

# Warren County Board of Supervisors

## RESOLUTION NO. 428 OF 2014

Resolution introduced by Supervisors Girard, Wood, Westcott, Monroe and Strough

### RESOLUTION ADOPTING THE DETERMINATIONS AND FINDINGS FOR THE EMINENT DOMAIN PROCEDURE LAW ACQUISITION OF LAND AND EASEMENT FROM FOREST ENTERPRISES MANAGEMENT, INC.

#### EMINENT DOMAIN PROCEDURE LAW DETERMINATION AND FINDINGS

Off Airport Avigation Easement / Land Acquisition Project  
Forest Enterprises Management, Inc. (Tax Parcel No. 303.11-1-4)  
Floyd Bennett Memorial Airport

WHEREAS, the County of Warren owns, operates, and maintains the Floyd Bennett Memorial Airport located in the Town of Queensbury, Warren County, New York; and

WHEREAS, the Floyd Bennett Memorial Airport is a Public Use Airport that is classified as “General Aviation – Other” under the State Aviation System Plan (SASP); and

WHEREAS, the Floyd Bennett Memorial Airport is subject to Title 14, Code of Federal Regulations Part 77 “Safe, Efficient Use, and Preservation of Navigable Airspace”; and

WHEREAS, the County of Warren receives financial assistance through grants for airport improvement projects from the Federal Aviation Administration (FAA); and

WHEREAS, as a stipulation to accepting these FAA administered grants, the County of Warren has agreed to certain obligations or assurances to maintain and operate the airport facilities safely and efficiently, and in accordance with specified conditions; and

WHEREAS, one of the grant assurances states the County of Warren will take appropriate action to assure that such navigational airspace as is required to protect instrument and visual operations to the airport, including established minimum flight altitudes, will be adequately cleared and protected by removing, lowering, relocating, marking, lighting, or otherwise mitigating existing hazards, and by preventing the establishment or creation of future airport hazards; and

WHEREAS, the County of Warren completed a Federal Aviation Regulations (FAR) Part 77 Obstruction Evaluation for the Floyd Bennett Memorial Airport, dated January, 2002; and

WHEREAS, the FAR Part 77 Obstruction Evaluation identified various obstructions to air navigation in the vicinity of the south end of Runway 1-19 at the Floyd Bennett Memorial Airport; and

WHEREAS, the County of Warren completed an “Obstruction Evaluation of Runway End Siting Requirements to Runways 1-19 and 12-30” of the aforementioned airport, dated April 2009; and

**RESOLUTION NO. 428 OF 2014**

**PAGE 2 OF 4**

WHEREAS, the Runway 1-19 Approach Plan contained in the aforesaid obstruction evaluation report shows numerous obstructions located on tax parcel no. 303.11-4; and

WHEREAS, based on the data provided in the FAR Part 77 Obstruction Evaluation, the County of Warren must control the airspace above tax parcel no. 303.11-1-4 in order to comply with the requirements of the FAR Part 77 surface protection requirements; and

WHEREAS, in or about 2002, in the course of updating the Airport Master Plan for the Floyd Bennett Memorial Airport, C & S Engineers assessed the then current and projected future needs of the Floyd Bennett Memorial Airport and recommended an extension to the approach of Runway 1-19 in order to accommodate the family of critical design airplanes/aircraft then currently operating and anticipated to operate at the Airport without imposing weight restriction or requiring an intermediate fuel stop when flying to medium or long haul destinations; and

WHEREAS, the C & S Engineers recommendation to extend Runway 1-19 was incorporated into the Airport Master Plan, which was conditionally approved by the FAA in 2009, pending further environmental assessment; and

WHEREAS, in the course of progressing its plan to extend Runway 1-19, the County has obtained and expended County funds and FAA grant money for the purpose of having C & S Engineers perform environmental assessments and preliminary engineering services required in connection with the Runway 1-19 Extension Project; and

WHEREAS, the proposed runway extension project impacts the aforementioned tax parcel no. 303.11-1-4; and

WHEREAS, the County of Warren conducted a search of public land records which indicate tax parcel no. 303.11-1-4 is currently owned by Forest Enterprises Management, Inc.; and

WHEREAS, tax parcel no. 303.11-1-4 contains 83.86 ± acres of land; and

WHEREAS, the County of Warren proposes to acquire certain real property rights in the form of the fee simple interest to 3.86 acres of land and an avigation easement over the remaining 80 ± acres of land; and

WHEREAS, the proposed public project is classified as a Categorical Exclusion (310b, 310l, 310z) under United States Department of Transportation (USDOT) National Environmental Policy Act (NEPA) Regulations, 23 CFR 771.117(d); and

WHEREAS, the County of Warren and its consultant completed the NEPA Assessment Checklist and determined the proposed project complies with the requirements of a Categorical Exclusion; and

WHEREAS, the County of Warren, acting as Lead Agency under the New York State Environmental Quality Review Act (SEQRA) has determined the project is an Unlisted Action in accordance with 6NYCRR Part 617, SEQRA; and

