

RESOLUTION NO. 40 -2013, RESCINDING ADOPTED RESOLUTION NO. 768-2011 AND AUTHORIZING PLANNING STEPS FOR THE VOLUNTARY ACQUISITION OF LAND AND IF NECESSARY PUBLIC HEARINGS PURSUANT TO ARTICLE 2 OF THE EMINENT DOMAIN PROCEDURE LAW OF THE STATE OF NEW YORK IN CONNECTION WITH THE ACQUISITION OF PROPERTIES TO BE ACQUIRED FOR THE RECONSTRUCTION OF CR 48, MIDDLE ROAD FROM RUCH LANE TO CHAPEL LANE, TOWN OF SOUTHOLD, SUFFOLK COUNTY, NEW YORK (CP 5526, PHASE II)

WHEREAS, the Suffolk County Legislature by Adopted Resolution No. 768-2011 dated September 15, 2011 authorized public hearings pursuant to Article 2 of the Eminent Domain Procedure Law of the State of New York in connection with the acquisition of properties to be acquired for the reconstruction of CR 48, Middle Road, from Ruch Lane to Chapel Lane, Town of Southold, Suffolk County, New York, Phase II (CP5526); and

WHEREAS, an additional pre-hearing review of the proposed acquisition maps and descriptions was made subsequent to the passage of Adopted Resolution No. 768-2011 and it was determined that the goals of the acquisition could be made more economically and efficiently while maintaining modern highway engineering and safety standards; and

WHEREAS, the Commissioner of the Department of Public Works prepared new maps showing the properties to be acquired for the reconstruction of CR 48, Middle Road from Ruch Lane to Chapel Lane, Town of Southold, Suffolk County, New York, indicating the properties to be acquired, the names of the reputed owners, the boundaries and dimensions of the parcels to be acquired; and

WHEREAS, said maps were prepared on or about September 11, 2012, and are entitled "MAPS SHOWING PROPERTIES TO BE ACQUIRED FOR THE RECONSTRUCTION OF CR 48, MIDDLE ROAD FROM RUCH LANE TO CHAPEL LANE, TOWN OF SOUTHOLD, SUFFOLK COUNTY, NEW YORK"; and

WHEREAS, the project has been adopted in the 2013 Capital Budget as and by Capital Project No. 5526; and

WHEREAS, in an effort to minimize the economic cost and time delays associated with compulsory acquisitions made under the provisions of the New York State Eminent Domain Procedure Law, it has been determined that an attempt should first be made to acquire some or all of the proposed acquisition parcels in a negotiated voluntary transaction with the respective property owners of each acquisition parcel; and

WHEREAS, if one or more of the proposed acquisition parcels cannot be acquired under the terms and provisions of a negotiated voluntary transaction with the respective property owner(s) of said parcel(s), then the acquisition of the parcel(s) not voluntarily acquired should be acquired by a compulsory acquisition under the provisions of the New York State Eminent Domain Procedure Law; and

WHEREAS, pursuant to Article 2 of the Eminent Domain Procedure Law, it is required that a public hearing be held prior to any compulsory acquisition in order to inform the public and to review the public use to be served by this project and to review the impact on the environment for residents of the locality in which the project is situate; and

WHEREAS, Section 204 of the Eminent Domain Procedure Law requires the making of Findings and Determinations concerning the proposed project and requires the publication thereafter of a brief synopsis; now, therefore be it

1st **RESOLVED**, that Adopted Resolution No. 768-2011, duly adopted by this Legislature on September 15, 2011 is hereby rescinded in its entirety and is in no further force and effect; and be it further

2nd **RESOLVED**, that the Suffolk County Department of Public Works be and hereby is authorized to acquire the properties set forth in the aforesaid maps; said acquisition to be made in the name of the County of Suffolk; and be it further

3rd **RESOLVED**, that said acquisitions be in fee simple absolute or such lesser estate, if said lesser estate is so indicated on the maps heretofore adopted; and be it further

4th **RESOLVED**, the Commissioner of the Suffolk County Department of Public Works, or his duly appointed designee, is hereby authorized, empowered and directed to have the proposed acquisition parcels surveyed, appraised, environmentally audited, and searched for title; and be it further

5th **RESOLVED**, that the cost of such surveys, appraisals, environmental audits and title searches shall be paid from the funds appropriated under Capital Project No. 5526; and be it further

6th **RESOLVED**, that the Suffolk County Department of Public Works be and hereby is authorized and permitted to make the aforesaid acquisition of said lands by negotiation, purchase, and conveyance; said acquisition subject to the approval of this Legislature; and be it further

7th **RESOLVED**, in the event that the Suffolk County Department of Public Works is unable to acquire any parcel by negotiation, purchase, and conveyance, it is hereby authorized, permitted, and directed to commence the acquisition of said unacquired parcel(s) under the provisions of the New York State Eminent Domain Procedure Law; and be it further

8th **RESOLVED**, that should a compulsory acquisition of one or more of the subject parcels under the provisions of the New York State Eminent Domain Procedure Law be necessary, the Commissioner of the Suffolk County Department of Public Works, or his designee, be deemed Hearing Officer with authority to make Findings and Determinations pursuant to Section 204 of the Eminent Domain Procedure Law; and the said Director, or designee, is hereby authorized to exercise the full authority of the Legislature to conduct public hearings and make Findings and determinations as provided in Article 2 of the Eminent Domain Procedure Law; and be it further

9th **RESOLVED**, that should a compulsory acquisition of one or more of the subject parcels under the provisions of the New York State Eminent Domain Procedure Law be necessary, upon conclusion of the aforesaid hearings, pursuant to Eminent Domain Procedure Law, the Hearing Officer files written Findings and Determinations with the Clerk of the

Legislature within 90 days of the conclusion of the Public Hearing provided for in Article 2 of the Eminent Domain Procedure Law; and be it further

10th **RESOLVED**, that should a compulsory acquisition of one or more of the subject parcels under the provisions of the New York State Eminent Domain Procedure Law be necessary, a brief synopsis of the filed Findings and Determinations shall be published pursuant to the requirements of Section 204 of the Eminent Domain Procedure Law; and be it further

11th **RESOLVED**, that should a compulsory acquisition of one or more of the subject parcels under the provisions of the New York State Eminent Domain Procedure Law be necessary, copies of the Findings and Determinations will be forwarded upon written request, to applicants without cost to said applicant by the Clerk of the Legislature; and be it further

12th **RESOLVED**, that should a compulsory acquisition of one or more of the subject parcels under the provisions of the New York State Eminent Domain Procedure Law be necessary, upon completion of hearings required by Article 2 of the Eminent Domain Procedure Law, the map aforesaid, be filed in the Office of the Clerk of the County Legislature of the County of Suffolk; and be it further

13th **RESOLVED**, that should a compulsory acquisition of one or more of the subject parcels under the provisions of the New York State Eminent Domain Procedure Law be necessary, upon the filing of the Findings and Determinations with the Clerk of the Legislature, the Legislature of Suffolk County shall consider whether to adopt or reject said Findings and Determinations; and be it further

14th **RESOLVED**, that should a compulsory acquisition of one or more of the subject parcels under the provisions of the New York State Eminent Domain Procedure Law be necessary, all costs pertaining to notices, public hearings, publications, stenographic fees, mailings, postings, and direct service of process and/or notices be deemed an appropriate charge to this project as provided in the capital program for the acquisition of said real property; and be it further

15th **RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED: February 5, 2013

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: February 14, 2013