemnify, defend and save harmless Metro-North Commuter Railroad Company (MNRRC), Metropolitan Transportation Authority (MTA), Danbury Terminal Railroad Company, Maybrook Railroad Company and Housatonic Railroad Company and the respective affiliates and subsidiaries existing currently or in the future of and successors to each Indemnified Parties listed herein and their agents, servants, directors, officers, and employees (each an "Indemnitee" and collectively, the "Indemnitees") from and against any and all losses, damages (to property, materials and equipment or otherwise), detriments, suits, claims, demands, costs and charges which any Indemnitees may directly or indirectly suffer, sustain, or be subjected to by or on account of the entry upon, occupancy or use of the Permitted Areas or the Property, or the conduct thereon, by grantee, its contractors, subcontractors, officers, employees, agents, guests or invitees, whether such loss or damage be suffered or sustained by any Indemnitees directly or by any other persons (including employees of any Indemnitees or corporations or other persons who may seek to hold an Indemnitee liable therefor) and whether attributable to the fault, failure, or negligence of Indemnitees or otherwise.

5. **INSURANCE:** GRANTEE hereby shall procure and maintain, at its sole cost and expense for the duration of the Indenture:

- a. Commercial General Liability Insurance (I.S.O. 2001 Form or equivalent approved by MNRR) in Grantee's name with limits of liability in the amount of at least \$2,000,000.00 each occurrence/\$2,000,000.00 General Aggregate Limit (other than products-completed operations)/\$2,000,000.00 Products/Completed Operations Aggregate Limit on a combined single limit basis for injuries to persons (including death) and damage to property. The limits may be provided in the form of a primary policy or combination of primary and umbrella/excess policy. When the minimum contract amounts can only be met when applying the umbrella/excess policy, the umbrella/excess policy must follow form of the underlying policy and be extended to "drop down" to become primary in the event primary limits are reduced or aggregate limits are exhausted. Such insurance shall be primary and non-contributory to any other valid and collectible insurance and must be exhausted before implicating any MNRR/MTA policy available.
- b. Such policy should be written on an occurrence form, and shall include:
- i. Contractual coverage for liability assumed by Grantee under this agreement;
 - ii. Personal and Advertising Injury Coverage;
 - iii. Products-Completed Operations;
 - iv. Independent Contractors Coverage;
 - v. "XCU" coverage (Explosion, Collapse, and Underground Hazards) where necessary;
 - vi. Contractual Liability Exclusion, applicable to construction or demolition operations to be performed within 50 feet of railroad tracks, must be removed, where necessary;

vii. Coverage for claims for bodily injury asserted by an employee of an additional insured and any Employer Liability Exclusion which may otherwise operate to exclude such coverage shall be removed in this respect; and

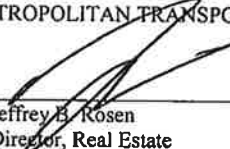
viii. Additional Insured Endorsement (I.S.O. Form CG2026 07/04 version or equivalent approved by the MNRR) naming: [Indemnified Parties]

6. The terms, covenants and agreements herein contained shall inure to the benefit of, and binding upon the parties hereto and their respective heirs, distributes, legal representatives, successors and assigns and ALL COVENANTS HEREIN SHALL RUN WITH THE LANDS AFFECTED THEREBY AND SHALL BE PERPETUAL IN DURATION.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the GRANTOR and GRANTEE have executed this instrument as of the date first set forth above.

GRANTOR: METRO-NORTH COMMUTER RAILROAD COMPANY
By: METROPOLITAN TRANSPORTATION AUTHORITY

By: 
Name: Jeffrey B. Rosen
Title: Director, Real Estate

GRANTEE: BEACON 248 DEVELOPMENT, LLC

By: 
Name: Peter De Rosa
Title: Member

ACKNOWLEDGMENT FOR GRANTOR

(STATE OF NEW YORK, COUNTY OF DUTCHESS) ss:

On the 7th day of November in the year 2016 before me, the undersigned, a Notary Public in and for State, personally appeared JEFFREY B. ROSEN personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

D. Smith-Santos
Notary Public

DALILAH J. SMITH-SANTOS
Notary Public, State of New York
No. 01SM6337087
Qualified in New York County
Commission Expires Feb. 16, 2020

ACKNOWLEDGMENT FOR GRANTEE

State of New Jersey, County of Morris ss.:

On October 13th, 2016 before me, the undersigned, personally appeared PETER DeROSA personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in Lincoln Park

(insert city or political subdivision and state or county or other place acknowledgment taken)

M. Morel
(notary public)

Marleidy Morel
Notary Public
New Jersey
My Commission Expires 2-12-18
ID No. 2430016

RECORD & RETURN TO:
PAUL J. EPSTEIN, ESQ.
621 ROUTE 52, P.O. Box 2
BEACON, NY 12508

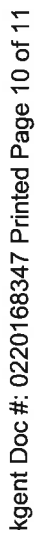
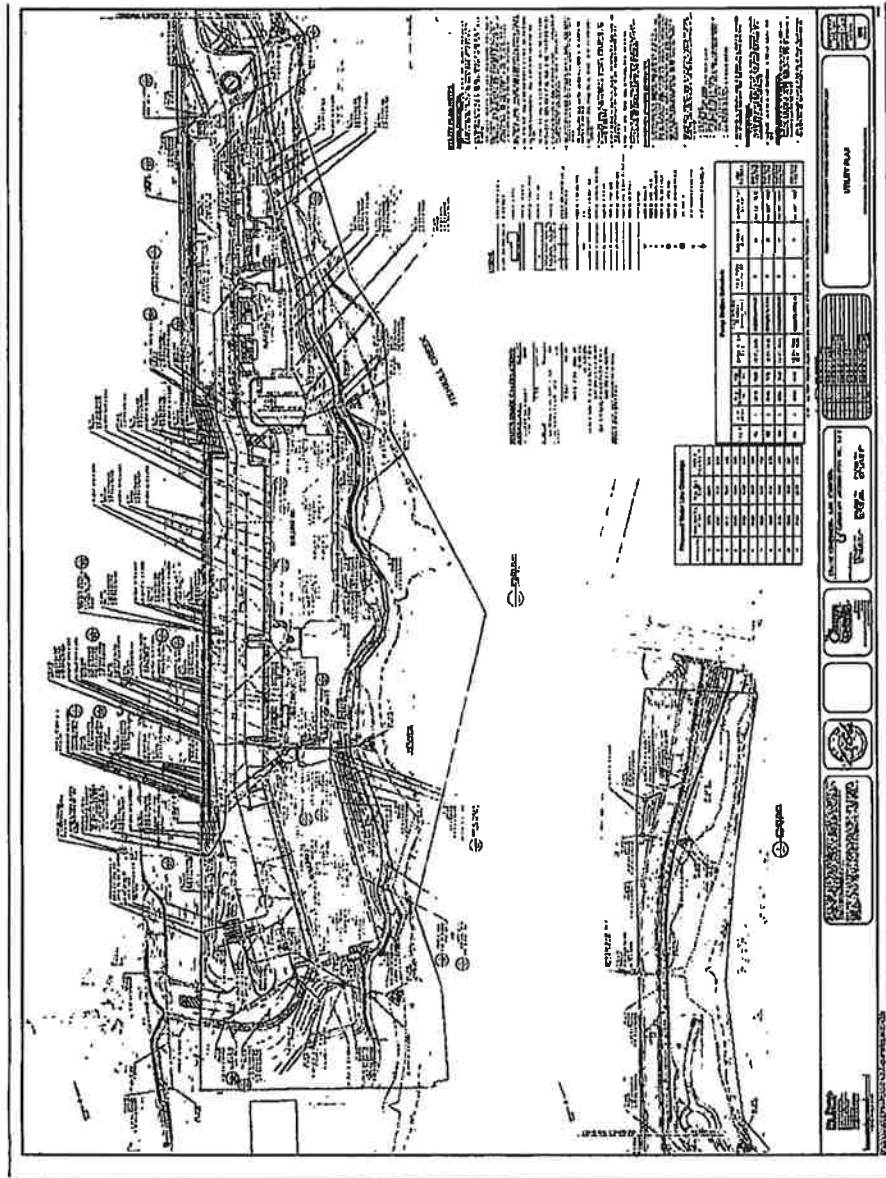


EXHIBIT B



Anthony Ruggiero

From: Van Tuyl, Jennifer <JVanTuyl@CUDDYFEDER.COM>
Sent: Thursday, August 10, 2017 9:18 AM
To: Anthony Ruggiero; Randy J. Casale
Cc: Timothy Dexter; 'Gray, Jennifer L.'; 'Larry Boudreau'; Nicholas M. Ward-Willis; Paul Epstein; Paul J. Epstein (rc.eplaw@aol.com)
Subject: RE: update on Beacon 248
Attachments: Beacon 248 Reports to Council.PDF

Anthony:

Sure. I've gone through my own emails and records, which show the following:

The Council resolution granting the extensions through 1/13/18 was granted on June 14, 2016. The purpose of the reporting was to describe what items remained to be completed prior to building permit application. Our first report was in the form of an email to Nick dated 8/31/16 relating to the MTA(attached). Thereafter, you and I spoke and you indicated you were going to forward that email, with Nick's response, to the Council and ask if they wanted us to actually appear. I have a note in my file that on October 5, 2016 you and I spoke on the phone, and you told me we did not have to appear before the council to deliver the report.

Our second report was in December, 2016. Copy of my email and report attached. We indicated in that report that the only remaining conditions we needed to complete were finalizing the plat to include the revised crossing information, and the Greenway Trail Agreement with the city. We also reported that we were continuing to meet with the City Attorney to finalize that agreement. We also reported that Mr. DeRosa continued to regularly communicate with Tim Dexter about the plans.

Our third report took the form of our very active participation in the council discussions and deliberations leading to the enactment of the City's Trail Law, which included regulations applicable to the Greenway Trail. The Trail Law was critically important to both the applicant and the City in resolving the Greenway Trail issue, the single most important outstanding condition to be fulfilled before application for building permits could be made. We received a draft of this law on Feb 1, 2017. Our discussions with the City Attorney regarding this law commenced in February. On February 23, 2017, I participated in a conference call with City staff regarding the issues. On March 12, 2017, we submitted to the City an 11 page memo of the liability concerns regarding trails, which I understand was discussed with the Council in its deliberations on the law. Copy of memo attached. Since our involvement in this process on behalf of the Applicant was so manifest, and directly involved the Council itself, there would have been no purpose in separately submitting the same information as a "report." The law was finally adopted on April 3, 2017

Our fourth report was the one delivered on July 12, 2017. This report contained the proposed final architectural plans and the proposed final plat. We have been informed that the City consultants (engineer and planner) have reviewed the plat and found that it meets all conditions. Having received the sign off of the City consultants, Chazen is now plotting the mylar of the plat to obtain the signature of the Health Department. The July 12 report notes that the only condition that remains is the City's sign off on the transactional documents, particularly the Greenway Trail Easement. The Greenway Law adopted on April 3, 2017 resolved many of the issues regarding the Easement, but not all of them. The issue of maintenance remains to be resolved. Both the applicant and the City Attorney have been diligent in negotiating in good faith to resolve the issues. We submitted initial drafts of these documents in May of 2015. Since that time, the attorneys for both sides have had numerous meetings and calls to resolve the issues, including preparation of numerous subsequent drafts of the documents. After the law's adoption, the attorneys for the applicant and the city met further to discuss the remaining open issues, and the Applicant has now submitted to the City attorneys a proposed final version of the Greenway Trail. Nonetheless, this remains a "working draft" and will ultimately require the City Council's

approval. At the Planning Board meeting on Tuesday, Jennifer Gray indicated to the Board that these documents will be discussed with the City Council in the near future. Notably, the applicant's easement document will serve as a prototype for all future Greenway Easements, so the discussions are resulting in a benefit to the City that is broader than this project alone.

In addition to the above reports, the applicant has continued to be totally transparent and communicative with City staff about the project and the progress to building permits. The applicant has been very open about his proposed sale of the property, the identity of his buyer. Both the applicant and his proposed contract vendee have spoken to City officials and have been available for any questions or discussions. The applicant responded to Mr. Dexter's letter re: the affordable housing law as soon as he received it.

The project continues to have all of the benefits previously identified by the Council and the Planning Board, including the largest segment of Greenway Trail of any property in the City. The City now has a proposed final draft that incorporates all of the provisions of the new Greenway Law. We ask the Council to move quickly to review the draft so that it can be finalized.

I'm copying Paul Epstein on this email, as he is the attorney representing the applicant on the sale of the property, and he may have a contractual obligation to notify the contract vendee of the proposed workshop Monday, and provide an opportunity to directly participate in the reporting process going forward.

If you have any further questions, I'll do my best to answer them. All date references above are based on my office notes and file copies. I believe they are accurate, and any errors are unintentional.

Jennifer

From: Anthony Ruggiero [mailto:aruggiero@cityofbeacon.org]

Sent: Wednesday, August 09, 2017 1:08 PM

To: Van Tuyl, Jennifer <JVanTuyl@CUDDYFEDER.COM>; Randy J. Casale <mayor@cityofbeacon.org>

Cc: Timothy Dexter <tdexter@cityofbeacon.org>; 'Gray, Jennifer L.' <JGray@kblaw.com>; 'Larry Boudreau' <lboudreau@chazencompanies.com>; Nicholas M. Ward-Willis <NWARD-Willis@kblaw.com>

Subject: RE: update on Beacon 248

Jennifer:

I am going through my emails, and there was supposed to be an update every 3 months. I am only showing one. Can you resend me the others or explain why there were not others.

Anthony J. Ruggiero, M.P.A.

City Administrator

City of Beacon

One Municipal Plaza

Beacon, New York 12508

Ph: 845-838-5009

Fx: 845-838-5012

www.cityofbeacon.org

aruggiero@cityofbeacon.org



From: Van Tuyl, Jennifer [<mailto:JVanTuyl@CUDDYFEDER.COM>]
Sent: Tuesday, August 08, 2017 3:13 PM
To: Anthony Ruggiero <aruggiero@cityofbeacon.org>; Randy J. Casale <mayor@cityofbeacon.org>
Cc: Timothy Dexter <tdexter@cityofbeacon.org>; 'Gray, Jennifer L.' <JGray@kblaw.com>; 'Larry Boudreau' <lboudreau@chazencompanies.com>
Subject: RE: update on Beacon 248

Anthony, I just heard back from Larry. He, Pete and I are available for this Monday the 14th and also for the 28th, if that turns out to be a better date.

Jennifer

From: Anthony Ruggiero [<mailto:aruggiero@cityofbeacon.org>]
Sent: Tuesday, August 08, 2017 11:45 AM
To: Van Tuyl, Jennifer <JVanTuyl@CUDDYFEDER.COM>; Randy J. Casale <mayor@cityofbeacon.org>
Cc: Timothy Dexter <tdexter@cityofbeacon.org>; 'Gray, Jennifer L.' <JGray@kblaw.com>; 'Larry Boudreau' <lboudreau@chazencompanies.com>
Subject: RE: update on Beacon 248

Jennifer:

We are looking to put this on for Monday, are you available. Can you also send me all the quarterly reports to date.

Anthony J. Ruggiero, M.P.A.

City Administrator

City of Beacon

One Municipal Plaza

Beacon, New York 12508

Ph: 845-838-5009

Fx: 845-838-5012

www.cityofbeacon.org

aruggiero@cityofbeacon.org



From: Van Tuyl, Jennifer [<mailto:JVanTuyl@CUDDYFEDER.COM>]
Sent: Wednesday, July 12, 2017 5:55 PM
To: Anthony Ruggiero <aruggiero@cityofbeacon.org>; Randy J. Casale <mayor@cityofbeacon.org>
Cc: Timothy Dexter <tdexter@cityofbeacon.org>; 'Gray, Jennifer L.' <JGray@kblaw.com>; 'Larry Boudreau' <lboudreau@chazencompanies.com>
Subject: FW: update on Beacon 248

Dear Anthony and Randy,

Please see below. My previous email, which attached the final proposed maps and drawings, bounced back due to size, so Kellie will deliver a hard copy in the morning of my letter with the attachments. So I'm just resending the cover letter without the attachments.

Thanks.

Jennifer Van Tuyl



Jennifer L. Van Tuyl, Esq., LEED AP BD+C
Partner
Cuddy & Feder LLP
300 Westage Business Center, Suite 380
Fishkill, New York 12524
T 845 896 2229 | F 845 896 3672
JVanTuyl@cudfyfeder.com
cudfyfeder.com

NOTE: The information in this e-mail message and any attachments thereto have been sent by an attorney or his/her agent, and is or are intended to be confidential and for the use of only the individual or entity named above. The information may be protected by attorney/client privilege, work product immunity or other legal rules. If the reader of this message and any attachments thereto is not the intended recipient, you are notified that retention, dissemination, distribution or copying of this e-mail message and any attachments is strictly prohibited. Although this e-mail message (and any attachments) is believed to be free of any virus or other defect that might affect any computer system into which it is received and opened, the intended recipient is responsible to ensure that it is virus free. The sender and Cuddy & Feder LLP shall not have any responsibility for any loss occasioned in any manner by the receipt and use of this e-mail message and any attachments.

Pursuant to Treasury Regulations, any U.S. federal tax advice contained in this communication, unless otherwise stated, is not intended and cannot be used for the purpose of avoiding tax-related penalties.

From: Van Tuyl, Jennifer

Sent: Wednesday, July 12, 2017 5:33 PM

To: Anthony Ruggiero <aruggiero@cityofbeacon.org>; Randy Casale (mayor@cityofbeacon.org)
<mayor@cityofbeacon.org>

Cc: Tim Dexter (TDexter@cityofbeacon.org) <TDexter@cityofbeacon.org>; 'Gray, Jennifer L.' <JGray@kblaw.com>; 'Larry Boudreau' <lboudreau@chazencompanies.com>

Subject: update on Beacon 248

Dear Anthony and Randy,

Enclosed is an update on Beacon 248, together with reduced size copies of the plans that have been submitted for final engineering and planning review by the City. In the event that these emails bounce back because of size, I will have Kellie drop off hard copies at City Hall tomorrow.

Please call if you have any questions. As noted in the attached letter, Larry Boudreau and I are happy to respond to any questions you may have.

Jennifer Van Tuyl

Van Tuyl, Jennifer

From: Van Tuyl, Jennifer
Sent: Wednesday, August 31, 2016 5:22 PM
To: Way, Sandy
Subject: FW: Beacon 248 and MTA

Please PPPC this email in the chron for B248. And enter 9/26 in my outlook calendar for the presentation to council

From: Van Tuyl, Jennifer
Sent: Wednesday, August 31, 2016 5:14 PM
To: Nicholas M. Ward-Willis (nward-willis@kblaw.com)
Cc: 'Larry Boudreau'
Subject: Beacon 248 and MTA

Nick:

I'm just sending a quick update. We have been in continuing communication with the MTA, and have now been told by Anthony Campbell that our application is stalled in the legal department. Anthony asked what our deadline is to report to the Council. I told him we wanted to report to the Council no later than the September 26th workshop (the resolution wasn't totally clear whether the 3 months ran from the effective date of the extension, i.e. July 13th, or the date of the grant of the extension (June 20th) so it seemed that September 26th was appropriate.

Anthony Campbell is going to try to use this date as leverage with his legal department to get this moving. We have had fully compliant papers with them since May, and have not been asked to change anything. I remember that either you or the Mayor were very helpful in getting them to move things along in the past. We would welcome any efforts on our behalf to get this done. If you need Anthony Campbell's contact information, I'll forward it.

Thanks for your assistance. Have a good holiday weekend.

Jennifer Van Tuyl

Van Tuyl, Jennifer

From: Van Tuyl, Jennifer
Sent: Monday, September 19, 2016 6:22 PM
To: Peter DeRosa (pete.derosa@gmail.com); 'Larry Boudreau'; Paul J. Epstein (rc.eplaw@aol.com)
Cc: Gentle, Kellie
Subject: B248 report to Council

Update:

I got a call from Anthony Ruggiero. He is going to send my email to the Council with Nick's and ask them if this is enough of an update or if they want us to come in for a Council meeting. If the council wants us to come in for a council meeting, they are going to have us come in on October 10th.

Paul, please advise me if you receive anything from the MTA, as I need to notify the city council.

Jennifer

Van Tuyl, Jennifer

From: Van Tuyl, Jennifer <JVanTuyl@CUDDYFEDER.COM>
Sent: Monday, December 05, 2016 5:40 PM
To: Gentle, Kellie
Subject: FW: Beacon 248: Report to City Council as required under conditions of Special Permit extension
Attachments: December 5, 2016 report to City Council.PDF

PPPC to B 248. "Jennifer's report to council, amended to show recording page."

From: Van Tuyl, Jennifer
Sent: Monday, December 05, 2016 5:39 PM
To: Anthony Ruggiero <aruggiero@cityofbeacon.org>; Randy Casale (mayor@cityofbeacon.org) <mayor@cityofbeacon.org>; Nicholas M. Ward-Willis (nward-willis@kblaw.com) <nward-willis@kblaw.com>; 'Timothy Dexter' <tdexter@cityofbeacon.org>
Cc: Peter DeRosa (pete.derosa@gmail.com) <pete.derosa@gmail.com>; 'Larry Boudreau' <lboudreau@chazencompanies.com>
Subject: Beacon 248: Report to City Council as required under conditions of Special Permit extension

Dear Anthony,

Kindly refer to the attached, updated, copy of the Report. I realized after sending that the letter I initially sent did not include the official cover page of the recorded document that showed all the recording information and the date recorded. Accordingly, please disregard the previous attachment. After reviewing this report with the Council, I would appreciate your letting us know if the Council wants us to appear on a workshop in December to summarize the within report, or whether the written report will suffice.

Thank you for your consideration.

Jennifer Van Tuyl

From: Van Tuyl, Jennifer
Sent: Monday, December 05, 2016 5:03 PM
To: Anthony Ruggiero <aruggiero@cityofbeacon.org>; Randy Casale (mayor@cityofbeacon.org) <mayor@cityofbeacon.org>; Nicholas M. Ward-Willis (nward-willis@kblaw.com) <nward-willis@kblaw.com>; 'Timothy Dexter' <tdexter@cityofbeacon.org>
Cc: Peter DeRosa (pete.derosa@gmail.com) <pete.derosa@gmail.com>; 'Larry Boudreau' <lboudreau@chazencompanies.com>
Subject: Beacon 248: Report to City Council as required under conditions of Special Permit extension

Dear Anthony:

Enclosed is our quarterly report of progress, and documentation of recording of the MTA corrected second amendment to Indenture. After reviewing same with the Council, I would appreciate your letting us know if the Council wants us to appear on a workshop in December to summarize the within report, or whether the written report will suffice. A copy of the recorded document is attached to this report.

Thank you for your consideration.



300 Westage Business Center, Suite 380
Fishkill, New York 12524
T 845 896 2229
F 845 896 3672
cuddyfeder.com

December 5 , 2016

Hon. Anthony Ruggiero
City Administrator
City of Beacon
One Municipal Plaza
Beacon, New York 12508

Re: Beacon 248-periodic report to City Council of progress with MTA/building permit

Dear Mr. Ruggiero:

This letter is submitted as a 3-month update report of progress with the MTA and progress toward obtaining a building permit. The Council required these periodic reports when it granted an extension through January 13, 2018 for the Special Permit for the above project.

A condition of the extension from January 13, 2017 to January 13, 2018 was that:

- (1) "The agreement with the MTA shall be recorded on or before January 13, 2017."

I am very pleased to report that the MTA has signed the Corrected Second Amendment and it has been recorded in the Dutchess County Clerk's Office as Document No. 02-2016-8347, on November 30, 2016. A copy of the fully executed and recorded document is attached.

At this point, having accomplished the recording of the documents, our attention is focused on finalizing the conditions of the Planning Board approval. We will appear on the Planning Board agenda on December 13, 2016 to request two 90-day extensions of the subdivision approval to finalize the outstanding conditions, including finalization of the plat (which will include the revised crossing information) and the Greenway Trail agreement. We continue to meet with the City Attorney to discuss the terms of that document.

Mr. De Rosa has met with Tim Dexter to discuss his plans in detail, and I'm sure Mr. Dexter would be happy to update you on the substance of these discussions.

