

Village of Monroe Board of Trustees Meeting December 19, 2023

**DUE PROCESS HEARING 12.19.2023 – 7:00PM
CODE VIOLATIONS AGAINST THE VILLAGE OF MONROE’S PROPERTY
MAINTENANCE LAW – 20 PARK AVENUE – SBL #202-3-14**

A Due Process Hearing was held on Tuesday, December 19, 2023 at 7:00PM in the Boardroom of the Village Hall, 7 Stage Road, Monroe, NY. The hearing was held to review the violation issued by the Village of Monroe Building Department on the following property within the Village of Monroe: 20 Park Avenue (TM# 202-3-14), as per Village Code Section 155A-6G – No Exterior Parking of Vehicles Except at Driveways. The owner, tenant or occupant of any property located within the Village of Monroe shall not park, permit or allow the exterior parking or storage of any vehicle within the front, side or rear yard of such property, unless such vehicle is parked upon a driveway or paved or dust-free surface provided for such purpose. No vehicle shall be stored on any portion of a required front-yard setback. The failure of any owner, occupant or tenant to comply with the provision of this subsection shall be deemed an offense. The specific violation is a vehicle parked in the front lawn.

**Present: Mayor Dwyer, Trustees Behringer, Ferraro, Karl, and O’Connor
Also present: Attorney Terhune, Clerk Zahra, and Attorney Bennett**

On a motion by Trustee Behringer, seconded by Trustee Karl, and carried, the hearing was opened at 7:00PM.

The reason for the “due process” hearing is that only the owner of the property that has been issued this violation is allowed to speak. No public comment is allowed. No one appeared to speak on behalf of the property owner.

With no further comments or questions, on a motion by Trustee Karl, seconded by Trustee O’Connor and carried, the due process hearing was closed at 7:05PM.

**VILLAGE OF MONROE
BOARD OF TRUSTEES MEETING
TUESDAY, DECEMBER 19, 2023
(www.villageofmonroe.org)**

The second of the bi-monthly meetings of the Board of Trustees was held on Tuesday, December 19, 2023 at 7:00 PM in the Boardroom of the Village Hall, 7 Stage Road, Monroe, New York. Mayor Neil Dwyer called the meeting to order and led in the pledge to the flag. Emergency exits were announced.

**Present: Mayor Dwyer, Trustees Behringer, Ferraro, Karl and O’Connor
Also present: Attorney Terhune, Clerk Zahra, and Attorney Bennett**

MINUTE APPROVAL: DECEMBER 5, 2023 BOARD MEETING:

On a motion by Trustee Karl, seconded by Trustee O’Connor, the Minutes of the December 5, 2023 Board Meeting were approved.

**Ayes: Trustees Behringer, Ferraro, Karl and O’Connor
Nays: None**

BUDGETARY TRANSFERS / MODIFICATIONS:

RESOLVED, the Board of Trustees authorizes the Treasurer to make the following fund transfers / modifications to balance the budget:

Budget Modifications						
From :	Description	To:	Description	Amount	Notes	
A.2705	Gifts and Donations	A.3120.410	PD General Expense	\$ 20.00	Raise Revnue/Expense Lines re K9 Donation	

On a motion by Trustee Behringer, seconded by Trustee Karl

Ayes: Trustees Behringer, Ferraro, Karl and O’Connor

Nays: None

APPOINTMENT – E. EZRATTY – SEASONAL INTERN:

Resolved, the Board of Trustees approves the appointment of Emily Ezratty, 30 Prestwick Drive, Monroe, NY 10950 to the position of seasonal intern. Pre-approval has been received from the Orange County Department of Civil Service. Ms. Ezratty will be paid at an hourly rate of \$18.00/hour.

On a motion by Trustee Karl, seconded by Trustee Ferraro

Ayes: Trustees Behringer, Ferraro, Karl and O’Connor

Nays: None

RESOLUTION OF THE VILLAGE OF MONROE VILLAGE BOARD OF TRUSTEES ISSUING A NEGATIVE DECLARATION:

Kathleen Bennett, special counsel, from Bond, Schoeneck & King, PLLC reviewed and read the negative declaration.