*RESOLUTION NO. 428 OF 2014*

*PAGE 3 OF 4*

WHEREAS, The County of Warren completed the Short Form Environmental Assessment and determined the proposed public project will not have a significant effect on the environment; and

WHEREAS, the County of Warren has considered the general effect of the proposed public project on the residents of the locality in which the proposed project is to be undertaken; and

WHEREAS, representatives of the County of Warren, and its consultant, have met with the landowner concerning the proposed public project and have made every effort to minimize the impact the proposed public project will have on the property; and

WHEREAS, in accordance with Article 2 of the Eminent Domain Procedure Law the oral presentation and comment phase of a public hearing was held on July 1, 2014, at 6:30 p.m. at the Town of Queensbury Activity Center, 742 Bay Road, Queensbury, New York, for the purpose of informing the public, reviewing the public use to be served and public benefit to be obtained by the aforementioned proposed public project, and to consider all other matters appropriate to the proposed public project; and

WHEREAS, during the course of the aforementioned oral presentation phase of the public hearing, all matters required by the Eminent Domain Procedure Law and appropriate to such public hearing were identified and explained to persons then in attendance, and such persons in attendance were given an opportunity to, and did, speak and comment on the proposed public project and to examine documents presented; and

WHEREAS, at the conclusion of the oral presentation phase of the aforementioned public hearing, the hearing was adjourned and continued to the close of business on July 8, 2014, for the purpose of receiving written comments on the proposed public project; and

WHEREAS, during the continuation of the hearing, the County of Warren did receive written comments on the proposed public project; and

WHEREAS, the County of Warren and its consultant did review all public comments received prior to the close of the public hearing and prepare written responses, as deemed necessary; and

WHEREAS, at the close of business on July 8, 2014, the aforementioned public hearing concluded, and the record thereof was closed; and

WHEREAS, the minutes of such public hearing were transcribed and made available, together with the exhibits and other documents, if any, which were identified or made available during the oral presentation phase thereof, for inspection and examination by the public at the offices of the Warren County Clerk of the Board and at the office of the Queensbury Town Clerk.

NOW, THEREFORE, it is hereby

RESOLVED, that the following constitutes the Determination and Findings of this Body with respect to the proposed Off-Airport Avigation Easement / Land Acquisition Project, Town of Queensbury, Warren County, New York:

- (1) The public use, benefit, or purpose to be served by the proposed public project:

*RESOLUTION NO. 428 OF 2014*

*PAGE 4 OF 4*

- a. Control airspace in compliance with federal regulations.
  - b. Remove known obstructions to the existing runway end based on FAR Part 77 surfaces.
  - c. Prevent existing or proposed manmade objects, terrain, or natural growth from extending upward into navigable airspace.
  - d. Extend the approach of Runway 1-19 in order to accommodate the family of critical design airplanes/aircraft then currently operating and anticipated to operate at the Airport without imposing weight restriction or requiring an intermediate fuel stop when flying to medium or long haul destinations.
  - e. Minimize the disruption of plans for the future development of tax parcel no. 303.00-1-4.
- (2) The approximate location for the proposed public project and the reasons for the selection of the location:

The proposed public project is located adjacent to the south end of Runway 1-19 at the Floyd Bennett Memorial Airport, Queensbury, New York. The project location was selected due to the existence of physical obstructions to the existing runway end at the south end of Runway 1-19.

The acquisition of real property rights from tax parcel 303.11-1-4 will allow the removal of known obstructions to the airspace at the existing runway end at the south end of Runway 1-19, provide protection to the airspace from future obstructions, and provide the necessary property rights for the extension to the approach of Runway 1-19 in order to accommodate the family of critical design airplanes/aircraft then currently operating and anticipated to operate at the Airport without imposing weight restriction or requiring an intermediate fuel stop when flying to medium or long haul destinations.

- (3) The general effect of the proposed project on the environment and residents of the locality:
- a. The proposed public project underwent a thorough and proper review in accordance with the National Environmental Policy Act (NEPA) and the State Environmental Quality Review Act (SEQRA). The county of Warren and its consultant completed the NEPA Assessment Checklist and determined the proposed project complies with the requirements for a Categorical Exclusion. The proposed project is classified as an Unlisted Action under the SEQRA, Part 617, Title 6 of the Official Compilation of New York Codes, Rules, and Regulations (6 NYCRR Part 617). The County of Warren, as Lead Agency under SEQRA, completed a Short Form Environmental Assessment Form and determined the proposed project will not have a significant effect on the environment.
  - b. The proposed public project will have minor effects upon the residents of the locality. Limited impacts will occur as a result of future tree removal and other construction activities. The primary purpose of the project is to control the airspace and remove known obstructions to the existing runway end at the Floyd Bennett Memorial Airport. The result will be improved safety for the residents and general public in the vicinity of the airport.