I believe that all of the above confirms the continued diligent good faith efforts to finalize the approvals and commence construction.



December 5, 2016
Page 2

Based on this report, kindly advise if the Council would like us to appear at a workshop in December to give provide this report verbally, or whether the within written report will suffice for such purpose.

We thank you for your consideration of this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "JL Van Tuyl".

JENNIFER L. VAN TUYL

cc: Nicholas M. Ward-Willis, Esq.
Mayor Randy Casale and City Council
Timothy Dexter, Building Inspector
Pete DeRosa
Larry Boudreau



Dutchess County Clerk Recording Page

Record & Return To:

Date Recorded: 11/30/2016

Time Recorded: 10:22 AM

PAUL J EPSTEIN ESQ
821 ROUTE 52
PO BOX 2
BEACON, NY 12508

Document #: 02 2016 8347

Received From: SNEERINGER MONAHAN PROVOST REDGRAVE

Grantor: METRO NORTH COMMUTER RAILROAD CO

Grantee: BEACON 248 DEVELOPMENT LLC

Recorded In: Deed

Tax District: City of Beacon

Instrument Type: AMEND

Examined and Charged As Follows :

Recording Charge: \$100.60
Transfer Tax Amount: \$0.00
Includes Mansion Tax: \$0.00
Transfer Tax Number: 2768

Number of Pages: 11

*** Do Not Detach This Page

*** This is Not A Bill

Red Hook Transfer Tax:

RP5217: N

TP-584: Y

County Clerk By: ste
Receipt #: 39721
Batch Record: 261

Bradford Kendall
County Clerk



0220168347



445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
T 914 761 1300
F 914 761 5372
cuddyfeder.com

MEMORANDUM

To: Jennifer L. Gray, Esq.

From: Jennifer L. Van Tuyl and Taylor M. Palmer

Date: March 10, 2017

Re: NYS Recreational Use Statute – NYS General Obligations Law Section 9-103
Case Law Regarding Liabilities for Proposed Fishkill Creek Heritage & Greenway Trail

INTRODUCTION

The City has required a number of private landowners to offer the City a “Greenway Trail” easement over their lands, as a condition of land use approvals. The City is now considering a local law which would govern activities on the Trail. Trail enthusiasts are urging the City to allow a broad array of activities. The servient landowners, on the other hand, have asserted that liability concerns dictate that the City should circumscribe the activities in order to limit liability. You have asked for an analysis of statutory and case law discussing potential liability of the City of Beacon (as trail easement holder/“dominant estate”) in light of New York State General Obligations Law Section 9-103, commonly referred to as the Recreational Use Statute (hereafter, “GOL” or “the Statute.”)

The *Fishkill Creek & Heritage Trail Master Plan* (the “FCGHT Master Plan”)¹ asserts that “... so long as the FCGHT is free and open to the public, landowners are protected from liability through the above statute.”² This statement substantially overstates the protections provided by the Statute. New York General Obligations Law (“GOL” or “the Statute”) does not totally exclude the liability of toward recreationists, and could pose serious liabilities to the City of Beacon. Therefore, the City’s reliance on this Statute to provide full protection (“[i]n holding such easements and in establishing public trails, the City and the Grantors of the easements expressly rely upon the protection against liability contained in Section 9-103 of the New York State General Obligations Law...”³) may not be sustainable.

This memorandum is written to describe the various types of potential liability for the City of Beacon. This liability cannot be eliminated entirely, for it is undisputed that the Greenway Trail has been established by the City, and that landowners have been compelled to create and offer the easement to the City for the Greenway Trail as a prerequisite to obtain approvals. As noted in Point 1 (C) below, it is likely that the City would be joined in any litigation for injuries along the Greenway Trail, subjecting the City to the uncertainties and expense of litigation. Therefore, the

¹ Adopted by the City of Beacon City Council on June 17, 2013.

² FCGHT Master Plan, at 57 (2013).

³ FCGHT Local Law, proposed Section 170-1.

March 9, 2017

Page 2

FCGHT Legal Liabilities

most meaningful way in which the City can limit its liability is to carefully limit the activities on the Greenway Trail in a manner to lower the risk of injury as much as possible.

1. There is a Substantial Question of Whether GOL 9-103 Immunity Applies At All to a Municipally established Trail System.

Understanding the applicability of GOL9-103 to the public sector is important because public entities in New York generally can be sued for acts of negligence. The NY Court of Claims Act, Section 8, establishes that the State of New York waives its immunity from liability and agrees to have its liability determined in similar manner as for actions taken against individuals and corporations.

- a. *Municipally organized trail systems are outside the purpose of the Statute:***
The Recreational Use Statute, which grants property owners immunity for ordinary negligence, was promulgated to encourage property owners to permit persons to come on their property to engage in specified recreational activities without fear of liability for injuries suffered by the recreationists. The sole purpose of the statute is to induce property owners, who might otherwise be reluctant to do so for fear of liability, to permit persons to come on their property to pursue specified activities.⁴

Some courts have ruled that an organized municipal trail system is simply outside the protection of the GOL, on the grounds that the Statute applies only to private owners who are incentivized to open their private lands to public passage by means of the incentive. Other courts have similarly ruled that the Statute does not apply to lands and trails that have been organized and planned by a municipality for public use, since the GOL is not the incentive for opening the lands to the public.

The legislative history of the Statute indicates a finding that municipalities have a compelling, independent motivation to provide public access to its supervised parks above and beyond any incentive offered by statutory immunity under the Statute.⁵ Thus, a municipality cannot cast off its long-standing duty to the public on such areas by relying on this Statute, which was intended for a different purpose.

A leading case holding that the GOL does not apply to ordinary users of municipal parks is Bush v Saugerties, 114 App Div 2d 176, 498 NYS2d 563 (3d Dept 1986). As noted in that case:

Moreover, the unique duty owed to the ordinary public users of municipal parks is clearly not what the Legislature intended to alleviate by General Obligations Law § 9-103. As stated in *Sega*, the purpose of the legislation

⁴ 85 N.Y. Jur. 2d Premises Liability §§ 10 & 16.

⁵ See, Mem of NY Law Rev Commn, Bill Jacket, L 1956, ch 842, at 22-23.

March 9, 2017
Page 3
FCGHT Legal Liabilities

was to insulate from liability for ordinary negligence “landowners who *gratuitously allow* persons to use their property for certain enumerated recreational activities” (*Sega v. State of New York*, 60 N.Y.2d 183, 186, 469 N.Y.S.2d 51, 456 N.E.2d 1174, *supra* [emphasis supplied]). Once the subject parks were dedicated, an easement was created in favor of the public for the uses to which municipal parks are ordinarily applied (*see, Porter v. Intl. Bridge Co.*, 200 N.Y. 234, 245; 42 N.Y.Jur., Parks and Recreation Centers, § 7, at 544 [1965]). Thereafter, the Village and Town had no absolute right to exclude the general public, plaintiff included (*cf. Williams v. *180 Gallatin*, 229 N.Y. 248, 128 N.E. 121). It follows that this is not simply an instance of permissive use to which the statute seemingly is limited.

In *Baker v. Cty. of Oswego*,⁶ the Supreme Court Appellate Division Fourth Department held that the statutory immunity of the Recreational Use Statute does not apply to a County which actively advertised its trail, operated and maintained it “in such a manner that the application of such immunity would not create an additional inducement to keep the property open to the public for the specified recreational activities set forth in [the statute].”⁷ GOL 9-103 was determined not to apply to an injured biker in a supervised municipal park since the statute was intended to induce private owners to open their property, and this is simply not the case in parks and trail systems planned for and organized by a municipality. (*Ferres v. New Rochelle* (1986) 68 NY2d 446, 510 NYS2d 57, 502 NE2d 972). Nor did it apply to an injury on a hill in a public (town) park used for sledding (*Sena v Town of Greenfield* (1998) 91 NY2d 611, 673 NYS2d 984, 696 NE2d 996), or on a public golf course open to the public and used for winter recreation activities (*English v City of Albany* (1997, 3d Dept) 235 AD2d 977, 652 NYS2d 873). Nor did it apply to a snow tubing accident at a supervised public park (*Rashford v. City of Utica*, 2005 N.Y Slip-on 8372; 23 A.D. 3d 1000; 803 N.Y.S.2d 453; 2005 N.Y.App. Div.).

Thus, the Recreational Use Statute does not apply to provide immunity to the City from liability for its failure to fulfill its duty of reasonable care in the operation and maintenance of an organized trail system which is part of the City’s overall recreation and open space program.⁸ If the City operates, maintains, and supervises a particular recreational activity, it owes the injured party the same duty of care that governs common-law negligence; the

⁶ 77 A.D.3d 1348, 1349, 909 N.Y.S.2d 600, 601 (2010).

⁷ *Id.* (citing *Quackenbush v. City of Buffalo*, 43 A.D.3d at 1388, 842 N.Y.S.2d 657; *see Ferres v. City of New Rochelle*, 68 N.Y.2d 446, 448, 502 N.E.2d 972, 973 (1986); *Rashford v. City of Utica*, 23 A.D.3d 1000, 803 N.Y.S.2d 453; *Keppler v. Town of Schroon*, 267 A.D.2d 745, 747, 699 N.Y.S.2d 792; *cf. Sega v. State of New York*, 60 N.Y.2d 183, 469 N.Y.S.2d 51, 456 N.E.2d 1174; *Myers*, 11 A.D.3d 1020, 782 N.Y.S.2d 326).

⁸ *See Celia v. Town of Whitestown*, 71 A.D.3d 1427, 1427, 896 N.Y.S.2d 774, 775 (2010); *Sena v. Town of Greenfield*, 91 N.Y.2d 611, 673 N.Y.S.2d 984, 696 N.E.2d 996 (1998); *Ferres v. City of New Rochelle*, 68 N.Y.2d 446, 510 N.Y.S.2d 57, 502 N.E.2d 972 (1986); *Bennett v. Town of Brookhaven*, 233 A.D.2d 356, 650 N.Y.S.2d 752 (2d Dep’t 1996); *Phelan v. State*, 11 Misc. 3d 151, 804 N.Y.S.2d 886 (Ct. Cl. 2005).

statutory recreation-use qualification does not allow the lower standard of care in such a situation.⁹ Because the sole purpose of the statute is evident to induce property owners, who might otherwise be reluctant to do so for fear of liability, to permit persons to come onto their property to pursue specified activities, the Recreational Use Statute finds no application where the municipality already operates and maintains a supervised facility for use by the public.¹⁰ Determining whether an area that is open for recreational use is sufficiently supervised so as to fall outside the application of the statute can be quite problematic, and it is essential that any such determination be based on consideration of the underlying purpose of the statute, which is to induce property owners, who might otherwise be reluctant to do so for fear of liability, to permit persons to come on their property to pursue specified activities.¹¹

- b. *Trail systems created by easements are outside the protection of the Statute.*** There is also authority that the Statute does not apply to Trails created by easement. In Testani v. Northshore Equestrian Ctr., Inc.,¹² the Court held that the Statute *did not* confer immunity upon owners of land used as equestrian trails created by easement. In relevant part, the Court held:

Here, the equestrian trail owned by the defendants is open to the residents of Old Westbury and defendants “need no encouragement” from the immunity offered by statute. Indeed, they are powerless to close the trail to the easement owners. It is also noted that the recreational use statute applies only when the gratuitous permission of a landowner is concerned. Here, the easement suggests a quid pro quo, an additional factor which would take defendants’ property outside the protection of the statute. Accordingly, the motion for summary judgment is denied.¹³

- c. *The City cannot immunize itself against claims and suits for liability.***

If injuries occur on the Greenway Trail, it is virtually certain that the City would become a defendant in any lawsuit for damages. Such claims of liability would be based on the undisputed fact that the City has created the plan for the Greenway Trail, adopted a Master Plan for same, established a committee to supervise the Trail, and required private properties to grant the easements for the Trail. Under well-established principles of real property law, the dominant estate is responsible for maintaining easements. The City is not able to immunize itself against claims for injuries, either by simply reciting its reliance

⁹ Blount v. Town of West Turin, 195 Misc. 2d 892, 759 N.Y.S.2d 851 (Sup 2003).

¹⁰ Ferres v. City of New Rochelle, 68 N.Y.2d 446, 510 N.Y.S.2d 57, 502 N.E.2d 972 (1986); Walters v. County of Rensselaer, 282 A.D.2d 944, 724 N.Y.S.2d 97 (3d Dep’t 2001).

¹¹ 85 N.Y. Jur. 2d Premises Liability § 16.

¹² 156 Misc. 2d 1031, 1033, 595 N.Y.S.2d 653, 654 (Sup. Ct. 1992).

¹³ *Id.*

March 9, 2017

Page 5

FCGHT Legal Liabilities

on the Statute, or by using its municipal power to force landowners, as a condition of land use permits, to maintain the trail. Even if the City asserts protection under the Statute, many questions of fact will be created; including:

- whether an injured party was engaged in a recreational activity specifically listed in the Recreational Use Statute;
- whether the property upon which the recreational activity occurred was suitable for that activity; and
- whether the owner/lessee/occupant willfully failed to guard or warn against a dangerous condition, use, structure, or activity.

These questions of law and of fact have led to broadly varying results and great uncertainty.¹⁴ For example, the determination as to whether a party is “hiking” for purposes of the Recreational Use Statute must be made by considering the totality of the facts and circumstances,¹⁵ including the path taken; the length and purpose of the journey; the topography of the property and the party’s subjective intent. Each of these considerations is relevant, but not controlling, which leads to differing conclusions as to liability in individual cases.

All of these factors should incentivize the City to limit the scope of activities on the trail to limit the possibility of future injuries.

2. New York’s Recreational Use Statute Protects Against Claims Only as to Specifically Enumerated Uses, and Does Not Provide Immunity for Injuries From Walking, Jogging, Running and Other non-enumerated Uses to be Anticipated on the Greenway Trail.

¹⁴ Note: Indeed the Courts have considered certain issues matters of law and other issues of fact. For example, the Court in Twomey v. Rosenthal, (2 Dept. 2008) 52 A.D.3d 693, 860 N.Y.S.2d 591, held that the determination of whether a particular parcel of land is suitable for a recreational activity, as required to protect landowner from premises liability under the Recreational Use Statute, is a question of law for the court. However, in Morales v. Coram Materials Corp., (2 Dept. 2008) 51 A.D.3d 86, 853 N.Y.S.2d 611, the Court held that generally, a question of fact is raised under the Recreational Use Statute if there is evidence that the defendant does not own, lease, or occupy the land where the accident occurred, or that the plaintiff was not engaged in a listed recreational activity, or that the property was not suitable for the recreational use. Additionally, in Hulett ex rel. Hulett v. Niagara Mohawk Power Corp., (4 Dept. 2003) 1 A.D.3d 999, 768 N.Y.S.2d 535, the court considered whether parcel of land was suitable for bicycle riding, and whether immunity was available under Recreational Use Statute, determining that they were questions of statutory interpretation, and were, therefore, questions of law for court in action to recover for injuries sustained by children struck by train while attempting to reach paths on railroad property.

¹⁵ Guillet v. City of N.Y., 131 Misc. 2d 578, 579, 500 N.Y.S.2d 946, 947 (Sup. Ct. 1986).

March 9, 2017

Page 6

FCGHT Legal Liabilities

A second major insufficiency of the Statute is that it provides protection for only certain activities, and provides no protection for many activities that could be undertaken on the Trail. The Recreational Use Statute was established to encourage landowners to *gratuitously* open up their land to the public for certain *specified* recreational uses, by indemnifying these landowners from liability:

An owner, lessee or occupant of premises, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep the premises safe for entry or use by others for hunting, fishing, organized gleanings as defined in section seventy-one-y of the agriculture and markets law, canoeing, boating, trapping, hiking, cross-country skiing, tobogganing, sledding, speleological activities, horseback riding, bicycle riding, hang gliding, motorized vehicle operation for recreational purposes, snowmobile operation, cutting or gathering of wood for non-commercial purposes or training of dogs, or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering for such purposes.¹⁶

The Recreational Use Statute's language only protects those activities "enumerated" in the above provision, which provides significant limitations on its application. Unlike other states, the New York Recreational Use Statute does not include a catchall for "other recreational activities." Bills proposing to broaden the protection of the statute have pointed out the limitations of the statute. For example, Senate Bill S4645-2011 notes that activities like snowboarding are not included. This bill also notes that the current statute covers boating but not sailboat racing; hunting but not bird watching; subterranean rock climbing but not above-ground rock climbing; gliding but not ballooning; and hiking but not walking. Unfortunately, the statute has not been amended to contain broader protections for "other recreational activities."

In Rousseau v. County of Dutchess,¹⁷ Dutchess County attempted to invoke GOL 9-103 in order to avoid liability for injuries to a child walking on a trail. The Dutchess County Supreme Court found that the protection provided by the statute was limited to "hiking," not walking, and that [w]alking 500 to 600 feet to get to a trestle is not enough to transform [the plaintiff's] activity into hiking. The court therefore found the County was liable for the injuries to the person walking, as opposed to hiking.

In Drake v. Sagbolt, LLC,¹⁸ a resort with walking trails attempted to use GOL 9-103 to protect it from a suit by a walker, claiming that the "hiking" clause of the statute applied. However, the plaintiff claimed that "walking" is not "hiking," and the Court agreed:

¹⁶ N.Y. Gen. Oblig. Law § 9-103(1)(a).

¹⁷ 167 Misc.2d 568, 638 N.Y.S.2d 290 (1996).

¹⁸ 112 A.D.3d 1132, 1134, 977 N.Y.S.2d 131, 134-35 (2013).

March 9, 2017
Page 7
FCGHT Legal Liabilities

“[a]lthough the term ‘hiking’ is not defined by the statute, when we give such term its ordinary and usual meaning (*see McKinney’s Cons Laws of NY, Book 1, Statutes § 232*), it contemplates more than merely walking on a paved walkway (*see generally* 6 NYCRR 197.2[a]; Sega v. State of New York, 60 N.Y.2d 183, 193, 469 N.Y.S.2d 51, 456 N.E.2d 1174 [1983]; Cometti v. Hunter Mtn. Festivals,¹⁹ 241 A.D.2d 896, 897, 660 N.Y.S.2d 511 [1997]). In our view, classifying plaintiff’s actions as ‘hiking’ would place an overly broad interpretation upon that term. Nor is there any evidence in the record that plaintiff was training her dogs.”²⁰

In Rosen v. Long Island Greenbelt Trail Conference, Inc.,²¹ a plaintiff was injured while biking on a dirt trail along the Nassau–Suffolk Greenbelt Hiking Trail, when he fell off a wooden footbridge that he claimed was in a state of disrepair. While the Trail Conference escaped liability on the grounds that the injury did not occur on the trail, but rather on a State parkway, the Court of Appeals also ruled that the Long Island Greenbelt Trail Conference, Inc. (“LIGTC”) did not qualify as an occupier or occupant. This implies that had an injury occurred in an area where LIGTC exercised control, they would not have been accorded the protection of GOL 9-103.

The Recreational Use Statute does not apply to situations in which a defendant is not engaging in one of the specifically enumerated activities. For example, in addition to the above discussion regarding the Rousseau case, the Court has considered a case where a man fishing on the bank of the Hudson River adjacent to a railroad ran to the track in attempt to rescue his dog and was struck by a train. In James v. Metro N. Commuter R.R.,²² the Supreme Court Appellate Division, First Department, did not allow the Railroad Company the protection of GOL 9-103 because the fishing was not occurring on the railroad property.²³

Similarly, the Recreational Use Statute does not apply to swimming, which is not a listed activity. In Cramer v. Henderson,²⁴ the Supreme Court Appellate Division, Fourth Department considered when a plaintiff was injured when he was struck on head by falling rock while walking away from swimming hole. At the time plaintiff was injured he was walking, but not hiking, and the Recreational Use Statute did not apply.

¹⁹ In the Cometti case, an individual who bought a ski lift ticket to ascend a mountain with the intent of walking down, and who fell and was seriously injured while descending the mountain, was ruled to fall within a normal definition of hiking and the GOL was ruled relevant to the ski resort owner.

²⁰ *Id.*

²¹ 19 A.D.3d 400, 400, 796 N.Y.S.2d 130, 131 (2005).

²² 166 A.D.2d 266, 267, 560 N.Y.S.2d 459 (1990).

²³ *Id.*

²⁴ 120 A.D.2d 925, 503 N.Y.S.2d 207 (1986).

March 9, 2017
Page 8
FCGHT Legal Liabilities

Ultimately, the Court of Appeals has held that the Statute grants protection to landowners only from claims of recreational "wanderers and wonderers" partaking of activities enumerated in GOL 9-103.²⁵ However, such people must be clearly participating in one of the listed activities for the Statute to apply.²⁶ The Statute may not be applicable in many different factual scenarios that could arise on the Greenway Trail.

3. In Accessing Potential Future Liability, the City Should Anticipate Future Crowded Conditions.

The potential liability for the City of Beacon should not be underestimated by imagining solitary walkers/hikers on an early morning visit to the trail. This trail has a significant possibility to become very crowded. The City Greenway Trail is proposed to soon connect to the Hudson Valley Fjord Trail from Cold Spring/Breakneck. The communities to the south have already faced difficulties due to the growth in popularity of the Greenway Trail. For example, with the growing popularity of Breakneck Ridge and the Hudson Highlands State Park, more and more visitors and tourists are arriving by car, train, boat, bicycle, foot and other multi-modal means, which is creating new liabilities for private property owners and municipalities alike. Many of these tourists are traveling between the Village of Cold Spring and the City of Beacon, with those numbers expected to increase significantly upon the development of the nine-(9) mile public Hudson Highlands Fjord Trail which is intended to connect to the City's trail system, including the FCGHT.

Recent public hearings held in nearby communities have identified additional liabilities concerning traffic, parking, congestion, trash, quality of life amenities and maintenance of the park areas, issues that are explicitly identified in the Hudson Highlands Fjord Trail Preliminary Draft Master Plan.²⁷ For example, a recent November 16, 2016, *Poughkeepsie Journal* article, entitled "Hudson Fjord Trail: Worries of congestion in Cold Spring", included comments made during a recent public hearing that stressed the dangerous potential for car-versus-pedestrian accidents.²⁸ The online article even included a video showing the steady flow of pedestrians crossing busy sections of Route 9D between Beacon and Cold Spring. The November 16th Article cites Linda Cooper, Regional Director for the State Office of Parks, Recreation and Historic Preservation, who affirmed residents' observations about the increase of visitors, confirming that "[t]he popularity of Breakneck has been 'exponentially' increased by reviews in national publications and the power of social media..."²⁹

²⁵ *Farnham v. Kittinger*, 83 N.Y.2d 520, 523, 634 N.E.2d 162 (1994).

²⁶ *Id.*

²⁷ Hudson Highlands Fjord Trail Preliminary Draft Master Plan, "Introduction" (2015), available at: http://media.wix.com/ugd/0d79b3_560be9394d1740819545a4e9cb97d5a2.pdf.

²⁸ See *Poughkeepsie Journal* article (2016), John Ferro, available at: <http://www.poughkeepsiejournal.com/story/tech/science/environment/2016/11/16/hudson-fjord-trail-worries-congestion-cold-spring/93909744/>.

²⁹ *Id.*

March 9, 2017
Page 9
FCGHT Legal Liabilities

Image 1 – Breakneck Ridge Parking Lot – Along Route 9D:



Still image (screenshot) of the Breakneck Ridge parking lot, taken from a video posted on the November 16th Poughkeepsie Journal Article.

In another *Poughkeepsie Journal* article from 2015, Scenic Hudson Senior Planner Amy Kacala identified that “the other major concern, and one of the roots of the Fjord project overall, are the safety concerns in the 9D corridor and pedestrian management...”³⁰

Provided the growing concerns, an advertisement was recently posted in *The Putnam County News and Recorder* on March 1, 2017, signed by Ms. Cooper and Ms. Kacala, who were quoted in the above articles. The advertisement stressed that as visitation levels reach a tipping point, with more visitors anticipated, congestion management strategies and other multi-entity strategies will be needed for pedestrian safety in concert with trail management strategies. *See* Exhibit A - Fjord Trail Advertisement. The City should be mindful of these additional liabilities and concerns stemming from increased Greenway Trail usage and in consideration of the additional railway proposals in the region.