December 19, 2023

WHEREAS, the Village of Monroe Village Board of Trustees (“Village”) is considering the proposed acquisition by eminent domain of certain parcels of real property owned by WC Lincoln Corp. identified as Tax Parcel Number 211-1-1 and located at 47 Lakes Road in the Village of Monroe, Orange County (collectively “the Land” or the “Property”) for the purpose of preserving a historic site and creating a public visitor and educational center recognizing the life and contributions Roscoe Smith, an important local historic figure (the “Action”); and

WHEREAS, pursuant to EDPL Section 201, a public hearing with respect to the acquisition of the Property was held on August 15, September 5, September 26, October 3 and October 17, 2023; and

WHEREAS, Village Law Sections 1-102 and 4-412 and General Municipal Law Section 74 states that the Village of Monroe may acquire land by eminent domain to serve any public use or purpose, which includes any use that would contribute to the health, safety, general welfare, convenience or prosperity of the community.

WHEREAS, the purpose for the proposed condemnation is to preserve a historic site and create a public visitor and educational center recognizing the life of an important local historic figure and historic preservation of the Property is a valid public purpose.; and

WHEREAS, the Action involves the acquisition of 19.8 acres of land, the restoration and preservation of historic structures on the Property, the preservation of wetlands, the maintenance of a dam, the potential creation of walking trails and historic markers and a small parking area; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act ("SEQRA") the Village has prepared part 1 of a full Environmental Assessment Form ("EAF") for the Action;

WHEREAS, the Village desires to comply with the requirements of SEQRA and its implementing regulations set forth at 6 NYCRR Part 617 (the “Regulations”), with respect to the

acquisition of the Property and the Action; and

WHEREAS, at its meeting on July 13, 2023, the Village Board classified the Action as an “Unlisted” action under the New York State Environmental Quality Review Act ("SEQRA") and determined that there were no other involved agencies; and

NOW, THEREFORE, BE IT RESOLVED, that the Village confirms and adopts the following conclusions:

1. The Village hereby classifies the Action as “Unlisted” under SEQRA.
2. The Village will act as the lead agency and has elected to conduct a coordinated review of the Action.
3. The Village has compared the impacts that may reasonably be expected to result from the Action to the criteria for determining significance identified in Section 617.7(c)(1) of the Regulations and evaluated the issues of causation and significance in light of the standards under the same Section of the Regulations.
4. The Village has not identified any significant adverse environmental impacts associated with the Action and none are known to the Village. Based upon its review, and for the reasons set forth in the EAF, the Village hereby determines that the Action will not have any significant adverse impacts on the environment and reaches the following further conclusions:
 - (A) The Action will not result in: (i) substantial adverse change in existing air quality; ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; or a substantial increase in potential for erosion, flooding, leaching or drainage problems; (ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of a resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on threatened or endangered species of animal or plant, or the habitat of such species; or (iii) other significant adverse impacts to natural resources;
 - (B) The Action will not affect a critical environmental area as designated pursuant to 6 NYCRR § 617.14(g);
 - (C) The Action will not conflict with the community’s current plans or goals as officially approved or adopted;
 - (D) The Action will not result in the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;
 - (E) The Action will not result in a major change in the use of either the quantity or type of energy;
 - (F) The Action will not result in the creation of a hazard to human health;
 - (G) The Action will not result in a substantial change in the use, or intensity of use, of land including architectural, open space or recreational resources, or in its capacity to support existing uses;
 - (H) The Action will not result in encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;
 - (I) The Action will not result in the creation of a material demand for other actions that would result in one or more of the above consequences;
 - (J) The Action will not result in changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; and

(K) The Action will not result in two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in 6 NYCRR § 617.7(c).

5. The information available concerning the Action was sufficient for the Village to make its determination and the requirements of SEQRA including 6 NYCRR Part 617 have been met.

6. The Village hereby approves and adopts the EAF for the Action (Parts 1, 2, and 3), issues a Negative Declaration, and will not require the preparation of an environmental impact statement for the Action.

7. The Village hereby directs the Mayor to execute the EAF and to make any filing(s) and publication required by law related to this Negative Declaration.

8. The Clerk or the Mayor of Village is hereby authorized to and may distribute copies of this Resolution and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

9. A copy of this Resolution shall be placed on file in the office of Village Clerk where the same shall be available for public inspection during business hours.

The resolution was thereupon declared duly adopted.