³⁰ “Beacon-Cold Spring Trail to Break Ground in Spring”, Stephanie Schappert, For the *Poughkeepsie Journal* (Updated February 10, 2015), available at: <http://www.poughkeepsiejournal.com/story/tech/science/environment/2015/02/04/breakneck-ridge-trailhead-hiking/22897331/>.



March 9, 2017
Page 10
FCGHT Legal Liabilities

CONCLUSION

Based on the foregoing, the City cannot eliminate the risks of claims for liability for injury to users of the Greenway Trail. We believe that the best way to limit such claims and risk of ultimate liability is by carefully limiting use of the trail to activities less likely to create situations involving injuries.

It is noted that the landowners have additional concerns beyond those expressed in this memo. There are many liabilities that are not prevented by the Recreational Use Statute. Indeed, "Appendix D" of the FCGHT Master Plan includes references a secondary source entitled "Recreational access and owner liability,"³¹ which details issues and concerns of liability for property owners. Nonetheless, we believe that the concerns expressed herein are sufficient to establish that the City should limit activities on the Greenway Trail to those which will limit possibilities of injuries to the maximum extent practicable.

³¹ Department of Natural Resources, Cornell University, Tommy L. Brown, available at: <https://blogs.cornell.edu/ccednrpublications/files/2015/03/Recreational-Access-and-Owner-Liability-Brown-15sa3ki.pdf>, also available at:


https://static1.squarespace.com/static/514a2220e4b0a5ba64c924be/t/528c14ade4b07984fcd8a155/1384912045851/f-FCGHT+Master+Plan_Final+June+2013_reduced_p2.pdf, as page 71-77.

March 9, 2017
Page 11
FCGHT Legal Liabilities

Exhibit A

The Putnam County News and Recorder Advertisement

March 1, 2017



Hudson Highlands Fjord Trail

Dear greater Cold Spring area residents:

Thank you to those who attended last November's public meeting on the Hudson Highlands Fjord Trail. What began as a kickoff of the environmental review process for the trail quickly became an outpouring of views by some Cold Spring residents over the impacts of high visitation on village life and sensitive natural areas.

While the Fjord Trail planning project hasn't caused these conditions, we were happy to provide a platform for open dialogue about them. We got a clear sense that visitation levels reached a tipping point in summer 2015, with the village attracting even more visitors last summer. Evidence suggests this trend will continue.

Clearly, Cold Spring needs a visitor congestion management strategy to ensure quality of life can be protected in the face of growing visitation to Hudson Highlands State Park Preserve as well as the village as a destination site. Fortunately, a proven formula exists—a strategy developed by the National Park Service for gateways into some of its parks. Among its recommendations:

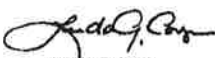
- Formalize parking areas and place more controls on parking, such as no parking zones or metered parking.
- Use electronic systems to help reduce unnecessary movement, such as early notification that a parking lot is full.
- Improve public transportation—e.g., provide a shuttle.
- Make traffic improvements—better wayfinding to direct visitors, enhanced crosswalks, reduced speed limits.
- Inform people about trip planning, such as providing early notification if an area is congested and suggestions for less crowded alternatives.

What this makes clear is that if designed with these considerations in mind, the Hudson Highlands Fjord Trail will function as a visitor congestion management strategy. It will add controls around parking, lower the speed limit and improve pedestrian crossings on Route 9D, as well as support infrastructure to move pedestrians quickly and safely through the village.


In fact, this project started with a group of residents who wanted to improve pedestrian safety along Route 9D. Soon, they realized the trail also could support Main Street businesses and enhance quality of life. From there, the idea took off—attracting an impressive coalition of local, municipal, regional and state groups. Construction of improved and expanded formalized parking already is underway. More parking and the first trail sections (north of Breakneck) will commence soon. However, based on your input, we will review the recommended improvements again to determine if more congestion management techniques should be included.

We're committed to working with Cold Spring area residents to ensure the project does all it can to serve as a congestion management tool. Already, we're working closely with NYS Parks to coordinate how the trail's management strategies dovetail with those under discussion for Hudson Highlands State Park Preserve and with NYS DOT to look at safety measures along Route 9D.

While no single entity can address the challenges high visitation pose to quality of life and natural habitat, the strong coalition behind the Fjord Trail has a significant opportunity to make meaningful, sustained improvements. We look forward to continued discussion with area residents and businesses to help find the right combination of tools and techniques to make life in Cold Spring and recreation in the Hudson Highlands safer and more peaceful for all.



Linda Cooper
Regional Director, Taconic Region, NYS Office of
Parks, Recreation and Historic Preservation



Amy Kacala
Scenic Hudson, Hudson Highlands
Fjord Trail Project Manager

Paid Advertisement

City of Beacon Workshop Agenda
8/14/2017

Title:

344 Main Street 1) review of parking license agreement 2) review of compliance of terms and conditions

Subject:

Background:

ATTACHMENTS:

Description	Type
ES KB 04-14-17	Cover Memo/Letter
ES KB 07-25-17	Cover Memo/Letter
ES PM 08-10-17	Cover Memo/Letter
ES Op agmt	Cover Memo/Letter
ES KB 07-28-17	Cover Memo/Letter

City of Beacon Workshop Agenda
8/14/2017

Title:

Discussion of a Local Law to Amend the Code as it Relates to the Disclosure of Information from Applicants

Subject:

Background:

ATTACHMENTS:

Description

LL Entity Disclosure

Type

Local Law

DRAFT LOCAL LAW NO. ____ OF 2017

CITY COUNCIL
CITY OF BEACON

PROPOSED LOCAL LAW TO AMEND SECTIONS 195-12 AND
CHAPTER 223
OF THE CODE OF THE
CITY OF BEACON

A LOCAL LAW to amend
Sections 195-12 and Chapter
223 of the City Code
regarding Disclosure of
information regarding an
Applicant.

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1. Section 195-12 of the Code of the City of Beacon entitled “Initial Conference and Review” is hereby amended as follows:

§ 195-12 **Initial conference and review.** This step is recommended for the benefit of the applicant, but is not required. If followed, the procedure shall be as follows:

A.

Initial conference. The applicant should notify the Planning Board Secretary, at least one week in advance of a regular Planning Board meeting, of his desire to be placed on the agenda for an initial conference. At such conference, he shall present a sketch layout of the proposed subdivision. It shall include a site location sketch (at a scale of one inch equals 800 feet) indicating the applicant's entire holdings in relation to neighboring streets, private roads and properties, and shall show the general nature of the proposed arrangement of streets, private roads, lots, recreation areas, and the proposed concept for providing utility service. The applicant should also discuss with the County Health Department its requirements in connection with subdividing. The sketch layout shall be drawn on a topographic map with a vertical contour interval of no more than five feet, at a scale of no smaller than one inch equals 100 feet. It shall be submitted in four copies. The applicant shall also provide the information required in Section 223-62.

B.

Field trip. After the initial conference, the Planning Board may schedule a field trip to the proposed subdivision site. The applicant, or his representative, should attend the site

inspection and, prior to it, should have the center line of all proposed streets and private roads located by temporary stakes.

C.

Planning Board recommendations. At or subsequent to the field trip, the Planning Board shall advise the applicant, or his representative, of the additions and modifications, if any, which should be made if an application for subdivision approval is to be submitted.

Section 2. Chapter 223 of the City Code entitled “Administration and Enforcement” is amended to add a new Section 223-62 as follows:

§ 223-62 Disclosure.

Every application, petition or request submitted for a variance, amendment, change of zoning, any license, certificate or permit, special use or exception, approval of plot plans or subdivision maps, with respect to the use, improvement change or alteration of any land, building or structure erected or to be erected thereon and every application for a building permit or certificate of occupancy shall, in addition to the general requisites for such application, petition or request and at the time of filing such application, petition or request, be accompanied by a sworn statement which shall contain the following information, where required:

- A. If the affiant is an individual, he or she shall set forth his or her name, residence address and his or her residence telephone number.
- B. If the affiant is a partnership, joint venture or other business entity, except a corporation, it shall set forth:
 - (1) The name, address and telephone of the business entity or partnership.
 - (2) The date such business entity or partnership was established or created.
 - (3) The place where such business entity or partnership was created or established and the official Registrar's or Clerk's office where the documents and papers creating or establishing such business entity or partnership were filed.
 - (4) The names, residence addresses and residence telephone numbers of all parties in interest in such business entity or partnership, showing the nature and extent of the interest.
- C. If the affiant is a corporation, it shall set forth the following:
 - (1) The name, principal business address and telephone number of the corporation.
 - (2) The place, date and method of incorporation and the official place where the documents and papers of incorporation have been filed and the name and address of each incorporator.

(3) The name, residence address and telephone number of every officer, director and shareholder as of the date of filing or submission of the application, request or petition.

(4) The name and business or residence address and telephone number of all persons to whom corporate stock has been pledged, mortgaged or encumbered and with whom any agreement has been made to pledge, mortgage or encumber said stock.

D. The name, residence or business address and telephone number of all owners of record of the subject property or any part thereof; the date and manner title was acquired; and the date and place where the deed or document of conveyance was recorded or filed.

E. The name, residence or business address and telephone number of each person having any mortgage, encumbrance or other interest (recorded or unrecorded) in the subject property, together with the nature and extent thereof.

F. Whether any owner, of record or otherwise, is an officer, director, stockholder, agent or employee of any person referred to in Subsection A, B, C or E of this section.

G. Whether any person referred to in Subsection A, B, C, D or E of this section was known by any other name within five (5) years preceding the date of the application, request or petition, and, if so, such other names.

H. Whether any person named in Subsection A, B, C, D or E of this section is an official, elected or appointed, or employee of the City of Beacon or related, by marriage or otherwise, to an official or employee of the City of Beacon and, if so, the nature of such relationship.

I. The name and address of each person, business entity, partnership and corporation in the chain of title of the subject premises for the five (5) years next preceding the date of the application, request or petition.

J. If the applicant is not one of the record owners of the subject property, the interest of the applicant in the subject property and the relationship to the record owners. If the applicant is a contract vendee, a duplicate original or photocopy of the full and complete contract of purchase, including all riders, modifications and amendments thereto, shall be submitted with the application.

K. Where the record owner or contract vendee is a corporation, the following additional information shall be submitted with the application:

(1) The name and principal business address and telephone of the corporation.

- (2) The method, date and place of incorporation, together with the name and address of each incorporator and the place where the documents of incorporation have been filed.
- (3) The name, residence or business address and telephone number of each officer, director and shareholder of the corporation.
- (4) Whether any shares of the stock of the corporation or of any stockholder have been pledged, mortgaged or encumbered and, if so, the name and address of each person having, holding, owning or claiming such interest.

L. Whether the present owners, or any of them, have entered into any contract for the sale of all or any part of the subject property and, if in the affirmative, there shall be submitted a duplicate original or photocopy of the full and complete contract of sale, including all riders, modifications and amendments thereto.

M. Such additional information as may be requested by the board, agency or commission having jurisdiction over such application, request or petition, pertaining to ownership, operation or control of the subject property.

N. The provisions of § 80-1C(2), (3) and (4) and K(2), (3) and (4) shall not apply where the corporation named in said sections is a corporation the shares of stock of which are publicly traded on a recognized stock exchange.

O. In the event that there is any change in any matter set forth on any affidavit submitted hereunder prior to the time a determination is made concerning the subject application, request or petition, the affiant shall file a supplemental affidavit within forty-eight (48) hours after such change has occurred, giving the full details thereof and in compliance with the requirements of this chapter, and shall thereafter be subject to all the requirements set forth in this chapter.

Section 3. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 191 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 4. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not

been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 5. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

DRAFT

City of Beacon Workshop Agenda
8/14/2017

Title:

"No Knock" Local Law

Subject:

Background:

ATTACHMENTS:

Description	Type
LL Do not solicit	Local Law

LOCAL LAW NO. ____ OF 2017

CITY COUNCIL
CITY OF BEACON

PROPOSED LOCAL LAW AMENDING
CHAPTER 163 OF THE CODE OF THE CITY OF BEACON

A LOCAL LAW to
amend Chapter 163 of
the Code of the City of
Beacon concerning
Peddling and Soliciting

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1. Chapter 163 of the Code of the City of Beacon, entitled “Peddling and Soliciting” is hereby amended to add subsection 9.1 as follows:

§ 163-9.1 “Do Not Solicit” list.

- A. The City Clerk shall maintain a “Do Not Solicit” list of City residents who do not wish to allow registrants under this chapter upon their property. The “Do Not Solicit list shall contain only the street address of the property and no personal ownership information.
- B. All residents shall be permitted to have their property listed on the "Do Not Solicit" list by submitting a written or electronic request to the office of the City Clerk.
- C. On a quarterly basis, the City Assessor shall notify the City Clerk of any change in ownership of property within the City, and the City Clerk shall remove from the “Do Not Solicit” list any property for which ownership shall have changed subsequent to the time of listing.
- D. Every registrant under this chapter shall be issued a copy of the then-current “Do Not Solicit” list simultaneously with the license issued by the City Clerk pursuant to § 163-10 hereof. Where more than one individual will be engaged in canvassing or soliciting activities on behalf of an organization, group, company or other entity, it shall be the obligation of that entity to provide true copies of the “Do Not Solicit” list to each such

individual. No canvasser or solicitor licensed under § 163-7 of this Chapter shall enter onto or into any property that is listed on the “Do Not Solicit” list.

- E. No canvasser or solicitor registered under this Chapter shall enter onto or into any property on which there is a sign or signs posted stating “No Solicitors” or conveying a similar message forbidding the entry of any person onto the property. It shall be the responsibility of registered canvassers and solicitors to check each residence for the presence of any such notice.
- F. Being listed on the “Do Not Solicit” list or the presence of such a sign shall constitute sufficient notice to any registered canvasser or solicitor of the intent of the occupant of the residence to be free from such solicitation or canvassing.
- G. It shall constitute a violation of this chapter punishable under § 163-12 for any registered canvasser or solicitor to go upon any premises and ring a doorbell, knock, or make or create any sound designed to attract the attention of the occupant with the purpose of gaining access to the occupant or entering onto or into the premises for the purpose of engaging in soliciting or canvassing where the premises is either included on the “Do Not Solicit” list or posted in the manner described in Subsection E of this section.

Section 2. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 163 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 3. Numbering for Codification

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 4. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 5. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

City of Beacon Workshop Agenda
8/14/2017

Title:

Sale of Real Property Located at 36 N. Cedar Street

Subject:

Background:

ATTACHMENTS:

Description	Type
Roundtable 1, Inc.	Cover Memo/Letter

Cover letter for N. Cedar, Beacon, NY

ROUNDTABLE 1, INC.

DAVID MARCINAK
2051 Route 17K
Montgomery, NY 12599
Phone: (914) 213-3902
Marcinak.David@yahoo.com
EIN #:81-3944827



New site plan will allow for 2 to 4 off-street parking spaces and 2 parking spaces in enclosed garage with the new building design with recessing of 2 existing garage door entry ways.

ROUNDTABLE 1, INC.

DAVID MARCINAK
2051 Route 17K
Montgomery, NY 12599
Phone: (914) 213-3902
Marcinak.David@yahoo.com

July 10, 2017

Roundtable 1, Inc. proposes the renovation of 36 North Cedar Street, former City of Beacon Garage, to a single family home.

We are interested in this property because it will create a new home for the future owners and at the same time will help to beautify North Cedar Street to a more inviting neighborhood to reside in.

Roundtable 1, Inc. recently completed a similar project in the successful renovation of 35 Catherine Street in the City of Beacon. The building was a former storage garage and is now a beautifully finished and landscaped home.

David Marcinak, owner of Roundtable 1, Inc., has 38 years of experience as a design/builder. David has completed multiple subdivisions and to date has successfully completed 42 custom homes.

Roundtable 1, Inc. looks forward to working with the City of Beacon to continue its model of success in the City's commendable restoration efforts that is a model to other small cities nationwide.

Sincerely,

David Marcinak
Roundtable 1, Inc.

Design and Development Team:

Project Architect: Hank Smith
Project Civil Engineer: Larry Paggy
Developer: David Marcinak

David Marcinak , *Carpenter , Operating Engineer ,Builder and Designer .*

David started building houses at age of 15 and continued his building experience and knowledge , each day/year till present day . Wishing to develop private subdivisions, David acquired skill and experience working with civil engineers , planning boards and architects in site concept development, to completion. During this time David also became a skilled operating engineer with the ability to manage road and site infrastructure constuction / for each respectful development . From town road construction to dwelling development.

David has designed and completed 42 custom homes in Orange , Ulster and now with the successful renovation of 32 Catherine St. in the City of Beacon Dutchess County can now be added to that list . Under current construction now , with approval of The City of Beacon Achitectural Review Board, is a 3 bedroom single family residence on Anderson St. City of Beacon.

David brings to each project 34 years of experience , passion and history that reflects his ability to bring to each development project to successful completion.

Design/Build Preliminary Schedule for Watkins, Beacon, NY (July 2017)

[illegible]

Proposed Renovations

36 North Cedar Street
North Beacon, NY



**Developer: David Marcinak
Roundtable 1, Inc.**

PROPOSED RENOVATIONS

THESE PLANS AND SPECIFICATIONS HAVE BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF THEY COMPLY WITH ALL CITY, STATE AND FEDERAL REQUIREMENTS, AND I AM NOT PROVIDING CONTRACT ADMINISTRATION.

CERTIFIED CORRECT

4/20/16

THIS DRAWING IS CONFIDENTIAL AND MY NOT BE LOANED, REPRODUCED, COPIED, EITHER WHOLLY OR IN PART, OR MADE PUBLIC IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF HANK SMITH ARCHITECTS, A PROFESSIONAL L.L.C. ALL RIGHTS OF DESIGN OR INVENTION ARE RESERVED AND WILL REMAIN THE SOLE PROPERTY OF HANK SMITH ARCHITECTS, A PROFESSIONAL L.L.C.

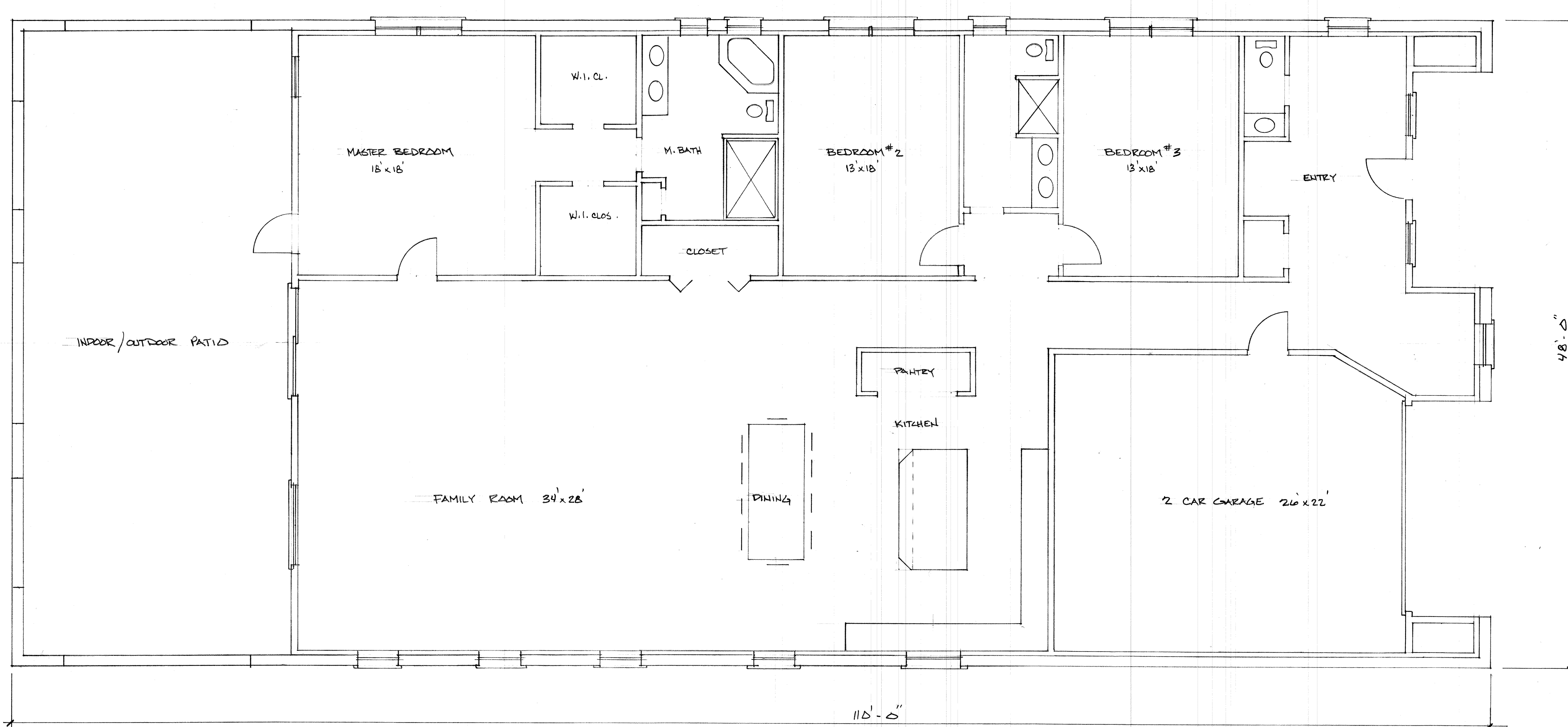
REVISION HISTORY			
NO.	DESCRIPTION	DATE	NAME

PROJECT #: 16-016
PHASE: PRELIMINARY
DRAFTER: GW
CHECKER: GW
SCALE: AS SHOWN
ISSUED: 4/01/2016

SHEET#

1 of 1

36 NORTH CEDAR ST. CITY OF BEACON GARAGE RENOVATIONS



FLOOR PLANS

City of Beacon Workshop Agenda
8/14/2017

Title:

Charter Revisions

Subject:

Background:

ATTACHMENTS:

Description	Type
Charter Report Pages 1-64	Backup Material
ES_KB memo	Cover Memo/Letter



Report of the City of Beacon Charter Commission

March 8, 2017

Members of the Commission

Pamela Barrack (Co-Chair)

Agnes Campagnone

William Cornett

Marko Guzijan

Charles Kelly, (Co-Chair)

Peter Nocerino

John Rembert

Candi Rivera

Brooke Simmons

Report of the City of Beacon Charter Commission

Table of Contents	Page 2
Commission Letter of Transmittal	Page 3 - 4
Introduction and Commission Process	Page 5
History of the Beacon Charter	Page 6 - 9
Commission Recommendations	Page 10 - 13
Appendices	
Draft Charter with Proposed Changes	Appendix I
Minutes of Commission Meetings	Appendix II
Study Materials Presented to the Charter Commission	Appendix III

CHARTER REVIEW COMMISSION



Pamela Barrack, Co-Chair
Agnes Campagnone
William Cornett
Candi Rivera
Marco Guzijan

Charles Kelly, Co-Chair
Peter Nocerino
John E. Rembert
Brook Simmons

March 27, 2017

Hon. Randy Casale
Mayor
City of Beacon
City Hall
Beacon, New York

Dear Mayor Casale:

Under cover of this letter, and in accord with the unanimous action of the Commission you appointed last July that we are honored to co-chair, we convey our recommendations for charter change in Beacon for consideration by you and City Council colleagues.

This charter review was undertaken to meet the requirement for periodic review in Article 9 of the current Beacon City Charter. Our proposals arise from a chapter by chapter consideration of the entire document; changes are recommended for ten of eleven articles.

We were joined on this commission by Agnes Campagnone, William Cornett, Marko Guzijan, Peter Nocerino, John Rembert, Candi Rivera and Brooke Simmons. To a person, their commitment to our city and willingness to engage in civil, informed discourse and debate greatly strengthened the product of our process.

We appreciate your personal engagement and contributions from your deep experience in city government, and the substantive ideas and excellent administrative coordination provided by City Administrator Anthony Ruggiero. We were assisted in by Gerald Benjamin at the Benjamin Center at SUNY New Paltz, and two undergraduate student interns: Nicole Cagar and Timothy Toomey. (Materials provided by the Benjamin Center and meeting minutes are appended to this report.) Excellent legal advice, guidance and drafting of recommended charter changes was provided by city's counsel, Nicholas Ward-Willis and his associate Drew Victoria Gamils of the firm Keane and Beane P.C..

Our commission had recommendatory power only. Implementation of any or all of the charter changes we forward here is entirely at the discretion of the City Council. Most may be effected by local law. If advanced by the Council, those that concern the compensation of elected official or their terms of office will require a public referendum.

We and our colleagues are, of course, available to you as your deliberative process regarding these proposed charter changes proceeds. Thank you for the opportunity to serve our city and contribute to its future growth and well-being.

Sincerely,

Pamela Barrack,
Co-chair

Charles Kelly,
Co-chair

Report of the City of Beacon Charter Commission

In accord with the requirements of the Beacon city charter, and pursuant to a resolution passed by the City Council on July 18, 2016 Mayor Randy Casale appointed a commission to “...review the Charter and to make recommendations to the Mayor and the City Council for revision or amendment.” (§9.04) Commission membership was bipartisan, included people with a range of public and private sector experience and reflected the diversity of the city’s population. Members included: Pamela Barrack (Co-Chair), Agnes Campagnone, William Cornett, Marko Guzijan, Charles Kelly, (Co-Chair), Peter Nocerino, John Rembert, Candi Rivera and Brooke Simmons.

The city retained Gerald Benjamin of the Benjamin Center at SUNY New Paltz to support its work. Legal advice and support was provided by the city’s counsel, Nicholas Ward-Willis and his associate Drew Victoria Gamils. The mayor and City Administrator Anthony Ruggiero attended commission meetings to inform its deliberations.

The mayor convened the commission for its initial meeting on September 15, 2016. A monthly meeting schedule was established, with more frequent meetings as the Commission approached the completion of its work during the first quarter of 2017. An initial presentation of possible recommendations for public consideration and comment occurred on March 8, 2017. This was followed by a presentation of the Commission’s final report at a workshop meeting of the council on March 27, 2016.

All meetings were held at the Beacon City Hall. Commission meeting dates were September 15, October 6, November 3 and December 15 in 2016 and January 5 and 19 and February 6 in 2017. All meetings were advertised in accord with standard city practice, and open to the public. A record was kept of all meetings. Minutes were reviewed and approved by the commission.

Under Section 9.04 of the City Charter, the commission’s powers are advisory. The role of the commissions is to make recommendations to the Mayor and the City Council, the Commission may not place matters directly on the ballot for approval. At its initial meeting the commission determined that it would make its recommendations in accord with a schedule that would allow the Council to put any recommendations on the ballot that it supported and that require approval by citywide referendum on the 2017 general election day, November 7, 2017.

The commission decided to undertake a comprehensive article-by-article review of the charter. It solicited ideas for charter changes from the city’s current and former elected leaders and department heads, in a process coordinated by the city administrator. Gerald Benjamin organized presentations around these proposals for the commission’s monthly meetings. The presentations considered the relative merits of the provisions under study in the Beacon charter and compared the City of Beacon’s practices to practices adopted by other New York cities of similar size and available political science and public administration research. These presentation materials were provided in advance to commissioners, the mayor and the city administrator and posted to the city website, and are appended to this report. (See <http://www.cityofbeacon.org/Government/crc.htm>, last visited on January 24, 2017)

History of the Beacon City Charter

By a majority of two to one, and after decades of failed efforts, the voters in the adjoining villages of Fishkill Landing (incorporated in 1864, reincorporated in 1878) and Mattewan (incorporated in 1886) voted on March 15, 1910 to combine and seek a charter for an as yet unnamed city. A small portion of the hamlet of Glenham in the Town of Fishkill was also included within the city limits. The name Beacon was subsequently adopted, after the display of signal fires on Beacon Mountain during the revolutionary war to warn General George Washington in Newburgh across the Hudson of the approach of the British forces.¹

Influenced by the national progressive movement, which sought to make city government more “businesslike” and less partisan, advocates of Beacon’s incorporation proposed to the state legislature a charter that featured a commission form of government, a model newly devised in Galveston Texas following devastating flooding there just after the turn of the century. At the time that chartering the City of Beacon was being advocated, states across the country, including neighboring New Jersey, were by law providing their cities the option of adopting a commission form of government.² In 1913, in Pennsylvania, the commission form of government was actually mandated for smaller cities.³ Beacon modeled its first charter on one adopted by Grand Junction, Colorado in 1909.

Other progressive ideas - including nomination for public office by primary, lawmaking by the use of the citizen initiative and referendum, and a process for recall of elected officials - were central to public debate about reform New York state government in the late 19th and early 20th centuries. Because they targeted “political machines,” these were resisted by entrenched party stalwarts in Albany in both major political parties. Reform advocates were mostly Republicans.

There was no home rule process for city charter adoption in 1910, therefore an act of the state legislature was required to approve and implement the City of Beacon’s proposed charter. The Beacon charter was introduced in Albany amidst this broader debate by Assembly member John T. Smith and State Senator John F. Schlosser, both of whom were on Beacon’s Charter Commission.

In its original form the Beacon charter provided for a mayor, commissioner of accounts, commissioner of finance, commission of public works and commissioner of public safety. In addition to serving as department heads, commissioners sat together to comprise the city council, presided over by a mayor who headed the police and fire departments and was charged with “general oversight of all departments.” The five commissioners were to be elected citywide for four year terms by a system of “rank order” voting. All were part-time except the commissioner of accounts, who served also as clerk of the council, purchasing agent, assessor and tax collector. The draft charter included provisions for initiative referendum and recall.⁴

¹ “Hudson Towns Consolidate.” *New York Times* March 26, 1910 p. 9. David Levine. “A History of Beacon as it Celebrates its Centennial in 2013” <http://www.hvmag.com/Hudson-Valley-Magazine/June-2013/A-History-of-Beacon-As-It-Celebrates-Its-Centennial-in-2013/> Last visited January 29, 2017

² See Ernest S. Griffith. *A History of American City Government: The Progressive Years and Their Aftermath, 1900-1920* (Published for the National Municipal League in New York: Praeger Publishers, 1974) p.59.

³ Martin J. Schiesl. *The Politics of Efficiency* (Berkeley: University of California Press, 1977) p. 138.

⁴ “For Commission Rule” *The New York Times* June 16, 1911, p.2.

Though he was a progressive and among the nation's leading reformers, Republican Governor Charles Evans Hughes vetoed Beacon Charter Bill, citing a "flaw" in the process for election of the governing commission.

The charter bill was reintroduced the next year by Smith, and Dutchess County's newly elected Democratic state senator, Franklin Delano Roosevelt, but another veto followed by Governor John A. Dix, a Democrat. A home rule advocate, Dix was critical of the large number of charters and the amount of charter amendment legislation taking the attention of the legislature. Cities had earlier been organized into three classes for their more general treatment in the state legislature.⁵ A general law specifying structural governance options for second class cities (those with populations between 50,000 and 175,000) was passed in 1908. The governor sought a similar law for third class cities (those with populations below 50,000). He wrote in his veto message on July 25, 1911:

"I intend to recommend to the legislature in 1912, and have ready for its consideration a uniform charter for all cities of the third class. Such charter should be most carefully prepared and be broad enough in its provisions to permit any existing community or communities by voting upon the question to adopt its provisions and thereafter be governed by such law."⁶

Some regarded the use of a single model city charter to be applied to all New York's smaller cities as problematic. They thought Governor Dix's argument disingenuous, a mask for Democratic Party leadership resistance to some of the progressive reform elements of Beacon's proposal.⁷ In fact, the "optional city charter act" introduced in 1912 provided five different alternatives for structuring city government: two mayor council systems with council members elected at large; one mayor council system with members elected from wards; a council manager system; and a "so called commission plan."⁸

This law failed of passage, but was reintroduced in 1913 with the support of Governor William Sulzer, also a Democrat.⁹ Again it did not pass. But this time the governor did sign into law a separate act creating the City of Beacon.¹⁰ Excluding from that charter provisions for initiative, referendum and recall - "western innovations" provocative for incumbent legislators of both parties - appears to have been the price of passage. In the first city election, a Citizens-Progressive ticket defeated a Union Ticket, comprised of Republican and Democratic Party candidates.^{11 12}

In its third annual report the Beacon city government summarized the virtues of the commission form:

⁵ New York State Constitution of 1894. Article XII §2.

⁶ New York State. *Public Papers of John Dix, Governor, 1911* (Albany: J.B. Lyons and Company, 1912) p 213. Note: Cities of the 3rd class were New York's smallest cities in population.

⁷ Beacon's Commission Charter. *New York Times* July 31, 1911 p.6. "Gov. Dix's Beacon Veto." Letter of Henry Gates, *New York Times* August 2, 1911, p. 6.

⁸ . New York State. *Public Papers of William Sulzer, Governor.* (Albany: J.B. Lyons and Company, 1913)

⁹ . In a famously contentious process, and as a result of an intra-Democratic party fight, Sulzer became the only New York Governor ever to be impeached. See Mathew Lifflander. *The Impeachment of Governor William Sulzer* (Albany: SUNY Press, 2012).

¹⁰ Chapter 539, *Laws of 1913*.

¹¹ . "Progressives Win Beacon" *New York Times* June 13, 1913, p. 18.

¹² "City of Beacon is Born" *New York Times* July 1, 1913 p.2.

“It is not claimed for Commission government that it is a panacea for all ills, but it is certainly a step in the right direction. It centers power in the hands of a few men. It gives administrators and new idea of the job. It takes away the old fiction that the city’s public business serves as the cradle of our liberty and substitutes toe conception of the city as a business enterprise.”¹³

The city’s original charter was revised in 1915, when Republicans recaptured control of state government.¹⁴ Most changes were minor, however, a major provision was added to assure the city’s ability to levy the property tax, and specify the process for doing so.¹⁵

The commission form achieved considerable early success; before it fell out of favor, it was tried in about 500 different cities across the United States. But then the council manager form was developed and came to be preferred by The National Municipal League, the great center of organized effort for municipal reform and the force for the development professional of city management in America.¹⁶ Detractors of the commission form said:

“(1)Commissioners chosen by the voters... too often lacked experience and competence for administrative work. (2) ...The plan combined legislative and executive functions in the same hands... (3)...it confused responsibility and scattered control between the commissioners as a body and as individuals. (4) Rivalry and lack of cooperation developed between the commissioners as well as log-rolling, deadlocks, and “deals.” The need of a coordinating official such as a mayor or manager was felt. (5) City employees sometimes engaged actively in politics in behalf of favorite department heads. And (6) under the plan the majority [in the city] alone, as a rule, obtained representation on the commission.”¹⁷

By 1938 there remained five cities with commission forms of government in New York State: Beacon, Glenn Cove, Mechanicville, Saratoga Springs and White Plains. Under “home rule” provisions earlier written into state law, in 1948 citizens of Beacon organized in a Rent Payers and Taxpayers Association petitioned for charter change.¹⁸ Modeled on an earlier effort in Yonkers, they sought a professional city manager, a requirement for an experienced credentialed engineer to head of the city public works department and a council comprised of six members and a presiding mayor without executive authority. The council was to be elected at-large by proportional representation (PR).

Proportional representation proved to be a poison pill. Adopted by New York City in 1936, the use of this process for electing the New York City Council resulted in the election of communist members, and was systematically targeted for repeal by both major party leaders.¹⁹ An attempt to amend the state

¹³ City of Beacon. *3rd Annual Report*, 1915 (Deposited in the Beacon Public Library)

¹⁴ Chapter 547 *Laws of 1915*

¹⁵ Chapter 547 *Laws of 1915*, Title 8.

¹⁶ Frank Mann Stewart. *Half Century of Municipal Reform: The History of the National Municipal League* (Westport: Greenwood Press, 1950) pp. 74-75.

¹⁷ Changes in American City Government.

<http://library.cqpress.com/cqresearcher/document.php?id=cqresrre1930060200>

¹⁸ Poughkeepsie Journal July 7, 1948

¹⁹ See Robert J. Kolsar. “Communism, Race, and the Defeat of Proportional Representation in Cold War America” Presented at New England Historical Association Conference Amherst College, Amherst, Massachusetts, April 20, 1996.

constitution to bar the use of proportional representation in elections failed at the polls in 1938.²⁰ In Beacon, the heads of both the Democratic and Republican Parties denounced the proposed charter as likely to lead to higher costs for city government, diminish the range of voter choice and elevate social, economic and religious divisions in the city. GOP chair Carelton H. Jones explicitly described proportional representation a “communist scheme.”²¹ The proposed charter was defeated.

A charter commission was created in 1974 by the City Council under Mayor Robert L. Cahill, but it failed to reach an outcome. A second effort to adopt the city manager system occurred with the creation of a fifteen person bipartisan Charter Revision Commission for the City in 1985. It found that only 178 cities in the nation still operated with commission systems in 1983. According to a member of its executive committee, David Lemon, this commission held more than one hundred meetings over two years to develop a document that, in addition to a professional manager, it called for a seven person council with four members elected from wards and a mayor and two members elected at large.²² The mayor would serve for four years, council members for two.

A vote on the proposal was scheduled for a special election in Jun of 1987. The city was described as gripped by “Chartermania.”²³ Advocates organized as Beacon Citizens for Charter Reform conducted a vigorous door-to-door campaign. Describing the commission form as a “dinosaur heading for extinction” the *Poughkeepsie Journal* supported the proposed charter. The papers’ editors cited Beacon’s need for full-time leadership, professional management, financial accountability and long term planning.²⁴ Opposition was organized as “Friends of Beacon.” Among the organized opponents were the city’s unionized employee’s, who said they were concerned about increased expense rising from the creation of new positions and continuous campaigning resulting from a two year term for the council. Some in the city government preferred the status quo; others thought a strong mayor form of government better for the city than the manager form. The charter was narrowly defeated at the polls.

Advocates persisted in the wake of this defeat. A Citizens Commission for Charter Revision was formed. It offered and won adoption of a hybrid plan based on the failed 1987 proposal; it incorporating a two year term for council members and strong mayor as the city’s chief executive.²⁵ This is the current Beacon City charter, adopted in 1989. A series of amendments were passed in 1991 and 1992, reflecting needs that arose from experience with early charter implementation. These are documented in the current draft of the charter. Further amendments were made in 1995, 1996, 1999, 2000, 2004, 2006, 2007, 2009, 2010, 2012, 2014, 20015 and 2016. As required by the charter, a commission was formed and met ten years after initial adoption of the new charter. It made no recommendations.²⁶

²⁰ [https://ballotpedia.org/New_York_Voting_by_Proportional_Representation,_Amendment_7_\(1938\)](https://ballotpedia.org/New_York_Voting_by_Proportional_Representation,_Amendment_7_(1938))

²¹ *Poughkeepsie Journal* August 12,13 and October 3 1948.

²² Letter to the Editor. The *Poughkeepsie Journal* MAY 23, 19187 P. 4A.

²³ *Poughkeepsie Journal* June 28 1987 p. 7A.

²⁴ “Time for a Change in the Beacon Charter,” *The Poughkeepsie Journal* June 21, 1987 P.18A.

²⁵ *Poughkeepsie Journal* October 29, 1989 p. 12B.

²⁶ Telephone interview with Judge Peter Forman, February 23, 2017. Judge Foreman was a member of this commission.

Charter Changes Proposed by the Charter Commission

General

Renumber of document throughout, to assure consistency in reference

Change language where necessary to make the charter gender neutral

Note: Article and section numbers used below are current, and do not reflect proposed renumbering.

Note: Many changes in charter detail are proposed by the commission to reflect current practice in the city, or to facilitate more efficient daily administration of the city government. Where a policy discussion is anticipated regarding proposed charter change, the commission offers here a brief summary of the reasoning behind its proposal. Additional supportive materials are available in the consultant's presentations, provided in the attached appendix.

Article 1

1.07.B Alter slightly language regarding the procedure for sale of public property to remove ambiguity.

1.16 Remove ward descriptions from the charter. Ward boundaries to be set forth in the code, and connected to the decennial redistricting provision.

Article 2

2.00.A. Change the word "compensation" to "composition"

Change the word "district" to "ward" wherever it appears in the charter to reflect local usage and for consistency.

2.00.D. Election Process – strike this language as no longer needed: “The first city election under this Charter shall be held on the first Tuesday in November in the year 1991 and in conformity with the Election Law. The terms of the officers so elected shall begin on January 1, 1992. Thereafter, regular elections shall be held as provided by this Charter, to elect successors to those officers whose terms are about to expire.”

2.00.D(2-3). At-large council members to be elected for four years, ward based members for two years.

The commission considered the potential value of staggered elections for at-large members of the council, to achieve greater continuity in government. New York's constitution requires that city elections be held in odd numbered years. A staggered election would therefore require four year terms for these members. The commission ultimately decided against staggering, as

members came to believe that this would elevate conflict in city government. The commission reasoned that the at-large members not elected simultaneously with the mayor would have an additional incentive to challenge him or her for that position because he or she might do so without risking his or her incumbency. This would increase the likelihood that he or she might use council meetings to establish a political rationale for such a challenge. During the course of their discussion, however, the commission members came to believe that four year terms for at-large members elected simultaneously with the mayor would be desirable for encouraging longer-term thinking and planning in city decision making, with the understanding that a majority in the council would remain with members elected from wards, elected for two years, who remain closely attune to neighborhood concerns and interests.

2.02 Remove health benefits for council members from the charter, accompanied by a \$2000 raise for council members and a proportional \$5,000 raise for the mayor. Members would be permitted to buy insurance through the city plan.

Provisions for health insurance benefits for elected officials in a city charter are rare. No other examples of this practice were found elsewhere in New York. Moreover, a majority of the commission believe that the city should not provide such benefits for part-time elected officials. The value of these benefits exceeds the salary for council members. Members who accept these benefits are therefore effectively compensated at a much higher rate than are colleagues who do not, creating an inequity. The commission proposes that elected officials be allowed to purchase health insurance through the city, and suggests a salary increase to help cover the cost of doing so. The proposed increase in the salary for the mayor is proportional to that for members of the council.

2.04 Strike this language as unneeded: “The Mayor shall submit a yearly planning report to the Council no later than June 1.”

2.14 Timing of Reporting Independent Audit – Change from April 30 to June 30.

2.16.A Revise language to require Mayor’s office to prepare the agenda the Friday before each meeting.

2.16.C. Workshop meetings: More precise language is provided regarding procedure for addition of items to the agenda by Council members.

2.26 Switch to electronic publication of ordinances

Article 3

3.00.7 Change the deadline for Mayoral financial reporting from March 1 to May 1

3.00.(6) and (12) Purchasing authority – Alter to reflect current practice, adding purchasing to duties of administrator or his or her designee.

3.01A – Each time the Council reorganizes, by a date certain, the City Administrator will recommend and mayor specify persons who might serve as an acting administrator if the administrator is absent or unable to do so for 30 days or more. (Provision of additional compensation will be addressed in each specific circumstance.)

Article 4

Article 4 Language regarding individual departments will be retained. Language included at the time of the original adoption of charter to give assurance to existing departments and officials to be removed.

4.02 Add the word "firm" to the charter to make clear that the appointee as city attorney need not be a named individual person.

4.06 The commission recommended broadening language regarding qualifications required to be head of the city finance department to deepen the potential recruitment pool.

4.16 City Officers. The Commission agreed that certain offices need not be specified in the charter: e.g. Code Enforcement, Fire Inspection Coordinator

Article 5.

5.06.E. Language is added to assure that default budget, if necessary, conforms to state limits and requirements in law.

5.10.D Transfer of Appropriations: Change \$3,000 to \$7,500 threshold for mandatory review and action by the Council to give the administrator greater flexibility in daily management of the city government. This partly reflects the effects of inflation.

Section 5.14 Public moneys

Remove Section A as redundant and duplicative of other charter provisions (e.g. Section 4.06)

Retain Section B but reword to reflect the technology currently used to make payments and move to Section 5.12.

Article 6

Section 6.00 Comprehensive Plan— Alter Section A and remove sections C, D as duplicative of procedures specified in NY General City Law.

6.02.B. Delete Section 6.02.B as duplicative of State Law.

6.02.C. Add “resiliency and sustainable” operation of public facilities as goals.

Article 8.

8.00 Bonding Process: Commission agrees to retain \$250,000 threshold for Permissive Referendum

Article 9

Section 9.05 add term “quasi-contract” to accommodate results of recent litigation.

Article 10

Remove unneeded transitional provisions.

Article 11

Move Article 11 to come after Article 5 Financial Procedures.

.

Draft Charter with Proposed Changes

Appendix I

Chapter C. Charter

Article 1. Title; Powers of City; Boundaries

Sec. 1.00. Short title.

This Charter shall be known and may be cited as "Charter of the City of Beacon."

Sec. 1.~~02~~01. Purpose.

The purpose of this Charter is to provide the legal framework for organizing and operating the government of the City of Beacon.

Sec. 1.~~04~~02. Corporate name.

The City of Beacon, hereinafter referred to as the "city," shall continue to be a municipal corporation in perpetuity, as heretofore established and as provided by law, under the name "City of Beacon."

Sec. 1.~~06~~03. Powers of the city.

The city shall have all powers granted to a city of its population under the constitution and laws of the State of New York, as fully and completely as though they were specifically enumerated in this Charter.

Sec. 1.~~07~~04. Authorization to sell or convey city-owned property.

The purpose of this chapter is to supersede General City Law § 23(2)(b) so as to authorize the public or private sale or lease of real property owned by or in the control of the city through public or private transaction.

- A. Authorization for sale or lease. The City Council may by a resolution adopted by majority vote, sell, convey, exchange, grant or release any city real estate or franchise belonging to or under the control of the city at public or private sale, and grant rights or interests in, over, under and across any real property in which the city has any right, title or interest, for such consideration and upon such terms and conditions as the City Council may deem proper, and with respect to the sale of surplus real property, such terms and conditions may include purchase money mortgages, installment contract sales and any other means of selling and financing.
- B. Procedure for sale at public auction. Real property owned by the city leased, sold or otherwise alienated by public sale shall be at public auction or by sealed bid to the highest bidder, under proper regulations as to the giving of security and after public notice of the time and place and terms of such sale has been published at least once in the official newspaper of the city at least one week prior to such sale.

Sec. 1.~~0805~~. Vested rights and duties.

All property, power, contracts, local laws, ordinances, rules, regulations, obligations and liabilities of the city existing at the time of adoption of this Charter, unless explicitly superseded by this Charter, shall be in no way affected or changed by its adoption. All actions and proceedings pending for or against the city at the time that this Charter takes effect shall be continued unless the parties shall otherwise stipulate.

Sec. 1.~~0610~~. Construal.

The powers of the city under this Charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general powers stated in this Article or provided by the laws of the State of New York.

Sec. 1.~~1207~~. Intergovernmental relations.

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one (1) or more states or civil divisions or agencies thereof, as authorized by the Constitution and Laws of the State of New York.[1]

Sec. 1.~~1608~~. Boundaries of the wards.