On a motion by Trustee Karl, seconded by Trustee Behringer

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

CONSIDERATION OF THE DETERMINATION AND FINDINGS IN CONNECTION WITH THE PROPOSED ACQUISITION BY EMINENT DOMAIN OF CERTAIN REAL PROPERTY KNOWN AS TAX MAP PARCEL 211-1-1 AND MORE COMMONLY KNOWN AS 47 LAKES ROAD:

Resolved, the Board of Trustees adopts the determination and findings in connection with the proposed acquisition by eminent domain of certain real property known as tax map parcel 211-1-1 and more commonly known as 47 Lakes Road.

Kathleen Bennett, special counsel, from Bond, Schoeneck & King, PLLC read the Determination and Findings.

DETERMINATION AND FINDINGS

Determination and Findings by the Village of Monroe (the “Village”) pursuant to Eminent Domain Procedure Law (“EDPL”) Section 204 in connection with the proposed acquisition by eminent domain of certain real property known as Tax Map Parcel 211-1-1 and more commonly known as 47 Lakes Rd., Monroe, New York (the “Property”) for the purpose of preserving a historic site and creating a public visitor and educational center recognizing the life and contributions Roscoe Smith, an important local historic figure (the “Action”).

Village Law Sections 1-102 and 4-412 and General Municipal Law Section 74 states that the Village of Monroe may acquire land by eminent domain to serve any public use or purpose, which includes any use that would contribute to the health, safety, general welfare, convenience or prosperity of the community. The purpose for the proposed condemnation is to preserve a historic site and create a public visitor and educational center recognizing the life of an important local historic figure. It is well settled that the historic preservation of the Property is a valid public purpose. *See, e.g. Lubelle v. City of Rochester*, 145 A.D.2d 954, 954 (4th Dep’t 1988) (“there is no dispute that historic preservation serves a public purpose”) (citing *Trustees of Sailors’ Snug Harbor in City of New York v. Platt*, 29 A.D.2d 376 (1st Dep’t 1968)); *see also In re Acquisition of Real Prop. by City of Albany*, 9 A.D.3d 551, 552 (3d Dep’t 2004) (emergency stabilization and historic preservation was valid public purpose for eminent domain acquisition of former church).

The owner, tax map numbers and addresses of the Property are as follows:

Reputed Owner	Tax Map	Parcel Address
WC Lincoln Corp.	211-1-1	47 Lakes Rd

A copy of the tax map was included as **Exhibit A** to the public hearing record, the entirety of which is attached to this determination and findings as **Exhibit 1**.

The Village passed resolutions on July 13, 2023, to retain special counsel and to take all necessary actions to schedule and notice a public hearing with respect to the proposed acquisition of the Property pursuant to Article 2 of the EDPL. Those resolutions were included as part of **Exhibits U and V** of the public hearing record. The Village also considered Part 1 of a full Environmental Assessment Form and declared the proposed acquisition an unlisted action and declared its intent to act as the lead agency for purposes of conducting an environmental review pursuant to the New York State Environmental Quality Review Act. The EAF and resolution was included as part of **Exhibits V and X** of the public hearing record.

The Village opened a public hearing on August 15, 2023 at 7:00 p.m. to consider the Action. A notice of the meeting was mailed by certified mail, return receipt requested to WC Lincoln Corp. (“WC Lincoln”), the Property’s owner, pursuant to EDPL Section 202 (a copy of notices and receipts were included as **Exhibits F, G and H** to the public hearing record). The meeting notice was also published in the in *The Times Herald-Record*, a daily newspaper, from July 31, 2023 through August 4, 2023, August 6 through August 11, 2023, and August 13 through August 15, 2023. The newspaper does not publish on Saturdays (the affidavit of publication was included as **Exhibit E** to the public hearing record). The public hearing was left open until October 17, 2023 and notice of the same continued to be published in *The Times Herald-Record* (the additional affidavits of publication are attached to this document as **Exhibit 2**).

At the hearing, the public was provided with information concerning the public use, benefits, and purposes to be served by the Action, the Action’s location, reasons for the selection of the Action’s location, maps of the Property and adjacent parcels, and other facts pertinent to the Action. Special Counsel to the Village presented the public use, benefit, and purpose that would be served by the acquisition of the Property. At the public hearing, maps of the Property to be acquired by the Village were readily available for the public to review. The public was given an opportunity to comment upon the Action during the hearing, and written comments were accepted up until October 20, 2023, which was the Friday after the close of the public hearing. All testimony and written comments received at the hearing and additional comments received during the comment period have been reviewed, made a part of the record, and afforded full consideration. All written public comments are attached to this document as **Exhibit 3**. Transcripts of the proceedings on August 15, 2023 and October 17, 2023 were produced and made a part of the record. The meeting minutes from the Village Board meetings on July 13, August 15, September 5, September 26, October 3 and October 17 are made a part of the record and are attached hereto as **Exhibit 4**. The entire record of the proceedings with all exhibits and written comments was available for public examination without cost in the Village Clerk’s office and was transmitted to the Orange County Clerk’s office as required by Section 203 of the EDPL. (A copy of the transmission letters to the Orange County Clerk’s office are attached **Exhibit 5** and made a part hereof).