The city shall be divided into four wards, the boundaries of which shall be set forth in the City Code and reviewed and adjusted as appropriate within six months after publication of the results of each Federal decennial census. ~~The current ward boundaries are as follows (all references to a street refer to its center line; all references to a compass point are approximate):~~

~~Ward One:~~

~~From the point on the western city boundary where it touches Red Flynn Drive; then~~

~~South on Red Flynn Drive, across the railroad overpass to Beekman Street; then~~

~~Northeast on Beekman Street to North Avenue; then~~

~~South on North Avenue to Main Street; then~~

~~East on Main Street to Fishkill Avenue; then~~

~~North on Fishkill Avenue to Verplanck Avenue; then~~

~~West on Verplanck Avenue to Matteawan Road; then~~

~~North on Matteawan Road to Camp Beacon Road; then~~

~~North on Camp Beacon Road and continuing in the same direction to the northern city boundary; then~~

~~10. Along the northern and western city boundaries back to the starting point.~~

~~Ward Two:~~

~~From the point on the western city boundary where it touches Red Flynn Drive; then~~

~~South on Red Flynn Drive, across the railroad overpass to Beckman Street; then~~

~~Northeast on Beckman Street to North Avenue; then~~

~~South on North Avenue to Main Street; then~~

~~East on Main Street to Teller Avenue; then~~

~~South on Teller Avenue to Wolcott Avenue; then~~

~~West on Wolcott Avenue to Sargent Avenue; then~~

~~South on Sargent Avenue to South Avenue; then~~

~~South on South Avenue to the midpoint of Fishkill Creek; then~~

~~South along the midpoint of Fishkill Creek to the southern city boundary; then~~

~~Along the southern and western city boundaries back to the starting point.~~

~~Ward Three:~~

~~From the point on the eastern city boundary where Mount Beacon Monument Road crosses; then~~

~~West on Mount Beacon Monument Road to East Main Street; then~~

~~West on East Main Street to Washington Avenue; then~~

~~North on Washington Avenue to Grove Street; then~~

~~West on Grove Street to Liberty Street; then~~

~~South on Liberty Street to East Main Street; then~~

~~West on East Main Street to Main Street; then~~

~~North on Main Street to Verplanck Avenue; then~~

~~West on Verplanck Avenue to Matteawan Road; then~~

~~North on Matteawan Road to Camp Beacon Road; then~~

~~North on Camp Beacon Road and continuing in the same direction to the northern city boundary; then~~

~~Along the northern and eastern city boundaries back to the starting point.~~

~~Ward Four:~~

~~From the point on the eastern city boundary where Mount Beacon Monument Road crosses; then~~

~~West on Mount Beacon Monument Road to East Main Street; then~~

~~West on East Main Street to Washington Avenue; then~~

~~North on Washington Avenue to Grove Street; then~~

~~West on Grove Street to Liberty Street; then~~

~~South on Liberty Street to East Main Street; then~~

~~West on East Main Street to Main Street; then~~

~~North on Main Street to Verplanck Avenue; then~~

~~West on Verplanck Avenue to Fishkill Avenue; then~~

~~South on Fishkill Avenue until it turns into Teller Avenue; then~~

~~South on Teller Avenue to Wolcott Avenue; then~~

~~West on Wolcott Avenue to Sargent Avenue; then~~

~~South on Sargent Avenue to South Avenue; then~~

~~South on South Avenue to the midpoint of Fishkill Creek; then~~

~~South along the midpoint of Fishkill Creek to the southern city boundary; then~~

~~Along the southern and eastern city boundaries back to the starting point.~~

Article 2. City Council

Sec. 2.00. Composition; eligibility; election; terms.

- A. ~~Compensation~~Composition. There shall be a City Council of six (6) members and a Mayor. The term "Council" or "City Council" shall include the Mayor unless said Mayor is excluded by express provision therefrom or by operation of law. Two (2) of the Council members will be elected at-large, and the remaining four (4) Council members will be elected from ~~districts~~ wards, the boundaries and dimensions of which shall be determined by the City Council, in conformity with constitutional requirements and the requirements of the Laws of the State of New York.
- B. Eligibility. Only qualified voters of the city shall be eligible to hold the office of Council members and Mayor. Any such elected officer of the city shall vacate ~~his-the~~ office upon removal of his/her domicile from the city and shall be disqualified from holding such office.
- C. Qualifications. Every elected or appointed city officer shall possess the qualifications prescribed by the Public Officers Law of the State of New York, except as otherwise provided in this Charter.
- D. Election and terms. ~~The first city election under this Charter shall be held on the first Tuesday in November in the year 1991 and in conformity with the Election Law. The terms of the officers so elected shall begin on January 1, 1992. Thereafter, regular elections shall be held as provided by this Charter, to elect successors to those officers whose terms are about to expire.~~
- (1) The Mayor shall be elected for a term of four (4) years.
- (2) ~~The-Ward based~~ Council members shall be elected for a term of two (2) years.
- (3) At-large Council members shall be elected for a term of four (4) years and elected simultaneously with the Mayor.
- (3)(4) Four (4) Council members shall each represent one (1) of the four (4) ~~districts~~ wards of the city, and a Council member representing such ~~district-ward~~ shall be domiciled and a qualified voter therein.

Sec. 2.~~0201~~. Compensation and expenses.

The salary for each of the six (6) Council members shall be ~~nine-eleven~~ thousand dollars (\$~~911~~,000.) per annum, and for the Mayor ~~twenty-thirty-five~~ thousand five hundred dollars (\$~~2530,500~~.) per annum. The Council may determine the compensation of the Council members and for the Mayor by ordinance. This includes, but is not limited to, salary, health insurance and/or other fringe benefits. Council members and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office. In addition, the Council members and the Mayor shall have the option of receiving health insurance benefits, individual or family coverage, through the City of Beacon's health insurance plan. Council members and the Mayor shall be required to pay all premium costs associated with

~~health insurance coverage. The City's contribution toward the premium cost of providing this coverage, individual or family, shall be at the same percentage contribution rates as is provided to the City's department heads.~~

Sec. 2.0402. Mayor.

The Mayor shall preside at meetings of the Council and shall be recognized as chief executive officer of the city government. The Mayor shall appoint the Council Secretary. The Mayor, with the consent of a majority vote of the Council, shall appoint all members to, and fill all vacancies on, all boards, commissions and similar bodies created and authorized by state law or this Charter. The Mayor may appoint, from time to time, such nonsalaried advisory committees as may be necessary to make nonbinding recommendations as to those matters which they are assigned to review. ~~The Mayor shall submit a yearly planning report to the Council no later than June 1.~~

Sec. 2.0603. Prohibitions.

- A. Holding other office. Except where authorized by law, no Council member shall hold any other city office or employment during the term for which elected to the Council; and no former Council member shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which elected to the Council.
- B. Appointments and removals. Neither the Council nor any of its members, with the exception of the Mayor, shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the Mayor or any subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Mayor anything pertaining to appointment and removal of such officers and employees.
- C. Interference with administration. Except for the purpose of inquiries and investigations under Section 2.1206, neither the Council nor any of its members shall direct or otherwise manage any city officer or employee, other than through the City Administrator or Mayor.

Sec. 2.0804. Vacancies in elective office.

- A. Creation of vacancies. A vacancy in an elective office shall exist when the person elected fails to qualify for the office within thirty (30) days thereafter, dies, resigns, ceases to be domiciled in the city and/or ward from which elected, is determined to be either mentally or physically incompetent to perform the duties for which that person was elected or is convicted of a felony or a crime involving a violation of oath of office or when a judgment of a court declares the election void, the office forfeited or vacant or when the person fails or refuses to file the official oath or undertaking as prescribed by law.

- B. Procedures. If a vacancy shall occur in any elective office of the city (with the exception of Mayor), otherwise than by expiration of term, the Mayor, with the consent of the majority of the City Council, shall appoint a duly qualified person to fill such vacancy until a successor is chosen in accordance with the Public Officers Law. If a vacancy in an elective office is not filled by the Mayor with Council approval within forty-five (45) days of its occurrence, the Council shall have the power to fill such vacancy by four (4) affirmative votes of the Council. In the event that no appointment is made to fill the vacancy as hereinbefore provided, the Council may call a special election to fill such vacancy for the unexpired term. Such a special election shall be held no later than ninety (90) days from the occurrence of the vacancy. If the vacancy shall occur in the office of Mayor, the City Council, by a majority vote of its members, shall appoint a duly qualified person to fill such vacancy until a successor is chosen in accordance with the provisions of the Public Officers Law. In the event that no appointment is made to fill the vacancy in the office of Mayor within forty-five (45) days of its occurrence, the Council may call a special election to fill such vacancy for the remainder of the unexpired term. Such a special election shall be held no later than ninety (90) days from the occurrence of the vacancy. During the interim, the person so appointed as Mayor pursuant to Chapter 23 of the Code of Ordinances shall perform the duties of Mayor until the vacancy is filled as hereinabove provided and shall assume the additional compensation for Mayor while assuming those duties.
- C. In the event there is a conflict with the language contained in either Chapter 19 or Chapter 23 of the Code of Ordinances, the terms of this section shall supersede the provisions in Chapters 19 and 23 of the Code of Ordinances entitled "Continuity of Government" and "Disaster Preparedness Committee," respectively.

Sec. 2.~~1905~~. Judge of qualifications.

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of and removal from their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office other than those grounds causing an immediate vacancy, by operation of state law, shall be entitled to a public hearing on demand, after seven (7) days' written notice. Notice of such hearing shall be published in one (1) or more newspapers of general circulation in the city at least one (1) week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts. In determining the qualifications of its members, the Council shall use the standards set forth in the Public Officers Law and General Municipal Law, and such additional standards as may be enacted by Charter amendment or local law, provided that the same are not inconsistent with the Public Officers Law or General Municipal Law.

Sec. 2.~~1206~~. Inquiries and investigations.

The Council shall have access to all information concerning any aspect of the affairs of the city, and may request such information in writing. The Council shall also have the power to make formal investigations into any aspect of the affairs of the city, and for such purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails to obey any subpoena or lawful directive of the Council pursuant to this section shall be punished as provided by law for contempt.

Sec. 2.~~1407~~. Independent audits.

The Council shall obtain an independent audit of all financial accounts at least once annually. Such audits must be conducted by a certified public accountant who has no direct personal interest in the financial affairs of the city government or any of its officials. The annual audit must be reported to the Council and the public no later than ~~April 30~~ June 30 of each year.

Sec. 2.~~1608~~. Procedures.

- A. Meetings. The Council shall meet regularly twice in every month at such times and places as the Council may prescribe by rule. The Mayor's office shall prepare and make public a written agenda ~~the Friday at least two (2) working days~~ before each regular Council meeting. Special meetings may be held on the call of the Mayor or of four (4) or more members, and whenever practicable, upon no less than twenty-four (24) hours' written notice to each member. All meetings shall be public; however, the Council may recess for the purpose of discussing, in a closed or executive session, those topics or items for which the Public Officers Law allows a closed session. The general subject matter for consideration must be expressed in the motion calling for such closed session. Final action thereon shall not be taken by the Council until the matter is placed on the agenda.
- B. Rules and journal. The Council shall determine its own rules and order of business and shall provide for keeping of a full and accurate journal of its proceedings and communications, which shall be a public record. They shall provide for public comments at all meetings.
- C. Workshops. In order to prepare for regular meetings, the Council may meet in informal public workshops. Workshop meetings shall be subject to the same requirements as regular meetings with respect to notice, public attendance, advance public agenda, and public record. No formal legislative decision may take place at a workshop. Any Council member may request the Mayor add an item to the workshop agenda and if not added to the Agenda, a Council member may at the next workshop meeting request that the item be added to the end of the Agenda upon approval of a majority of the Council. Any Council member may refer to workshop any item of business that has not been previously reviewed in workshop and/or any item of business discussed at a regular meeting which requires further discussion.

D. A majority of the whole number of the Council, including vacancies, abstentions and any members disqualified, shall constitute a quorum, and the same number shall be necessary to perform and exercise any power, authority or duty of the Council.

E. Official newspaper. The Council shall designate on an annual basis an official newspaper or newspapers, which may be a daily or weekly newspaper of general circulation in the City of Beacon.

Sec. 2.1809. Action requiring an ordinance or local law.

The Council shall have the power to enact ordinances for any lawful purpose, within its powers, as provided and authorized by § 20 of the General City Law or any other statute of the State of New York. The Council may enact local laws, for any purpose authorized under the laws of the State of New York, pursuant to the procedures set forth by the laws of the State of New York for such enactments.

Sec. 2.2010. Ordinances in general.

All proposed ordinances must be presented, in writing, by the Council at least one (1) meeting before adoption, except for emergency ordinances as provided in Section 2.2412. All ordinances, resolutions and charter amendments adopted by the Council shall be recorded in the journal.

Sec. 2.2211. Franchises.

No franchise or renewal thereof shall be granted except upon a public hearing, a notice of which shall be published at least three (3) weeks before the date set for the hearing. The request for such franchise or renewal shall be on file with the City Clerk for public inspection for the three (3) weeks prior to the date of the hearing.

Sec. 2.2412. Emergency ordinance.

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting emergency clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) Council members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the

ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Sec. 2.~~2613~~. Publication of ordinances and resolutions.

The Council shall cause ~~a summary of the entire text of~~ every ordinance and of every resolution having the effect of law ~~to be printed in full in the minutes of the meeting at which they are introduced and adopted, and of the entire text of each amendment to this Charter, to be published promptly in the official newspaper following its adoption before it becomes effective.~~ The full text of the ordinances, resolutions and charter amendments shall be published on the City website and made available to the public, free of charge, from the City Clerk. ~~The published notice shall specifically state that a full copy of the ordinance or resolution may be obtained, free of charge, from the City Clerk.~~

Article 3. Mayor; Administrator

Sec. 3.00. Powers and duties of Mayor.

- A. ~~4.~~ The Mayor shall appoint, subject to Council approval, all city employees, department heads and administrative officers provided for by this Charter, created by the Council, authorized or approved by the Council or required by State Law.
- B. ~~2.~~ The Mayor shall have the power to remove, suspend or terminate any and/or all city employees, department heads, and/or administrative officers where and when the Mayor deems it necessary, except as otherwise provided for by this Charter or personnel rules adopted pursuant to this Charter and/or state law.
- C. ~~3.~~ The Mayor may authorize any administrative officer who is subject to the Mayor's authority and supervision to exercise any of the Mayor's powers with respect to subordinates in that officer's department, office or agency.
- D. ~~4.~~ The Mayor shall direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this Charter or by law.
- E. ~~5.~~ The Mayor shall see that all laws, provisions of this Charter and acts of the Council subject to enforcement by the Mayor or by officers or subject to the Mayor's direction and supervision are faithfully executed.
- F. ~~6.~~ The Mayor shall direct the City Administrator to prepare the budget ~~prepare~~ and submit the annual budget and capital program to the Council.
- G. ~~7.~~ The Mayor shall submit to the Council and make available to the public by ~~March~~ May 1 each year a complete written report on the finances and administrative activities of the city as of the end of the prior year.

- H. ~~8.~~ The Mayor shall make such other reports as the Council may require concerning the operations of city departments, officers and agencies subject to the Mayor's direction and supervision.
- I. ~~9.~~ The Mayor shall keep the Council fully advised as to the financial condition and future needs of the city and make recommendations to the Council concerning the affairs of the city.
- J. ~~10.~~ The Mayor shall perform such other duties as are specified in this Charter or may be required by the Council.
- K. ~~11.~~ The Mayor shall sign ~~all~~ contracts when authorized and approved by the Council.
- L. ~~12. The Mayor shall designate a purchasing agent who shall be responsible for all city purchases.~~
- M. ~~13.~~ The Mayor, as the chief executive officer of the city government, shall represent the city at functions which require official representation.
- N. ~~14.~~ The Mayor shall notify the City Council of the expiration dates of all appointed positions that are subject to this provision, at least sixty (60) days prior to said expiration date. The Mayor shall also post a notice ~~at City Hall~~ on the City website and publicly announce all such expiration dates at the same time as Council notification. Resignations shall be announced at the first Council meeting following the receipt of said notice of resignation by the Mayor.
- O. ~~15.~~ Nominations and applications for such positions shall be accepted from both the Council and the public for a two-week period following said notification. Applications received by the Mayor prior to the notification set forth above shall also be considered for these positions.
- P. ~~16.~~ Proposed appointments by the Mayor will not be added to the agenda between the adjournment of a workshop session and the commencement of the following City Council meeting.

Sec. 3.01. Acting City Administrator.

- A. Each year ~~the~~ the City Administrator shall recommend to the Mayor two individuals qualified to fill in as Acting Administrator. At the beginning of the year, at the annual reorganization meeting, the Mayor shall publicly announce and approve the two individuals. If and when an Acting City Administrator is required to perform the duties of City Administrator, a resolution shall be approved by the City Council appointing one of the two individuals. Council hereby creates the position of Acting City Administrator who may be appointed by the Mayor, subject to Council approval, whenever the Mayor determines that An Acting City Administrator may be appointed, whenever the Mayor determines that:

- (1) The City Administrator is medically unable to perform his ~~or~~ / her duties full-time;
- (2) The City Administrator is or will be on a leave of absence or vacation for more than ~~five (5) days~~ thirty (30) days;
- (3) The City Administrator is prevented by an emergency from carrying out his ~~or~~ / her duties;
- (4) The City Administrator has resigned or is terminated.

B. Qualifications.

- (1) If the Acting City Administrator is expected to perform for less than three (3) consecutive months, the Acting Administrator shall possess a baccalaureate degree from an accredited college or university or at least one (1) year of special training in public administration and finance or at least three (3) years' successful experience in a responsible executive position in governmental administration, or any equivalent training or combination of experience and training sufficient to indicate capacity for effective governmental administration.
- (2) If the Acting Administrator is expected to or does perform in that capacity for more than three (3) consecutive months, the Acting City Administrator's qualifications shall be a baccalaureate degree from an accredited college or university and at least one (1) year of special training in public administration and finance and at least three (3) years' successful experience in a responsible executive position in governmental administration, or any equivalent training or combination of experience and training sufficient to indicate capacity for effective governmental administration.

C. Upon determination by the Mayor of the existence of any of the events set forth in Subsection A, the Mayor's appointment of the Acting City Administrator shall commence on a date designated by the Mayor. The Acting City Administrator shall have all the powers and perform all the duties of the City Administrator during any period of the City Administrator's absence.

D. The Acting Administrator shall terminate upon the City Administrator's resumption of his ~~or~~ / her duties full time.

E. The Acting City Administrator's compensation shall be determined by the Mayor, subject to Council approval.

F. The Mayor or the Council may require certification from a medical doctor that the City Administrator is able to resume full-time duties where the City Administrator's absence is due to medical reasons.

- G. The Acting City Administrator's term of appointment shall not exceed six (6) months unless reappointed by the Mayor with Council approval prior to the expiration of the six-month period.
- H. An appointment of an Acting City Administrator shall be made no later than sixty (60) days after any of the events set forth in Subsection A occurs, as may be determined by the Mayor.

Sec. 3.02. City Administrator.

- A. The Mayor shall appoint a City Administrator subject to an affirmative vote of a majority of the Council members. The City Administrator shall serve at the pleasure of the Mayor. Prior to appointment, the City Administrator shall be qualified with a baccalaureate degree from an accredited college or university and at least one (1) year's special training in public administration and finance and by at least three (3) years' successful experience in a responsible executive position in governmental administration, or by any equivalent training or combination of experience and training sufficient to indicate capacity for effective governmental administration. The City Administrator shall attend all Council meetings and shall have the right to take part in discussion, but may not vote.
- B. The City Administrator shall, as directed by the Mayor:
 - (1) Supervise the operations of all departments and units of the city government. As the Supervisor of all department heads, the City Administrator has the authority to discipline any department head for cause, up to but not including termination.
 - (2) Prepare or cause to be prepared and submit to the Mayor an annual budget and a capital program pursuant to the provisions of Article 5 of the Charter and Code, and when the same has been approved by the Mayor and the Council, administer the operations under his/her jurisdiction and within those budgetary provisions.
 - (3) Report to the Mayor on the needs, finances and progress of the city in conforming to its Comprehensive Plan, with such recommendations for action by the Council.
 - (4) Promulgate a personnel and salary plan and, when it is approved by the Council, faithfully execute and adhere to its provisions, and in the same manner revise and update such plans as may be necessary.
 - (5) Negotiate, on behalf of the city, agreements with recognized employee representatives on conditions of employment, wages, employee sick leave, vacations, compensatory time off, health insurance, retirement plans and such other personnel matters as may be negotiated, and recommend to the Mayor necessary action thereon as they may deem necessary.

- (6) He/She shall see that all laws and provisions of the Charter and the Code and directions of the Council, subject to enforcement by him/her or officers subject to his/her supervision, are faithfully executed.
- (7) Promulgate a uniform purchasing plan for the procurement of all goods and services required in the administration of the city government, and when approved by the Mayor and the Council, faithfully administer the same.
- (8) Execute such purchasing and service contracts as may be required for the effective administration of the government and the care of its equipment and property under such general authorization as he/she may request and the Mayor and the Council may, by resolution, grant.
- (9) Authorize the attendance of city officials and employees at meetings, seminars and other such gatherings and functions, within budgetary limits or upon special action by the Council.
- (10) Authorize functions and duties not otherwise provided for by the Charter and Code, to units of his/her own choosing, and to transfer employees from one unit to another, temporarily or permanently, as he/she may deem appropriate.
- (11) Act promptly to deal with minor emergencies and breakdowns in city service, and assign administrative resources as available and needed to deal with major emergencies.
- (12) Pursue grant proposals that may benefit the city.
- (13) Carry out such related and nonconflicting duties as may be directed by the Mayor, or as the Council may, by resolution, empower the Mayor to assume, within the constraints imposed by the Charter and Code.
- (14) Approve each voucher, claim or account presented.
- (15) Sign all orders and vouchers for any material or services ordered, rendered, delivered or used.
- (16) Approve all bonds or other security and all public liability and property damage insurance policies required by this Charter and the Code of Ordinances to be given in favor of the city and its inhabitants.

Sec. 3.0403. Removal of Administrator.

The Mayor, with the consent of the council, may remove the Administrator from office in accordance with the following procedures:

- (1) The Mayor shall submit to the Council a preliminary resolution which must state the reason for removal and may suspend the Administrator from duty for a period not to exceed thirty (30) days. A copy of the resolution shall be delivered promptly to the Administrator.
- (2) Within fifteen (15) days after a copy of the resolution is delivered to the Administrator, the Administrator may file with the Council a written response to the preliminary resolution.
- (3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members, at any time after the expiration of fifteen (15) days from the date when a copy of the preliminary resolution was delivered to the Administrator. The Administrator shall continue to receive his/her salary until the effective date of a final resolution of removal.

Sec. 3.~~05~~04. Acting Mayor.

~~A. Title. This local law shall be entitled “A Local Law Adding to the City Charter Section 3.05 to the Powers and Duties of the Mayor to Appoint an Acting Mayor.”~~

B.A. Intent and purpose. This local law provides for the creation of the position of Acting Mayor, who shall be appointed by the Mayor to assure that the office and powers of the Mayor are properly executed in the absence of the Mayor from office or where the Mayor’s disability causes his/her absence, preventing the Mayor from executing the functions of the Mayor’s office.

~~C.B.~~ Appointment of Acting Mayor.

- (1) The City Council hereby creates the position of Acting Mayor, who shall be appointed by the Mayor, subject to City Council approval, within three (3) months of the City of Beacon’s reorganization meeting.
- (2) In the event of a tie vote of the City Council on the approval of the Mayor’s appointment of an Acting Mayor, the Mayor’s appointment shall stand.

~~D.C.~~ Qualifications of Acting Mayor. The Acting Mayor shall be a member of the City Council at the time of appointment.

E.D. Duties of Acting Mayor. The Acting Mayor shall have all the powers and perform all the duties of the Mayor during any period of the Mayor’s absence from office and shall be entitled to cast one (1) vote as Acting Mayor and no vote as a Council member.

F.E. Term of service. The Acting Mayor shall cease serving as Mayor upon the termination of the Mayor’s absence and resumption by the Mayor of his/her mayoral duties.

G.F. Compensation. The Acting Mayor will not receive compensation for services as Mayor.

H.G. Determination. The determination of whether a vacancy exists in the elective office of Mayor shall be made as set forth in City Charter Section 2.~~08-04~~ and the Public Officers Law. If there is a conflict between the language of this local law and Section 2.~~08-04~~ or the Public Officers Law, the terms of Section 2.~~08-04~~ or the Public Officers Law shall supersede the provisions of this law.

I.H. Effective date. This law shall take effect immediately upon its filing in the office of the Secretary of State.

Article 4. Administrative Departments

Sec. 4.00. General provisions.

- A. Creation of departments. The Council may establish city departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies.
- B. Personnel system. All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence, and according to the provisions and requirements of the Civil Service Law.
- C. Salaries. The Mayor shall fix reasonable salaries of all department heads and nonelected, nonaffiliated personnel, within the budgetary limits set by the Council.
- D. The Mayor and City Council shall approve in advance the creation of all employment positions within the City of Beacon, by roll call vote. Prior to such vote, the Mayor shall provide the Council with the position title, rate of pay, description of duties to be performed and the planned date of hire.

Sec. 4.~~0201~~. City Attorney.

The City Attorney shall be a law firm or an attorney and counselor at law, duly licensed to practice law in the State of New York for at least five (5) years prior to appointment. The City Attorney shall be appointed by the Mayor with the consent of the Council. The City Attorney shall serve at the pleasure of the Mayor for a term that shall not exceed four (4) years and shall commence with the appointment of the Mayor at the beginning of the Mayor's term of office. The City Attorney shall be the legal advisor of the Mayor and Council and all city departments, boards and commissions. The City Attorney shall conduct all cases in court wherein the City shall be a party plaintiff or defendant or a party in interest and shall perform such other duties as are required by law.

Sec. 4.~~0402~~. City Clerk.

The City Clerk shall:

- A. Perform all duties assigned to the position by law, unless modified in the City Code, and such other duties as requested by the City Administrator.
- B. Act as the City's custodian of records, the Records Access Officer, and receive all documents filed with the City.
- C. Be the depositor and custodian for all performance bonds.
- D. Give notice of all City Council meetings to members and the public, and shall be the custodian of the journal of its proceedings.
- E. Act as the City Registrar and issue dog licenses.
- F. File all propositions submitted to the citizens of Beacon, together with the affidavits of publication and posting thereof as required in the Code of Ordinances and resolutions adopted by the City Council.
- G. File such other reports, records, oaths, documents and instruments as are required to be filed by the laws of the State of New York and the provisions of the Beacon Code of Ordinances and City Charter.

Sec. 4.~~0603~~. Department of Finance.

There shall be a Department of Finance, the head of which shall be the Director of Finance, which shall be responsible for the management and disbursement of all City revenues and other assets. The individual so appointed to the position of Director of Finance shall have attained certification as a certified public accountant, or shall have a graduate degree in law, business, or public administration with a minimum of five years experience in public finance; or shall possess ~~or an~~ equivalent qualifications, certification ~~or and~~ experience ~~and shall possess the experience and qualifications~~ necessary to perform the duties of the office. Whether a candidate meets the requisite experience and qualifications to serve as Director of Finance shall be determined by the City Administrator.

Sec. 4.~~0804~~. Department of Public Works.

~~There shall be a~~ Public Works Department as organized, ~~and staffed upon the effective date of this Charter shall continue until otherwise provided by local law or ordinance.~~

Sec. 4.~~1005~~. Fire Department.

The Fire Department shall be organized and staffed as set forth in City Code Chapter 31 and any amendments thereto ~~and shall continue until otherwise provided by law or ordinance.~~ There shall be a full-time Fire Chief, who shall be a paid employee of the City appointed by the Mayor, subject to the consent of the Council. There shall also be one (1) or more unpaid

Assistant Fire Chiefs, to be known as First Assistant Fire Chief and so on, who shall be appointed from the ranks of the volunteer firefighters pursuant to the provisions set forth in City Code § 31-9 and any amendments thereto.

~~Sec. 4.10.1. Fire and Inspection Coordinator.~~

~~The position of Fire and Inspection Coordinator may be appointed by the Mayor with the consent of the City Council. The Fire and Inspection Coordinator shall:~~

- ~~1—At the Fire Chief's direction, supervise and assign daily work activities to paid career firefighters.~~
- ~~2—At the Fire Chief's direction, assign Fire Department personnel to cover vacation, holiday, personal leave and other approved time off, together with reviewing and approving or denying all leave requests.~~
- ~~3—Coordinate and supervise fire inspections of multiple dwellings and other occupancies in consultation with the Building Department.~~
- ~~4—At the Fire Chief's direction, monitor performance and conduct regularly scheduled performance evaluations of all paid career firefighters.~~
- ~~5—At the Fire Chief's direction, coordinate and supervise paid career firefighter's training.~~
- ~~6—Participate in fire suppression and emergency medical treatment activities, as required.~~
- ~~7—Perform new construction inspections, zoning law administration, code enforcement duties, fire inspections and building plan review, as required.~~
- ~~8—Complete required reports relative to personnel, training, zoning law administration, code enforcement duties, construction inspections, and fire inspections.~~
- ~~9—Enter and inspect any such building, structure or premises in the City of Beacon and may perform any other act or duty necessary for the proper enforcement of the codes, ordinances and law of the City of Beacon.~~
- ~~10—Issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances or regulations.~~
- ~~11—Issue summons and appearance tickets for violations of the codes, ordinances and local laws of the City of Beacon.~~

~~12 Be designated as a career firefighter in the City of Beacon Fire Department.~~

~~13 Perform related work and duties as required.~~

Sec. 4.1206. Police Department.

~~The Police Department, as organized and staffed upon the effective date of this Charter, shall continue until otherwise provided by local law or ordinance.~~ The executive head of the Police Department shall be the Chief of Police, who shall be appointed by the Mayor, with the consent of a majority of the Council, pursuant to the Civil Service Law.

Sec. 4.1407. Office of Assessor.

The Assessor shall be appointed by the Mayor with consent of a majority of the Council for a term as provided by the New York Real Property Tax Law. The office of Assessor shall meet the qualification standards set forth in the Real Property Tax Law.

~~Sec. 4.16. City Officers.~~

~~The positions of Code Enforcement Officer, inspectors and other officers of the city as existing on the effective date of this Charter shall continue until otherwise provided by local law or ordinance. Every city officer shall, before he enters upon the duties of his office, take, subscribe and file with the City Clerk the constitutional oath of office.~~

Article 5. Financial Procedures

Sec. 5.00. Fiscal year.

The fiscal year of the city shall begin on the first day of January and end on the last day of December.

Sec. 5.0201. Submission of budget and budget message.

At the first regular meeting in October of each year the Mayor shall submit to the Council a proposed budget for the ensuing fiscal year and an accompanying message.

Sec. 5.0402. Budget message.

The budget message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the city's debt position and include such other material as deemed appropriate.

Sec. 5.0603. Budget.

- A. Specifications. The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Mayor deems appropriate or the Council may require. The budget shall utilize the most feasible combination of expenditure classification by funds, organization unit, program, purpose or activity and object. It shall begin with a clear general summary of its contents and shall show in detail all estimated income, including the proposed tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year. It shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:
- (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures.
 - (2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each.
 - (3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition. Subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.
 - (4) All equipment budget lines must include a separate itemized list of proposed equipment purchases for that budget year with proposed expenditures for each piece of equipment. No equipment may be purchased during the course of the fiscal year that is not included on said itemized list, unless the Council approves, upon a roll-call vote, any addition or deletion from said list.
- B. Balanced budget. The total of proposed expenditures shall not exceed the total of estimated income.
- C. Notice and hearing. The Council shall publish in the official newspaper of the city and one (1) or more newspapers of general circulation in the city the general summary of the budget and a notice stating:
- (1) The times and places where copies of the message and budget are available for inspection by the public; and
 - (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the budget.

- D. Amendment before adoption. After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service.
- E. Adoption. The Council shall adopt the budget on or before the 31st day of the last month of the fiscal year. In the event that the Council fails to adopt a budget by said date, then, in such event, the proposed budget of the Mayor shall, by operation of law, become the budget for the ensuing fiscal year. If the default budget provides for a tax levy in excess of the allowable levy limit, the City Council shall pass a resolution to reduce the amount of the tax levy to an amount that complies with the allowable levy limit. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated. The property tax therein proposed shall constitute a levy.
- F. Quarterly reports. The Mayor shall submit to the Council a written summary of the quarterly financial report each year in April, July and October.

Sec. 5.0804. Capital program and action.

- A. Submission to council. The Mayor shall submit to the Council a five-year capital program by May 31 of each year.
- B. Notice and hearing. The Council shall publish in the official newspaper of the city and in one (1) or more newspapers of general circulation in the city the general summary of the capital program and a notice stating:
 - (1) The times and places where copies of the capital program are available for inspection by the public; and
 - (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the capital program.
- C. Adoption. The Council, by resolution, shall adopt the capital program with or without amendment after the public hearing and on or before the 31st day of July of each year.

Sec. 5.0510. Amendments after adoption.

- A. Supplemental appropriations. If during the fiscal year the Mayor certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.
- B. Emergency appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. To the extent that there are no available unappropriated revenues to meet such appropriations, the

Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

- C. Reduction of appropriations. If at any time during the fiscal year it appears probable to the Mayor that the revenues available will be insufficient to meet the amount appropriated, he/she shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him/her and his/her recommendations as to any steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may by ordinance reduce one (1) or more appropriations as allowed by law.
- D. Transfer of appropriations. All budget transfers of moneys, except transfers within a department as provided below, must be approved by the City Council upon a roll-call vote, for each requested transfer. No transfers may be made within a department involving accounts for payroll, employee benefits and equipment purchases. In addition, budget transfers of any unencumbered appropriation balance which exceeds ~~three-seven~~ thousand five hundred dollars (\$37,500.) must also be approved by the City Council upon a roll-call vote for each requested transfer.

Sec. 5.1206. Administration of budget.

- A. Payment and obligations prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made, and unless the Mayor or his/her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such illegal authorization or payment shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he/she shall also be liable to the city for any amount so paid.

~~Sec. 5.14. Public moneys.~~

- ~~A. The Mayor, or an officer designated by the Mayor, shall, under the power and control of the City Council, have the direct management of the revenue of the city, except as otherwise provided by this Charter or by ordinance. The Mayor, or his designate, shall be ex-officio City Treasurer, with the usual duties and powers of that office.~~
- B. No city officer or employee shall utilize an automatic signature ~~a signature stamp or signature plate~~ in processing checks to pay bills and vouchers incurred by the City of Beacon, except in the case of payroll or accounts-payable checks.

Sec. 5.~~1608~~. No liability without appropriation.

Except as herein otherwise specifically provided, the city expenditures in any one (1) year shall not be increased over and above the amount provided in the budget duly adopted by the City Council pursuant to Section 5.~~06-03~~ herein. No contract involving the expenditure and no expenditure for any improvement to be paid out of the general or special funds of the city or for defraying the expenses and liabilities of the city shall exceed in any one (1) year the amount provided in said budget to be paid out of the said general and special funds so appropriated and set apart, but the said general funds shall be maintained for, used and devoted to be particular purposes specified in said budget, except that the unexpended balance in any budget appropriation may, by motion, be transferred to any other budget appropriation contained in said duly adopted budget.

Sec. 5.~~1809~~. Unlawful to incur expense unless appropriation made.

It shall not be lawful for any department or officer of the city to incur or contract any expense or liability for or on behalf of the city unless such an appropriation shall have been made concerning such expenses. Such contract shall be ab initio null and void as to the city for any other or further liability; provided, first, that nothing herein contained shall prevent the city from providing from sums made available for such purposes pursuant to the Local Finance Law for the payment of any expense the necessity of which is caused by any casualty, accident or unforeseen contingency arising after the passage of the Budget; and provided, second, that the provisions of this section shall not apply to or limit the authority conferred pursuant to the Local Finance Law nor for moneys to be collected by special assessments for local improvements. It shall be lawful for the City Council upon the happening of any emergency and upon the declaration of such emergency by resolution of the Council to appropriate from any unexpended funds not otherwise designated for specific purposes by law sufficient funds for the payment of any expenses created by such emergency.

Article ~~116~~. Collection of Taxes

Sec. ~~116.00~~. Levy and collection of taxes.

Any and all issues relating to the collection of Beacon City taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 9, entitled, "Levy and Collection of Taxes," as the same may be amended from time to time.

Sec. ~~116.021~~. Procedures for enforcement of collection of delinquent taxes.

Any and all issues relating to the enforcement of collection of delinquent taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 11, entitled, "Procedures for Enforcement of Collection of Delinquent Taxes," as the same may be amended from time to time.

Article ~~67~~. Planning

Sec. ~~67.00~~. Comprehensive Plan.

- A. Content. The Council shall adopt ~~the a Comprehensive Plan and amend it from time to time pursuant to General City Law Section 28-a existing Master Plan, or shall amend the same, to constitute a Comprehensive Plan~~ to govern the future physical development of the city.
- B. Periodic update. Separate from any individual amendments, the Council shall periodically undertake a full update of the Comprehensive Plan, at least every 10 years. The Council may delegate such responsibility either to the Planning Board or to a special committee whose members the Mayor shall appoint and the Council approve.
- ~~C. Adoption. Upon receipt of a proposed Comprehensive Plan or proposed modification of the existing plan, the Council shall, by resolution, refer such proposal to the City Planning Board, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Board, the Council shall hold a public hearing on the proposal and shall thereafter adopt it by resolution with or without amendment.~~
- ~~D. Effect. The Comprehensive Plan shall serve as a guide to all future Council action concerning land use and development regulations, community development programs and expenditures for capital improvements.~~

Sec. ~~67.0201~~. Implementation of Comprehensive Plan.

- A. Land use and development regulations. The Council may by ordinance adopt land use and development regulations, including, but not limited to an official map and zoning and subdivision regulations.
- ~~B. Annual report on comprehensive implementation. At the beginning of each year, to review progress on implementation of the current Comprehensive Plan, including an enumeration of actual changes in the prior year and expected changes in the current year.~~
- ~~C. B.~~ Community development. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, (2) low-income housing, ~~and~~ (3) the achievement of the most appropriate use of the land, ~~and (4) promotion of sustainability and resiliency in capital projects.~~
- ~~D. C.~~ Council action. Before acting on any proposed ordinance concerning land use and development regulations, community development or expenditures for capital improvements, where such ordinance refers to a matter covered by the Comprehensive

Plan, the Council shall refer the proposal to the City Planning Board, which shall, within a time specified by the Council and prior to public hearing on the proposed ordinance, report its recommendations thereon. In the event that such ordinance is contrary to the Comprehensive Plan, then and in that event, the ordinance shall not take effect until such time as the Comprehensive Plan is amended following such public hearing.

Sec. ~~67.0402~~. Planning Board.

There shall be a City Planning Board consisting of seven (7) members appointed by the Mayor, with the consent of the City Council, for terms of three (3) years, from among the qualified voters of the city. Members of the Board shall hold no other city office. The Board shall make recommendations to the Mayor and the City Council on all matters affecting the physical development of the city, shall be consulted on the Comprehensive Plan and the implementation thereof as provided in Sections ~~67.00~~ and ~~67.02-01~~ and shall exercise all other responsibilities as may be provided by law.

Sec. ~~67.0603~~. Zoning Board of Appeals.

There shall be a Zoning Board of Appeals consisting of five members appointed by the Mayor, with the consent of the City Council, for terms of three years, from among the qualified voters of the city. Members of the Board shall hold no other city office. The Board shall hear and determine appeals from administrative decisions, petitions for variances and such other matters as may be required by the Council or by the laws of the State of New York.

Article ~~78~~. Nominations and Elections

Sec. ~~78.00~~. Regular election.

The regular city election shall be held on the first Tuesday of November in each odd-numbered year.

Sec. ~~78.02~~. Nominations and elections.

All city nominations for election to city office and all elections shall be conducted in accordance with the Election Law of the State of New York and shall be held at such time as may be specified by said Election Law.

Sec. ~~78.0403~~. Qualification of voters.

All citizens qualified by the laws of the State of New York to vote in the city and who satisfy the requirements for registration prescribed by law shall be qualified voters of the city within the meaning of this Charter.

Sec. ~~78.0604~~. Procedures for elections.

Candidates for the at-large seats on the City Council must be so designated. Candidates for the ward seats must be domiciled in the ward from which they are seeking election, and only qualified electors shall be eligible to hold such office.

Article 89. Finances, Taxation, Local Assessments and Improvements

Sec. 89.00. Indebtedness and taxation.

The city shall have the power to contract indebtedness for any municipal purpose, if authorized by the Local Finance Law of the State of New York or any other state law, to accomplish any lawful purpose to the extent authorized for such purpose and subject to the provisions of this Charter. The city shall have the power to raise money to defray the cost of the carrying on of the general government and for the doing of any of the things authorized by law, by general taxation and by local assessment where authorized, not to exceed the amounts otherwise provided by law.

Sec. 89.0201. Bond referendum.

Any bond ordinance hereafter adopted by the Council authorizing the issuance of bonds of the city, other than bond ordinances expressly excepted hereafter, shall be subject to a permissive referendum to be called and conducted under the same procedures for permissive referenda set forth in the Municipal Home Rule Law.

Sec. 89.0403. Notice of adoption.

Notwithstanding the provisions of the Municipal Home Rule Law, the City Clerk shall, within ten (10) days after the adoption of any bond ordinance which is subject to a permissive referendum, publish a notice in the official newspaper of the city, which notice shall state the date of adoption of such bond ordinance and that such bond ordinance was adopted subject to a permissive referendum and shall contain a summary of such ordinance and state that a full copy of said ordinance is available, free of charge, from the City Clerk.

Sec. 89.0604. Referendum procedures.

Any bond ordinance which is subject to a permissive referendum shall not take effect until the time limits for a permissive referendum as provided in the Municipal Home Rule Law have expired without a petition being presented, or until approved by an affirmative vote of a majority of the qualified electors of the city after the filing of a petition pursuant to the Municipal Home Rule Law. If a petition be filed as provided by the Municipal Home Rule Law, a proposition for approval of the bond ordinance therein described shall be submitted at the next general election in the city unless the Council, within thirty (30) days after the filing, shall direct by resolution that such proposition be submitted at a special election which shall be held not less than ninety (90) days nor more than one hundred twenty (120) days after the filing of such petition.

Any such petition may be made upon separate sheets, and the signatures to each shall be signed and authenticated in the manner provided by the Election Law for the signing and authentication of designating petitions insofar as applicable. The several sheets so signed and authenticated, when fastened together and offered for filing, shall be deemed to constitute one (1) petition. The City Clerk shall examine each such petition so filed with ~~him~~ the City Clerk and shall, not later than thirty (30) days after the date of filing, transmit to the Council a certificate that he/she has examined it and found that it complies or does not comply, as the case may be, with the requirements of the law. If, within thirty (30) days after the filing of any such petition, a written objection thereto is filed with the Supreme Court, or any Justice thereof, of the judicial district in which the city is located, such Court or Justice shall determine any question arising thereunder and make such order as justice may require. Such proceeding shall be heard and determined in the manner prescribed by § 335 of the Election Law.[1]

In the event that the Council shall determine to submit a proposition for the approval of a bond ordinance at a special election, the Council shall, in a resolution making the determination, specify the date of such special election, whether voting machines or paper ballots will be used, the persons to act as election inspectors as hereinafter provided, the hours during which the polls will remain open at such special election, which shall include at least three (3) consecutive hours between 7:00 in the morning and 7:00 in the evening, the polling place or places therefor and the text of the proposition to be submitted thereat. The City Clerk shall cause notice of any such special election to be published once in the official newspaper of the city not less than ten (10) nor more than twenty (20) days before the date of such election, which notice shall state the date of the election, the hours during which the polls will remain open, the polling place or places and the text of the proposition to be submitted thereat. Such notice shall also contain an abstract of the bond ordinance referred to in such proposition, briefly summarizing the subject matter thereof. The Council shall select from the election inspectors previously designated for general election purposes pursuant to the Election Law not fewer than two (2) nor more than four (4) persons to act as election inspectors for each polling place at which such a special election shall be held. In other respects, such special election shall be conducted, the votes canvassed and the results certified and returned so far as practicable in the manner prescribed by the Election Law to the extent not inconsistent with this section.

The qualifications for voting on a proposition for the approval of a bond ordinance submitted at either a special or general election pursuant to this section shall be the same as the qualifications for voting upon the election of city officers.

Sec. ~~82.0805~~. Notice of referendum.

In the event that a proposition for the approval of any bond ordinance shall be submitted at an election pursuant to this Article, the City Clerk shall cause a notice of such submission to be published once not less than ten (10) nor more than twenty (20) days before the date of such election, which notice shall set forth the text of such proposition, summarizing the subject matter thereof and stating that a true copy of the same may be obtained, free of charge, from the City Clerk.

Sec. ~~89.1006~~. Exceptions to referendum.

The provisions of this Article pertaining to permissive referenda shall not apply to any bond ordinance authorizing the issuance of bonds in an amount of two hundred fifty thousand dollars (\$250,000.) or less, nor to any bond ordinance authorizing the issuance of bonds for capital improvements of which more than fifty per centum (50%) of the cost thereof is to be levied by assessments upon property especially benefited thereby, nor to any bond ordinance authorizing the issuance of bonds for the payments of judgments or compromised or settled claims against the city or awards or sums payable by the city pursuant to a determination by a court, officer, body or agency acting in an administrative or quasi-judicial capacity, or providing for the construction or maintenance of sewer treatment facilities or water pollution control facilities.

Sec. ~~89.1207~~. State and county taxes.

Payment of all taxes for state and county purposes shall be made as collected, or by the end of the calendar year for which the warrant for the same is delivered, whichever shall occur first, without interest or penalty.

Article 910. General Provisions

Sec. 910.00. Personal financial interest.

No officer or employee of the City of Beacon shall engage in any conduct constituting a conflict of interest or a prohibited action, as provided in Article 18 of the General Municipal Law of the State of New York, nor shall such officer or employee fail to disclose any interest required to be disclosed under such law. In addition to any penalty provided by state law, such officer or employee who shall knowingly and intentionally violate this section shall be removed from office or employment in the manner provided by law or by this Charter.

Sec. 910.0201. Prohibitions.

A. Activities prohibited.

- (1) No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of age, handicap, race, sex or political or religious opinions or affiliations.
- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

- (3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative officer shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his/her test, appointment, proposed appointment, promotion or proposed promotion.
- (4) No person shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding any compensated appointive city position.
- (5) No person who holds any elected or compensated appointive city position shall solicit any contribution to the campaign funds of any political party or any candidate for public office during working hours, nor shall such person at any time use the name of the city or his/her office for such purposes.

B. Penalties. Any officer or employee of the city who shall: (1) make a false or deceptive report or statement in the course of his/~~or~~ her duties; (2) receive compensation except for payment from the city for performance of any official duty; or (3) accept or receive any gratuity from any person whose interest may be affected by his/her official action shall be guilty of a misdemeanor and, if convicted, shall forfeit his/~~or~~ her office or employment immediately upon conviction.

Sec. 910.042. Charter review.

The Mayor, with the consent of the City Council, shall appoint a commission at least every ten (10) years after the effective date of this Charter to review the Charter and to make recommendations to the Mayor and the City Council for revision or amendment.

Sec. 910.0603. Amendment ~~or repeal~~ Procedures.

This Charter shall only be amended by adoption of a local law pursuant to the procedures set forth in the Municipal Home Rule Law.

Sec. 910.0804. Penalty for violation.

Any person who shall violate any of the provisions of this Charter for the violation of which no punishment has been provided herein shall be deemed guilty of a violation and, upon conviction thereof, shall be punished by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment.

Sec. 910.1005. Limitation of actions against city.

No action or proceeding to recover or enforce any claim, debt or demand against the city shall be brought until the expiration of thirty (30) days after the same has been presented, in writing, to the City Council. All actions brought against the city, upon any contractual liability, express, ~~or~~ implied or quasi-contract, must be begun within one (1) year from the time when the cause

of action accrued; or, for injury to a person or property because of negligence, within one (1) year from the time of receiving such injuries; and, in all other cases, within six (6) months after the cause of action accrued. No civil action shall be maintained against the city for damages or injuries to persons or property sustained in consequence of the existence of snow or ice upon any sidewalk, crosswalk, street, path or place or in consequence of any street, highway, bridge, culvert, sidewalk, crosswalk, grating, opening, drain or sewer being of faulty design or construction, defective, out of repair, unsafe, dangerous or obstructed unless, previous to the occurrence resulting in such damages or injuries, written notice of the existence of such snow or ice at the particular place or of the defects or unsafe, dangerous or obstructed condition of the particular place shall have been filed in the office of the City Administrator of the city, and it shall be made to appear that there was a failure or neglect within a reasonable time after the filing of such notice to remedy the condition.

No civil action shall be maintained against the City of Beacon for damages or injuries to person or property sustained in consequence of the existence of a defect in any of the playground equipment, playing fields, paths, grounds of any playground or public park owned, operated or maintained by the City of Beacon or for a defect in any such equipment, place or facility maintained at a public bathing beach, skating rink or pond owned, operated or maintained by the City of Beacon unless, prior to the occurrence resulting in such damage or injury, written notice of the existence of such defect relating to the particular equipment, playing fields, paths, grounds of any playground or public park owned, operated or maintained by the City of Beacon shall have been filed in the office of the City Administrator of the city and unless it shall be made to appear that there was a failure or neglect to remedy or repair such alleged defect or condition in the equipment, facility or place or to cause the equipment, facility or place to be otherwise made reasonably safe within a reasonable time after the filing of such notice.

All claims against the city for damages or injuries to person or property alleged to have been caused by the misfeasance or negligence of the city or any of its officers or employees shall be presented to the City Council, in writing, within thirty (30) days after the happening of the accident or injury out of which the claim arose. Such writing shall describe the time when, the particular place where and the circumstances under which the damages or injuries were sustained and the cause thereof; it shall also state, so far as then practicable, the nature and extent of the damages or injuries; shall also state the place of residence of the claimant by street and number, and, if there be no street or number, it shall contain such statement as will disclose the place of residence; and all such claims shall be verified by the oath of the claimants. The omission to present such claim within thirty (30) days from the date when such alleged injuries were received and to commence an action within one (1) year from the time of such alleged injuries shall be a bar to any claim or action therefor against the city; but no action shall be brought upon any such claim until thirty (30) days have elapsed after the presentation of the claim to the City Council.

Nothing contained in this section shall be held to repeal or modify any existing requirement or statute of limitations which is applicable to this class of actions, but on the contrary shall

be held to be an additional requirement to the rights to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the city any greater duty or obligation than that it shall keep its streets and public places in a reasonably safe condition for public use and travel.

The place of trial of all actions or proceedings against the city or any of its officers, boards or departments shall be the County of Dutchess.

Article 10. Transitional Provisions

Sec. 10.00. Charter replacement.

~~This Charter shall replace the previous City Charter in its entirety.~~

Sec. 10.02. Transitional provisions.

~~Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.~~

Sec. 10.04. Rights of officers and employees.

~~A. All elected officials shall continue to hold their respective offices until January 1, 1992, and shall perform the duties of their respective offices as prescribed herein.~~

~~B. Appointed officials whose offices are continued pursuant to this Charter shall continue to hold their respective offices until the expiration of the term for which they were originally appointed and shall perform the duties of their respective offices as prescribed herein and shall be subject to removal only as originally provided at the time of their appointment.~~

~~Continuation of powers and duties. Any powers which are conferred and duties which are imposed upon an officer, board, commission or department under any laws of the State of New York or by any ordinance or local law in force at the time this Charter takes effect shall be retained and exercised by the officer, board, commission or department except as amended by the provisions of this Charter.~~

~~C. Continuation of status and classification. All officers and employees of the city who shall hold office or be employed subject to Civil Service Law and Rules when this Charter shall take effect shall continue in their respective positions and employment and in their respective civil service classifications and status as officers or employees of the city, consistent with the provisions of this Charter.~~

Sec. 10.06. Transfer of officers and employees.

~~Pursuant to the provisions of this Charter, any functions, powers or duties heretofore exercised by an officer, department, board, commission or agency, including the officers and~~

~~employees in the classified civil service, who are engaged in the performance of such functions, powers or duties at the time this Charter takes effect shall be transferred to the office, department, board, commission or agency to which such functions, powers or duties are assigned by this Charter without examination and without affecting existing compensation, pension or retirement rights, privileges or obligations of such officers and employees.~~

~~All records, property and equipment whatsoever of any office, department, board, commission or agency the powers and duties of which are assigned to any other office, department, board, commission or agency by this Charter shall be transferred and delivered to the office, department, board, commission or agency to which such powers and duties are assigned.~~

~~Sec. 10.08. Transfer of powers.~~

~~If a city department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this Charter or, if the Charter makes no provision, designated by the City Council.~~

~~Sec. 10.10. Severability.~~

~~If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.~~

~~Sec. 10.12. Effect of Charter on existing provisions.~~

~~All existing city ordinances, resolutions, orders and regulations shall continue to be in full force and effect after the effective date of this Charter, except as to those matters which are expressly and specifically addressed by this Charter. All local laws previously enacted shall remain in full force and effect.~~

~~Sec. 10.14. Repealer and savings clause.~~

~~All existing city ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are hereby repealed only to the extent to which they are directly repealed or annulled by this Charter. Otherwise, all such existing city ordinances, resolutions, orders and regulations adopted pursuant thereto shall continue to be in full force and effect after the adoption and effective date of this Charter.~~

~~Sec. 10.16. Effective date of new Charter.~~

~~Upon the adoption of this Charter at the referendum or election held in 1989, it shall thereupon become effective insofar as and to the extent that it governs and controls the election of the Mayor, Council members, City Judge and county legislators in the primary and general elections of 1991. In all other respects this Charter shall become effective on the first day of January 1992.~~

~~Sec. 10.18. Code review task force.~~

~~Upon adoption of this Charter, the City Council shall appoint, within ninety (90) days thereafter, a task force to review the administrative codes and local laws of the City of Beacon for consistency with this Charter and to make written recommendations to the City Council to prepare the existing government for the transition to the new form of government adopted under this Charter.~~

~~Article 11. Collection of Taxes~~

~~Sec. 11.00. Levy and collection of taxes.~~

~~Any and all issues relating to the collection of Beacon City taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 9, entitled, "Levy and Collection of Taxes," as the same may be amended from time to time.~~

~~Sec. 11.02. Procedures for enforcement of collection of delinquent taxes.~~

~~Any and all issues relating to the enforcement of collection of delinquent taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 11, entitled, "Procedures for Enforcement of Collection of Delinquent Taxes," as the same may be amended from time to time.~~

Commission Meeting Minutes

Appendix II

Minutes

Beacon City Charter Commission

Thursday September 15, 2016 7:00-9:00 pm

Present: Co-Chair Charles Kelly, Commissioners Agnese Campagnone, Candi Rivera, Brooke Simon, _____, City Administrator Anthony Rugerrio, Mayor Randy Casale,

Gerald Benjamin (consultant) Nicole Cagar (student assistant) ...

Absent:

The meeting was called to order at 7:05 by Co-Chair Charles Kelly. The floor was turned over to Gerald Benjamin.

Gerald Benjamin indicated that, with the help of City Administrator Anthony Ruggiero, he had gathered and organized all the charter issues identified by the commission member and city officials. He proposed to use the meeting to take up the issues identified in the first two articles in the charter. After discussion of each one, the commission could decide if it agreed on a proposed change, or if further study would be needed. He reminded the commission that this process was ongoing; other issues might be later identified and discussed concerning these articles of the charter.

Matter marked in red is decided.

Matter marked in blue requires further consideration.

I. Article 1

A. Section 1.16 Does definition of ward boundaries need to be in the charter?

Members agreed to remove ward descriptions from the charter and asked that the city attorney draft language to this effect. Boundaries might be connected to redistricting provision, with map boundaries put on city website

B. 1.07.A-B Procedure for sale of public property – alter language slightly

- a) Procedure for sale at public auction. Real property owned by the city leased, sold or otherwise alienated by public sale shall be at public auction or by sealed bid to the highest bidder

II. Article II

A. The Council

- 1. Correct typographical error - 200A. Change 'compensation' to "composition"

2. Change "district" to "ward" wherever it appears in the cahrtter to reflect local usage and for consistency.
- B. At-large election of council members staggered election – Further consideration – Additional research and examples to be provided
- C. At large election – specify contests to positions, with winners determined for specific seats, and not form citywide rank ordering - Further consideration - additional research and examples to be provided.
- D. 2.00 D. Election Process – strike this language: The first city election under this Charter shall be held on the first Tuesday in November in the year 1991 and in conformity with the Election Law. The terms of the officers so elected shall begin on January 1, 1992. Thereafter, regular elections shall be held as provided by this Charter, to elect successors to those officers whose terms are about to expire.
- E. Term Limitation: - Not needed. Experience show that turnover in office is adequate. No further consideration will be given to this.
- F. 2.02 Compensation of elected officials and compensation commission. Requires further consideration
- G. 2.04 Strike this language as unneeded: The Mayor shall submit a yearly planning report to the Council no later than June 1.
- H. 2.08. Vacancies:
 1. No change to process to fill permanent vacancies.
 2. Continue to consider provisions for creation and termination of temporary vacancies (e.g. due to illness)
- I. 2.14 Timing of Reporting Independent Audit – Change from April 30 to June 30.
- J. 2.16C. Workshop meetings: draft more precise language regarding procedure for adding items to the agenda.
- K. 2.26. Publication of ordinances. Continue to consider whether electronic publication on the city website may be substituted for newspaper publication.

Minutes
Beacon Charter Commission
Thursday, October 6, 2016 7-9:10 pm

Present: Co-Chair Charles Kelly, Commissioners Agnes Campagnone, Candi Rivera, Brooke Simmons, William Cornett, Peter Nocerino.

City Administrator: Anthony Ruggerio,

Mayor: Randy Casale,

Gerald Benjamin (consultant)

Nicole Cagar (student assistant)

Absent: Commissioners Marko Guzijan, John Rembert

The meeting was called to order at 7:07 by Co-Chair Charles Kelly.

The floor was turned over to Gerald Benjamin.

Gerald Benjamin indicated that, in consultation with the co-chairs, we decided to proceed through the change agenda, and then return to matters identified as requiring additional attention. He reminded members that if they wished bring additional issues to attention of the commission, all they need do is inform one of the co-chair.

Commissioner Campagnone moved to accept the minutes. Commissioner Cornett seconded. The minutes were unanimously accepted.

-
- I. Section 3.1 Appointing Powers of the Mayor – The Commission discussed whether a charter provision was required for appointing all full- and part-time employees. A special concern was the need for council action on part-time and seasonal employees. An alternative draft charter provision will be prepared to provide the basis for further discussion.
 - II. Section 3.4. Compare to 3.02B.a. Powers for supervision of the government by mayor and administrator need clarification to establish clear lines of authority. Alternative draft to be provided.
 - III. Section____. Purchasing authority – Alter to reflect current practice (Alternative: add to duties of administrator)
 - IV. Section 3.14, .15, Appointment to volunteer boards. Goal is to broad recruitment base and keep council informed of vacancies. Alter language to reflect current practice.
 - V. Section 3.05 - Title – Acting Mayor to Deputy Mayor. Title change not supported.

- VI. Section 3.05. After considerable discussion and consideration of practice in selected other jurisdictions, Commission seeks language to provide for an alternative method for determination of inability of the Mayor and availability to return to performance of duties when he or she may be unable or unwilling to do so. Language will be provided.
- VII. Section 3.01- Acting City Administrator – Commission considered revising and moving this text for clarity, and discussed duration of time before Acting Administrator was needed. Current provision – 5 days – generally regarded as too short. Some language was proposed for deletion as duplicative. The Administrator, most Commissioners agreed, should retain authority to designate the Acting Administrator for a period of limited duration, after which the Administrator was expected to return. A temporary appointment to a vacancy remained the prerogative of the Council. This distinction is clear in the charter. The commission was going to further consider this question.
- VIII. Section 4.02 The word "firm" is to be added to the charter to make clear that the appointee as city attorney need not be a named individual person.
- IX. Section 4.04 -.10, .12. Language regarding individual departments will be retained. Language to give assurance at earlier transition may be removed.
- X. Section 4.16 City Officers. The Commission agreed that certain offices need not be specified in the charter: e.g. Code Enforcement, Fire Inspection Coordinator.
- XI. Generally – The Commission recommended that language in charter should be made gender neutral
- XII. Section _____. The commission agreed that language should be broadened regarding qualifications required to be head of the city finance department. Draft language will be provided.
- XIII. Section. 5.06 - Budget detail did not appear to be excessive. Further comparative research will consider this matter.

Respectfully submitted

Nicole Cagar

Minutes
Beacon Charter Commission
Thursday, November 3, 2016 7- 8:27 pm

Present:

Co-Chair Charles Kelly, Co-Chair Pamela Barrack, Commissioners Candi Rivera, William Cornett, Peter Nocerino, Marko Guzijan

City Administrator: Anthony Ruggiero

Mayor: Randy Casale

Nicholas M. Ward-Willis - Counsel

Gerald Benjamin (consultant)

Nicole Cagar (student assistant)

Absent: Commissioners: John Rembert, Agnes Campagnone, Brooke Simmons

Meeting was called to order at 7:10 by Co-Chair Pamela Barrack

Commissioner Cornett motioned to approved minutes, second by _____, unanimously accepted

Floor was turned over to Gerald Benjamin

Gerald Benjamin provided a list of matters laid over for additional consideration at the first and second commission meetings. Process for appointment to voluntary boards was added. He urged commission to bring up any topics missed.

I. Section 5.06— Detail in charter on budget process. Will present next time on budget process comparisons.

II. Section 5.08 Capital Program Timing. No change

III. Section 5.10D Transfer of Appropriations: Proposed Changes— Proposal change \$3,000 to \$10,000 (threshold) Commission seeks flexibility. Language will be developed to create a \$10,000 threshold and allow annual review and change at organizational meeting.

IV. Section 5.14 Public monies— Suggests deletion as duplicative. Charter will be reviewed to determine if this is in fact redundant. If so, it will be removed. If not, it will be retained.

Section 5.14 public monies- propose deletion— Apparently added to thwart fraud. Appears to be duplicative of Sections 4.06, 5/14a and 5/14b, adopted later. Commission seeks further information from finance officer. If duplicative may be removed, possibly with additional language in section 4.06 to assure fiscal integrity in disbursements.

V. Section 6- Comprehensive Plan — question of should it be in the charter.
No change.

VI. Section 6.0 Update Comprehensive Plan process in Charter- No change.

VII. Section 6.02 Implementation of Comprehensive Plan— Language Proposed for Removal- take out parts B,C,D suggestion by Ruggiero. Commission agreed to clean up/review language

VIII. Section 8.00 Bonding Process: Commission generally agrees to retain, with possible increase of \$250,000 threshold for Permissive Referendum.

IX. Ethical Standards— Commission agreed generally that Ethics Provision is current. Mayor questions bar to dual volunteer committee service and one year waiting period after service in elective office until eligible for city appointment. These specifics will be reviewed for possible revision.

X. Political Leaders as Office Holders/ Criteria for Considering Dual Office Holding. Research shows that this cannot be barred in the charter.

Respectfully submitted,

Nicole Cagar

Minutes
Beacon Charter Commission
Thursday, December 15, 2016 7-9:15 pm

Present: Co-Chair Charles Kelly, Co-Chair Pamela Barrack, Commissioners William Cornett, John Rembert, Peter Nocerino, Brooke Simmons, Agnes Campagnone, Marko Guzijan
City Administrator: Anthony Ruggiero
Mayor: Randy Casale
Gerald Benjamin (consultant)
Nicole Cagar (student assistant)

Absent: Commissioners Candi Rivera, Counsel- Nicholas M. Ward-Willis

Meeting was called to order at 7:02

Commissioner William Cornett moved to accept minutes. They were accepted without objection.

Floor was turned over to Gerald Benjamin

Gerald Benjamin sent materials to support discussion of items laid over for further consideration and a primer on the budget process. A powerpoint on Beacons' budget process will be ready for the next meeting. The Benjamin Center will prepare draft report of their actions for the commission's review, modification and approval.

The presentation for the City Council was set for March.

-
1. The commission discussed four year terms and staggered elections. It agreed upon staggered four year terms for at-large council members only, to begin in the next mayoral election year.
 2. **Determining Compensation of Elected Officials**
 - a. Provision of health insurance benefits for council members is currently provided for in the charter (Section 2.02). This is unusual. There was strong sentiment in the commission against part-time elected officials receiving these benefits. There was further discussion regarding whether the current language of the charter regarding payment of elected officials included compensation that was not "Salary." This needs to be clarified by the city attorney. Commission agreed to consider recommending distributing the amount currently paid by the city to cover health insurance for council members to them as salary, but not covering the cost of insurance. Data on this will be provided by the city manager. There was some discussion that such a step would diminish the incentive for running for office. Another view was that it would result in greater equity in compensation for elected council members.

3. Vacancies in Elected Office- Proposed Revision—This addresses inability to serve when the incumbent does recognize or initiate the process. Some members believe that the problem is rare, and we were trying to fix something that was not broken. **Will be laid over for consideration.**
4. Publication of Ordinances-- **Laid over for consideration after additional information is provided by counsel.**
5. Appointment of Employees Subject to Council Review- Alternative Draft—Accepted by the commission pending review by counsel
6. Acting City Administrator- Alternative Provision- **Requires more study** and shifts who selects Acting City Admin. Rembert suggests that City Admin recommends and Mayor gets final approval. City Administrator Ruggiero and Mayor Casale agree to have a conversation and draft language. Benjamin agrees to write Mayor's role more clearly in proposed draft language.
7. Purchasing Agent-- Proposed draft- Accepted pending review by counsel
8. Departments—Linked more directly to code in charter. Commission will recommend no change
9. Edit charter to make it gender neutral- Commission unanimously agrees
10. Director of Finance—Commission agrees to alternative draft pending counsel review.-
11. Detail in Charter on budget process- for next meeting
12. Management of Public Monies- for next meeting
13. **Resiliency and Sustainability**- issues of sea level rise
 - a. Community Development- Possible Charter Amendment- include resiliency and sustainable as capital planning values
14. **Remove unneeded transitional provisions**- Benjamin recommends that counsel looks at language.

Respectfully submitted,

Nicole Cagar

Minutes

Beacon City Charter Commission

Thursday January 19, 2017 7:00-9:30 pm

Present: Co-Chair Charles Kelly, Co-Chair Pamela Barrack, Commissioners Agnese Campagnone, Candi Rivera, Brooke Simmons, John Rembert, Peter Nocerino, Marko Guzijan, Counsel- Drew Victoria Gamels

Mayor: Randy Casale

Dr. Gerald Benjamin (consultant)

Timothy Toomey (student assistant)

Absent: City Administrator Anthony Ruggiero, Commissioner William Cornett, Counsel Nicholas M. Ward Willis

The meeting was called to order at 7:00 by Co-Chair Charles Kelly.

Co-Chair Charles Kelly moved to accept the minutes. They were accepted without objection.

The floor was turned over to Gerald Benjamin.

Gerald Benjamin presented PowerPoints on charter provisions concerning budgeting and matters laid over by the commission for further consideration. Minutes are limited to items on which action was taken or may still be taken.

The Benjamin Center will prepare a list of commission recommendations for charter changes before the February 2nd meeting.

The commission decided that February 2, 2017 will be a regular commission meeting. February 16, 2017 will be a public meeting to discuss the proposed changes.

The commission report will be submitted to the city council by March 6 or 20, 2017.

Matter marked in red is decided.

Matter marked in blue requires further consideration.

I. Budgeting in the Beacon Charter

1. Budgeting – Who?

- a. There appears to be a contradiction in §300 and §302 regarding shared responsibility for budget preparation between the mayor and administrator.
- b. Change the deadline for Mayoral financial reporting from March 1 to May 1 in §300.7

- c. .
- 2. **Budgeting- Presentation of Budget and Message to the Council**
 - a. The mayor's budget is the default option if the council does not adopt the budget. But current state law requires a super-majority if a budget exceeds the cap. What happens if the mayor's proposed budget is the default, exceeds the cap and there is no council vote? An alternative: prior year's budget as the default option. **The counsel will research the process to override the cap as Beacon's charter pre dates the implementation of the cap. *****.** . .
- 3. **Transfers – Limited to Certain Line-items, and Threshold for Council Authorization**
 - a. **§510.D. Change \$3,000 to \$5,000.** The commission adjusted this number with use of an inflation calculator.
- 4. **Payment Pursuant to Appropriations Only, Criminal Liability for Violation – Duplication?**
 - a. **There is duplication amongst §5.12, 5.16, and 5.18. Dr. Benjamin recommends reconciling these sections to provide clarity. Counsel to consider.**

II. Matters Laid Over for Further Consideration

- 1. **Compensation of Elected Officials**
 - a. **The commission voted to remove health benefits for council members from the charter, accompanied by a \$2000 raise for council members and a proportional raise for the mayor. Members would be permitted to buy insurance through the city plan.**
- 2. **§ 2.08 Vacancies in Elective Office – Proposed Revision**
 - a. **The commission decided that better language is needed regarding medical decisions on inability to serve and return to work for elected officials to avoid politicizing the proposed revision. The counsel will look into this.**
- 3. **Publication of Ordinances**
 - a. **Can electronic publication substitute for use of newspapers as now required in the charter, or must it be supplemental? With advice of counsel, the commission decided to substitute electronic notice of ordinances for print publication. This will result in cost savings for the City.**
- 4. **Community Development – Resiliency and Sustainability**
 - a. **The commission decided on adding language to §6.02c. to include resiliency and sustainable operations of public facilities as goals.**
- 5. **§3.01A – Acting City Administrator**
 - a. **The City Adminisrator will recommend and mayor appoint an acting adminisrator to serve if the administrator is absent or unable to do so for a specified time.**
 - b. **Five days, the current provision, was regarded as too short an absence to require an acting administrator. Two weeks was mentioned. Time must be specified. Provision of additional compensation will be addressed in each specific circumstance.**
- 6. **§10. Remove unneeded transitional provisions**

- a. Commission approved. Counsel agreed at a previous meeting, and must specify detail.

Respectfully submitted,

Timothy Toomey

Minutes

Beacon City Charter Commission

Thursday February 16, 2017 7:07-8:45 pm

Present: Co-Chairs: Charles Kelly, Pamela Barrack. Commissioners: William Cornett, John Rembert, Peter Nocerino, Brooke Simmons. City Administrator: Anthony Ruggiero. Counsel: Drew Victoria Gamels. Gerald Benjamin (consultant) Timothy Toomey (student assistant)

Absent: Commissioners: Agnes Campagnone, Candi Rivera, Marko Guzijan, and Mayor Randy Casale

The meeting was called to order at 7:07 by Co-Chair Charles Kelly. The floor was turned over to Gerald Benjamin.

Gerald Benjamin provided a copy of the draft charter commission report and of the proposed amended charter prepared by Counsel Drew Gamels. Commission members reviewed the text of the draft report, and suggested that the Benjamin Center revise it to provide further detail as to why the Commission recommended those proposed charter changes that are likely to be most controversial. This will be done. Gerald turned the floor over to Ms. Gamels. She led a discussion of reformatting the charter, gender neutral language and each proposed change. Final decisions were reached on matters still before the Commission, as noted below.

A presentation to the public will be held on March 8, 2016 at 7 P.M. at City Hall. There will be a presentation to a workshop meeting of the City Council on March 27, 2016 at 7 P.M.

Matter marked in **red** is decided.

Matter marked in **blue** requires further consideration.

Note: Article and section numbers used below are current, and do not reflect proposed renumbering.

I. Article 1

1.07.B Alter slightly language regarding the procedure for sale of public property to remove ambiguity.

1.16 Remove ward descriptions from the charter. Ward boundaries to be set forth in the code, and connected to the decennial redistricting provision.

II. Article II

200A. Change the word "compensation" to "composition"

Change the word "district" to "ward" wherever it appears in the charter to reflect local usage and for consistency.

2.00 D. Election Process – strike this language as no longer needed: “The first city election under this Charter shall be held on the first Tuesday in November in the year 1991 and in conformity with the Election Law. The terms of the officers so elected shall begin on January 1, 1992. Thereafter, regular elections shall be held as provided by this Charter, to elect successors to those officers whose terms are about to expire.”

2.00D.b. At-large council members to be elected for four years, ward based members for two years.

*****The Benjamin Center will provide information as to why this decision was made.

2.02 Remove health benefits for council members from the charter, accompanied by a \$2000 raise for council members and a proportional raise for the mayor (to \$35,000). Members would be permitted to buy insurance through the city plan.

*****The Benjamin Center will provide information as to why this decision was made.

2.04 Strike this language as unneeded: “The Mayor shall submit a yearly planning report to the Council no later than June 1.”

2.14 Timing of Reporting Independent Audit – Change from April 30 to June 30.

2.16C. Workshop meetings: More precise language added regarding procedure for addition of items to the agenda by Council members.

2.26 Switch to electronic publication of ordinances

Note: City administrator will review current practice regarding publication of full text of ordinances in minutes of Council meetings).

III. Article III

300.7 Change the deadline for Mayoral financial reporting from March 1 to May 1

300.12 Purchasing authority – Alter to reflect current practice, adding purchasing to duties of administrator or his or her designee.

3.01A – Each time the Council reorganizes, by a date certain, the City Administrator will recommend and mayor specify persons who might serve as an acting administrator if the administrator is absent or unable to do so for 30 days or more. (Provision of additional compensation will be addressed in each specific circumstance.)

IV. Article IV

4.02 Add the word "firm" to the charter to make clear that the appointee as city attorney need not be a named individual person.

4.04 -.10, .12. Language regarding individual departments will be retained. Language included at the time of the original adoption of charter to give assurance to existing departments and officials to be removed.

4.06 The commission recommended broadening language regarding qualifications required to be head of the city finance department to deepen the potential recruitment pool.

4.16 City Officers. The Commission agreed that certain offices need not be specified in the charter: e.g. Code Enforcement, Fire Inspection Coordinator

V. Article V

5.06E. Language is added to assure that default budget, if necessary, conforms to state limits and requirements in law.

5.10D Transfer of Appropriations: Commission decided after conversation via unanimous vote to change the threshold for required Council review and action from \$3,000 to \$7,500). This gives the administrator greater flexibility in daily management of the city government.

5.14B. Strike this language as unneeded: "signature stamp or signature plate." Change to "Automatic Signature"

VI. Article VI

6.02 Comprehensive Plan— Alter Section A and remove sections C, D as duplicative of procedures specified in NY General City Law.

6.02c. Add "resiliency and sustainable" operation of public facilities as goals.

VI. Article VIII

8.00 Bonding Process: Commission agrees to retain \$250,000 threshold for Permissive Referendum. Removed "With possible increase of."

VIII. Article IX

9.05 add term "quasi-contract" to accommodate results off recent litigation.

IX. Article X

Remove unneeded transitional provisions.

Respectfully Submitted,

Timothy Toomey

City of Beacon Workshop Agenda
8/14/2017

Title:

Budget Amendments for August 21

Subject:

Background:

ATTACHMENTS:

Description	Type
08-10-18 BA	Backup Material
BA 08-14-17	Budget Amendment

Council Budget Amendments
August 21, 2017 Meeting

1. Amend the 2017 Sewer Budget to account for additional costs in overtime for 2017. Below is the proposed budget amendment that will cover the City until year end:

Transfer to:

G -08-8130-105000-	OVERTIME	<u>\$ 60,000</u>
--------------------	----------	------------------

Transfer from:

G -08-8130-101000-	REGULAR SALARIES	<u>\$ 60,000</u>
--------------------	------------------	------------------

Respectfully submitted,
Susan K. Tucker CPA

City of Beacon Workshop Agenda
8/14/2017

Title:

Discussion of a Proposed Temporary Building Moratorium

Subject:

Background:

ATTACHMENTS:

Description	Type
K&B Memo re Moratorium	Cover Memo/Letter
LL Moratorium	Local Law

MEMORANDUM

TO: Beacon City Council

FROM: Nicholas M. Ward-Willis

RE: Proposed Moratorium for Purposes of Water Study

DATE: July 28, 2017

The proposed Moratorium on certain residential development to allow the City time to conduct a water study is being placed on your July 31, 2017 Agenda. A copy of the draft Moratorium Local Law will be included in the packet and has not changed since the last meeting. I thought it would be beneficial to provide in advance of Monday's meeting the following list of open items the Council will need to consider regarding the proposed Moratorium:

- 1) Will development of City property be exempt (specifically I was thinking of the former highway garage parcel and the mechanic's shop). If these properties are subject to the Moratorium, they will remain a City liability and not be placed back on to the tax roll. The City has received responses to the RFP request and has interviewed the respondents on Wednesday and Thursday.
- 2) Will the construction of single family homes on existing vacant lots or a certain specified number of subdivision lots be exempt from the Moratorium?
- 3) Will commercial and industrial properties be subject to the Moratorium? The Council should discuss this as the concern of adequacy of water supply applies to commercial and industrial properties as well as residential.
- 4) Does the Council wish to consider the additional areas of review that Council Member Kyriacou suggested be part of the Moratorium?
- 5) Currently the proposed Local Law exempts from this moratorium any application for residential

development submitted to the City before July 3, 2017 or pending before a land use board as of the July 11, 2017 Planning Board agenda and the July 18, 2017 Zoning Board of Appeals Agenda. Is the Council still comfortable with this date?

In terms of process, if the City Council were interested in introducing a Moratorium Local Law, the local law could be introduced at either the August 7th or August 21st Council meetings. Considering introducing the local law at the August 21st meeting would allow for further workshop discussion on August 14th. The local law must be referred to the County and City Planning Boards. The City Planning Board next meets on September 12, 2017 (the law would not be introduced in time to be placed on the August Agenda). The Council would be able to hold a public hearing on September 18, 2017 which would allow time to receive comments from the City Planning Board (and potentially the County Planning Board although the County under the law is permitted thirty days to review the local law). The Council could also convene the public hearing on Tuesday, September 5th, before the Planning Board meets but it would not have the benefit of review and comments from the County and City Planning Boards before it opens the public hearing and the hearing would need to be continued to the 18th.

In terms of the public purpose for enacting the moratorium, note that there will be several water related items on Monday's work session agenda. LBG, Anthony and Ed Balicki will be present to discuss the current efforts to locate alternate sources of water and related issues. LBG will discuss the efforts to locate water sources. Anthony and Ed will review the proposals received from the consultants who will examine the City's water demands and a proposal from NY Leak Detection to survey the City's water lines for leaks (which was last performed in 2002).

Please note that I will be on vacation the week of July 31st, but my colleague Ed Phillips will attend in my absence.

ecc: Anthony Ruggiero
Edward J. Phillips, Esq.

LOCAL LAW NO. ____ OF 2017

**CITY COUNCIL
CITY OF BEACON**

**LOCAL LAW REGARDING
ENACTMENT OF A MORATORIUM**

A LOCAL LAW to enact
moratorium on
residential development

BE IT ENACTED by the City Council of the City of Beacon as follows:

SECTION 1. TITLE

This local law shall be entitled, “A Local Law, pursuant to Municipal Home Rule Law § 10, to enact a moratorium with respect to land use approvals to review certain special use, site plan, and subdivision applications involving residential development, including single family and mixed use development within the City of Beacon, by means of amending Chapter 223, Zoning, of the Code of the City of Beacon.”

SECTION 2. LEGISLATIVE INTENT AND PURPOSE

The City Council hereby finds as follows:

1. The City of Beacon adopted a Comprehensive Plan in 2007 and updated it in 2017. These Comprehensive Plans encouraged development within the City of Beacon, with a special focus on opportunities for residential development along Main Street’s Central Business District, the Central Main Street, Linkage and Waterfront Districts. However, in the past approximately three years 1,200 residential units have been approved or are pending approval. The City is concerned that such a large number of housing in such a short time will stress the City’s water supply. The City’s vision was that development would be more gradual and take place over a period of years. The City’s water supply is of special concern. The City has enough water to maintain a population of approximately 17,800 people, and the additional units (approved, but not built, pending before the land use boards and those preliminarily discussed with the Building Department) have pushed the population close to that number. In connection with water supply, the City hired Leggette, Brashears & Graham, Inc (LBG) to look into the development of a new well on the existing Water Treatment Plant property. That

location was found unsuitable for potable water because the property does not have a sufficient water yield. The accelerated development of housing within the City will lead to greatly increased consumption of services and resources.

2. The City is participating in a grant awarded by the NYS Department of State, along with other communities, to develop a Community Profile, Housing Profile and Community Development Plan for Beacon. Patterns for Progress is administering this work. The Community Development Plan will include the data and trends from the community and housing profiles as well as a set of recommendations and strategies for the City to aid in its continuing revitalization efforts. The plan will include a) Research and data trend analysis based on the Community and Housing Profiles; b) Major project pipeline report; c) Community Engagement and Visioning sessions with summary reports; and d) Recommendations and strategies for each community.
3. It is the intent and purpose of this Local Law to establish a temporary moratorium on residential development in order to protect the City and its residents, businesses and visitors from the potential impacts of new development on the City's water supply given the accelerated rate of development within the City. Imposition of a moratorium will allow the City sufficient time to conclude the preparation of comprehensive studies and plans for the City's water supply and the regulation of residential development within the City of Beacon, including those studies being prepared by Patterns for Progress referenced above.

SECTION 3. MORATORIUM

1. Effective immediately and continuing for a period of six (6) months following the date on which this Local Law is filed with the Secretary of State, no application for special use permits, site plan approval, or subdivision approval will be processed by the City or any land use board, no submission of any application or consideration of any application for any permit or approval shall be accepted, and no permit or approval will be issued by the City for the establishment of new residential or mixed use development within the City until this ordinance has expired or has been repealed according to applicable law.
2. Any application for residential development submitted to the City before July 3, 2017 or pending before a land use board as of the July 11, 2017 Planning Board agenda or the July 18, 2017 Zoning Board of Appeals Agenda is exempt from this moratorium. Any application seeking a modification or extension of an existing approval that does not increase the density (by unit or bedroom count) shall be exempt from this moratorium.
3. The City Council may, by resolution, terminate this moratorium prior to its expiration, or alternatively, extend the moratorium for a period of ninety (90) days or such other time period, as the City Council, in its sole discretion, deems necessary to allow for the

comprehensive study of the impacts of residential development within the City and preparation and adoption of regulations pertaining to such development.

4. In the event this Local Law causes a severe and substantial financial hardship to a property owner, an application may be made in writing to the City Council requesting an exemption from the provisions herein. After due notice and a public hearing on such application, the City Council may grant an exemption with such conditions as it may deem reasonable and necessary, provided such exemption is the minimum relief necessary. No exemption shall be granted pursuant to this section, except upon a determination by the City Council that severe and substantial financial or economic hardship was directly created as a result of the application of the provisions of this Local Law.
5. Pursuant to Municipal Home Rule Law Section 10, this Local Law shall supersede any inconsistent provisions of New York State General City Law for the entire duration of this moratorium, including any extension thereof.

SECTION 5. SEPARABILITY

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

SECTION 6. EFFECTIVE DATE

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State as provided by the Municipal Home Rule Law.

City of Beacon Workshop Agenda
8/14/2017

Title:

Fishkill Avenue Rehabilitation Project - NYS DOT Supplemental Agreement No. 4

Subject:

Background:

ATTACHMENTS:

Description	Type
NYS DOT Letter and Sup No. 4	Cover Memo/Letter
Res. NYS DOT Fishkill Ave Rehab Sup No. 4	Resolution



Department of
Transportation

ANDREW M. CUOMO
Governor

MATTHEW J. DRISCOLL
Commissioner

TODD WESTHUIS, P.E.
Regional Director



July 31, 2017

Ms. Etha Grogan, Project Manager
City of Beacon
One Municipal Plaza
Beacon, NY 12508

RE: PIN 8757.30, REHABILITATION OF FISHKILL AVE
CITY OF BEACON, DUTCHESS COUNTY
SUPPLEMENTAL AGREEMENT #4 – D017347

Dear Ms. Grogan:

Enclosed are eight (8) Supplemental Agreements to include additional preliminary engineering funds for the above-referenced project. Seven (7) executed copies of the agreement, **EACH with original signatures, notarizations, and certified, seal-stamped resolutions,** should be returned to this office. A sample resolution is attached for your use.

Please note that the Marchiselli funding for this phase is insufficient. Additional Marchiselli funds will be requested and once approved, another supplemental agreement will be processed to include such approved funds.

To ensure that the funding programmed for this project on the State Transportation Improvement Program (STIP) does not lapse as of September 15th, the City should return this agreement to this office **by August 30th**.

As a reminder per Chapter 15, Administering Construction Contracts; Section 15.4.8 Civil Rights Reporting:

The Contractor and all subcontractors and suppliers will utilize New York State Department of Transportation Equal Employment Opportunity reporting software, which is currently "Equitable Business Opportunities" (EBO). The Sponsor will monitor prime's payments to subcontractor and ensure that subcontractors are paid promptly per specifications. In addition, the sponsor is to monitor EEO goals on a monthly basis and take corrective action if goals are not being met; reference NYSDOT Standard Specifications Section 102-11, Equal Employment Opportunity Requirements.

Your assistance in having the agreement approved by the **City Council** and signed by the **Mayor** and **City Attorney** is appreciated. Of course, if you have any questions, please call me at (845) 431-5977 or by e-mail at doreen.holsopple@dot.ny.gov

Sincerely,

Doreen Holsopple
Administrative and Financial Advisor
Region 8 Local Projects Unit

Enclosures

Dh:mg

SUPPLEMENTAL AGREEMENT NO 4 to D017347

This Supplemental Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at
50 Wolf Road, Albany, New York, 12232, on behalf of New York State ("State");

And

City of Beacon (the Municipality/Sponsor)
Acting by and through the **Mayor**

With its office at **One Municipal Plaza, Suite One, Beacon, Dutchess County, New York**

This amends the existing Agreement between the parties in the following respects only:

X Amends a previously adopted Schedule A by:

- ☐ amending a project description
- ☐ amending the contract end date
- X** amending the scheduled funding by:
 - ☐ adding additional funding:
 - ☐ adding 1,2,3 phase which covers eligible costs incurred on/after xxxxxx
 - ☐ adding 1,2,3 phase which covers eligible costs incurred on/after xxxxxx
 - X** increasing funding for a project phases(s) – Preliminary Engineering
 - ☐ adding a pin extension
 - ☐ change from Non-Marchiselli to Marchiselli
 - ☐ deleting/reducing a project phase(s)
 - ☐ other (xxxxx)

☐ Amends a previously adopted Schedule "B"

X Amends a previously adopted agreement by adding Appendix 2-S – Iran Divestment Act

☐ Amends the Text of the Agreement as follows:

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by its duly authorized officials as of the date first above written.

Approved for the Municipality/Sponsor

By: _____

Print Name: _____

Title: _____

Municipality/Sponsor Attorney:

By: _____

Print Name: _____

STATE OF NEW YORK)
)ss.:
COUNTY OF DUTCHESS)

On this _____ day of _____, 2017 before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the Municipal/Sponsor Corporation described in and which executed the above instrument; that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution or other authorization which was duly adopted on _____ and which a certified copy is attached and made a part hereof, and that he/she signed his/her name thereto by like order.

Notary Public

By: _____
For Commissioner of Transportation

Agency Certification: In addition to the Acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this Contract.

APPROVED AS TO FORM:
STATE OF NEW YORK ATTORNEY GENERAL

By: _____
Assistant Attorney General

COMPTROLLER'S APPROVAL:

By: _____
For the New York State Comptroller
Pursuant to State Finance Law§ 112

SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
NYS DOT/ State-Local Agreement - Schedule A for PIN 8757.30

OSC Municipal Contract #: D017347	Contract Start Date: <u>8/7/2001</u> (mm/dd/yyyy) Contract End Date: <u>9/30/2020</u> (mm/dd/yyyy) <input type="checkbox"/> Check, if date changed from the last Schedule A											
Purpose: <input type="checkbox"/> Original Standard Agreement <input checked="" type="checkbox"/> Supplemental Schedule A No. 4												
Agreement Type: <input checked="" type="checkbox"/> Locally Administered Municipality/Sponsor (Contract Payee): City of Beacon Other Municipality/Sponsor (if applicable): <input type="checkbox"/> State Administered <div style="margin-left: 20px;"> <i>List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.</i> <input type="checkbox"/> Municipality: % of Cost share <input type="checkbox"/> Municipality: % of Cost share <input type="checkbox"/> Municipality: % of Cost share </div>												
Authorized Project Phase(s) to which this Schedule applies: <input checked="" type="checkbox"/> PE/Design <input checked="" type="checkbox"/> ROW Incidentals <input checked="" type="checkbox"/> ROW Acquisition <input type="checkbox"/> Construction/CI/CS												
Work Type: HWY RECONST	County (If different from Municipality): Dutchess County											
Marchiselli Eligible <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check, if Project Description has changed from last Schedule A): <input type="checkbox"/>												
Project Description: Improvements to Fishkill Avenue from Beacon City Line to Main Street in the City of Beacon, Dutchess County.												
Marchiselli Allocations Approved FOR ALL PHASES <i>All totals will calculate automatically.</i>												
Check box to indicate change from last Schedule A <input checked="" type="checkbox"/>	State Fiscal Year(s) Cumulative total for all prior SFYs Current SFY	Project Phase <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th>PE/Design</th> <th>ROW (RI & RA)</th> <th>Construction/CI/CS</th> </tr> <tr> <td>\$36,000.00</td> <td>\$24,400.00</td> <td>\$0.00</td> </tr> <tr> <td>\$0.00</td> <td>\$0.00</td> <td>\$0.00</td> </tr> </table>	PE/Design	ROW (RI & RA)	Construction/CI/CS	\$36,000.00	\$24,400.00	\$0.00	\$0.00	\$0.00	\$0.00	TOTAL \$60,400.00 \$ 0.00
PE/Design	ROW (RI & RA)	Construction/CI/CS										
\$36,000.00	\$24,400.00	\$0.00										
\$0.00	\$0.00	\$0.00										
Authorized Allocations to Date		\$36,000.00 \$24,400.00 \$ 0.00	\$60,400.00									

A. Summary of allocated MARCHISELLI Program Costs FOR ALL PHASES *For each PIN Fiscal Share below, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.*

PIN Fiscal Share	"Current" or "Old" entry indicator	Federal Funding	Total Costs	FEDERAL Participating Share	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
8757.30.121	Current	STP	\$342,000.00	\$264,000.00	\$36,000.00 *	\$42,000.00	\$0.00
	Old	STP	\$160,000.00	\$128,000.00	\$24,000.00 *	\$8,000.00	\$0.00
8757.30.221	Current	STP	\$162,961.00	\$130,369.00	\$24,444.00	\$8,148.00	\$0.00
	Old	STP	\$162,961.00	\$57,600.00	\$10,800.00	\$94,561.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$504,961.00	\$394,369.00	\$60,444.00	\$50,148.00	\$ 0.00

NYSDOT/State-Local Agreement – Schedule A

B. Summary of Other (including Non-allocated MARCHISELLI) Participating Costs FOR ALL PHASES For each PIN Fiscal Share, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
..	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
..	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
..	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
..	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
..	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
..	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
..	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

C. Local Deposit(s) from Section A:

	\$ 0.00
Additional Local Deposit(s)	\$
Total Local Deposit(s)	\$ 0.00

D. Total Project Costs All totals will calculate automatically.

Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total OTHER STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$394,369.00	\$60,444.00	\$ 0.00	\$50,148.00	\$504,961.00

E. Point of Contact for Questions Regarding this Schedule A (Must be completed)

 Name: Doreen Holsopple
 Phone No: 845-431-5977

See Agreement (or Supplemental Agreement Cover) for required contract signatures.

- This Schedule A increases funding for the preliminary engineering phase.
- *Marchiselli funding hereunder is limited by the amount authorized on the Comprehensive List. Additional Marchiselli funding is contingent on appropriate increase(s) to the Comprehensive List and the execution of a Supplemental Schedule A providing such additional funds.

APPENDIX 2-S IRAN DIVESTMENT ACT

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

By entering into a renewal or extension of this Contract, Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Contractor understands that during the term of the Contract, should NYSDOT receive information that a person is in violation of the above-referenced certification NYSDOT will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then NYSDOT shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

NYSDOT reserves the right to reject any renewal, extension or request for assignment for an entity that appears on the prohibited entities list hereafter and to pursue a responsibility review with respect to any entity that is granted a contract extension/renewal or assignment and appears on the prohibited entities list thereafter.

**CITY OF BEACON, NY
CITY COUNCIL**

RESOLUTION NO. ____ OF 2017

Authorizing the implementation, and funding in the first instance 100% of the federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.

WHEREAS, a Project for the **Rehabilitation of Fishkill Avenue in the City of Beacon**, identified as **PIN 8757.30** (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, Resolution No. 58, adopted by the City of Beacon on April 18, 2011, approved and agreed to advance the Project by making a commitment of 100% of the non-federal share of the costs of preliminary engineering and right-of-way incidental work.

WHEREAS, it was subsequently found necessary to undertake additional preliminary engineering work not contemplated in the original agreement authorized by the previous Resolution; and

WHEREAS, it has been found necessary to increase the federal and non-federal share of costs for the additional preliminary engineering work for the project; and

WHEREAS, the City of Beacon desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of preliminary engineering work for the Project or portions thereof.

NOW, THEREFORE, the Beacon City Council, duly convened does hereby

RESOLVE, that the Beacon City Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Beacon City Council hereby authorizes the City of Beacon to pay in the first instance 100% of the federal and non-federal share of the cost of the additional right-of-way incidental work and the right-of-way acquisition work for the Project or portions thereof; and it is further

RESOLVED, that the sum of **\$170,000** (\$330,000 minus previous \$160,000) is hereby appropriated from the City of Beacon Fishkill Avenue Capital Projects Account and made available to cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Beacon City Council shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the Mayor thereof, and it is further

RESOLVED, that the Mayor of the City of Beacon be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or applicable Marchiselli Aid on behalf of the City of Beacon with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that in addition to the Mayor, the following municipal titles: Commissioner of Public

Works, City Engineer, City Comptroller, and City Administrator are also hereby authorized to execute any necessary Agreements or certifications on behalf of the Municipality/Sponsor, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

Resolution No. _____ of 2017			Date: <u>August 21, 2017</u>				
<input type="checkbox"/> Amendments			<input type="checkbox"/> On roll call			<input type="checkbox"/> 2/3 Required	
<input type="checkbox"/> Not on roll call.						<input type="checkbox"/> 3/4 Required	
Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
		Ali Muhammad					
		Omar Harper					
		Lee Kyriacou					
		George Mansfield					
		Pam Wetherbee					
		Peggy Ross					
		Randy Casale					
		Motion Carried					

STATE OF NEW YORK)
) SS:
 COUNTY OF DUTCHESS)

I, _____, Clerk of the City of Beacon, New York, do hereby certify that I have compared the foregoing copy of this Resolution with the original on file in my office, and that the same is a true and correct transcript of said original Resolution and of the whole thereof, as duly adopted by said _____ at a meeting duly called and held at the _____ on _____ by the required and necessary vote of the members to approve the Resolution.

WITNESS My Hand and the Official Seal of the City of Beacon, New York, this _____ day of _____, 2017.

 Clerk, City of Beacon

City of Beacon Workshop Agenda
8/14/2017

Title:

Consideration of CAC Appointment

Subject:

Background:

ATTACHMENTS:

Description	Type
CAC_Application	Cover Memo/Letter

Committee Application



Submit Forms:
One Municipal Plaza, Suite One
Beacon, NY 12508

Phone: (845) 838-5010
FAX: (845) 838-5012
Email: cityofbeacon@cityofbeacon.org

Name

Hollis Bogdanffy

Address

14 Dewhurst St Beacon NY

Phone Number

845-204-4172

Alternate Phone

917-837-1560 (Husband)

Email Address

hollisbk@mac.com

Committee You are
Interested In

- ☐ Board of Assessment Review
- ☐ Board of Ethics
- ☒ Conservation Advisory Committee
- ☐ Emergency Management Committee
- ☐ Human Relations Commission
- ☐ Planning Board
- ☐ Recreation Committee
- ☐ Traffic Safety Committee
- ☐ Zoning Board of Appeals
- ☐ Any of the above
- ☐ Other

Available number of
Hours per week (for
Committee work)

4-6

Occupation

(Retired) Registered Nurse

Employer

Retired

Work Address

Work Phone

Education

- ☐ Some High School
☐ High School Diploma
☐ Some College
☐ Associates Degree
☐ Bachelor's Degree
☒ Master's Degree
☐ Doctorate Degree

Interest & Skills

Writing, Gardening, Reading

Areas of Expertise
(business & civic)

Health Care, Master Gardener

Reference

Reference Name

Michael Kriegh

Address

19 DeWindt St Beacon

Phone

417-837-1560

Email Address

mkriegh@gmail.com

Relationship

husband

alternate:

Brian Difeo
briandifeo@gmail.com
(Friend)