The Property is the former homestead of Roscoe Smith, founder of Orange and Rockland Utilities and widely recognized as the man who brought electric light to the Hudson Valley. In 1905, he convinced investors to buy stock in his planned electric company, resulting in the incorporation of the Orange Utilities Company by the end of the year. Over the course of his career Smith’s company acquired and merged with many power companies, eventually becoming Orange and Rockland Utilities, Inc. Smith’s passion extended beyond entrepreneurship as he was a philanthropic antiquarian, having donated land for the museum in the Village of Smith’s Clove, in which he displayed his collection of twenty buildings dating from the 18th and early 19th centuries. Smith’s passion for collecting is also visible at the Roscoe Smith House, which was reportedly built c. 1906, and displays artifacts within the landscape including waterwheels, windmills, and grist mill stones. After Smith’s death in 1976, the property remained in his family until it was sold 20 years later. Contributing features to the property include the main house with matching garage, the stone dam and subsequent pond, stone pillars with entry gate, two pedestrian footbridges, two

waterwheels and two additional outbuildings of unknown purpose which are in a significantly deteriorated state and may have been moved to the Property as part of Smith's hobby of acquiring historic structures.

According to a determination made by the New York State Office of Parks, Recreation and Historic Preservation ("SHPO") on May 3, 2021, the Roscoe Smith House was identified as eligible for the State and National Registers under Criterion B as the home of Roscoe Smith. A copy of the determination was included as **Exhibit I** to the public hearing record. Photos of the Property were included as **Exhibit J** to the public hearing record.

In connection with its Comprehensive Plan update (which was included as **Exhibit P** to the hearing record), the Village Board adopted two relevant moratoria: (1) a moratorium on land use development processing and approvals and, (2) a temporary suspension of demolition or modification permits for structures located in the historic district or listed or identified as eligible for listing on the New York State Cultural Resource Information System ("CRIS") website maintained by SHPO. The land use development moratorium was extended through September 20, 2023, and the demolition moratorium expired on September 7, 2023. A copy of the moratoria laws was included as **Exhibit Q** to the hearing record.

At the time the demolition moratorium was enacted, the Property was included on the CRIS website as eligible for listing and the Property was covered by the moratorium. On or about May 12, 2023, WC Lincoln's president requested that the Village engineer inspect the Property for the purpose of determining whether the moratorium's exception for unsafe structures would apply to permit demolition of the main home structure on the Property. A copy of the e-mail was included as **Exhibit R** to the hearing record.

Once the Village contracted with an engineering firm for the inspection of the Property, the owner changed its position and indicated that it would not permit the Village's engineer, or anyone else from the Village on the Property for purposes of conducting an inspection. Instead, it appears that WC Lincoln reached out to SHPO to have the Property removed from the CRIS website as the Village was informed in July 2023 that SHPO would be removing the Property from CRIS database based on a letter written by WC Lincoln's engineer. A copy of the relevant correspondence was included as **Exhibit S** to the public hearing record. The owner then submitted an application for a demolition permit to demolish the main home structure on the Property. A copy of the demolition application and denial was attached as **Exhibit T and U** to the hearing record.

While these actions were being undertaken by the owner, the Village retained Special Counsel and voted to commence the eminent domain process. As noted above those resolutions were included as **Exhibits U and V** to the hearing record. In light of the eminent domain process, and because the Village's engineer never had an opportunity to inspect the main home structure on the Property, the Village Code Enforcement Officer was instructed to deny the demolition permit. The Village then sought and obtained a temporary restraining order preventing the removal of the Roscoe Smith home and associated structures during the pendency of the EDPL process (the "TRO"). A copy of the TRO and other relevant papers associated with that litigation was included as **Exhibits W, Z, AA and BB** to the hearing record.

Since 2001, the Village and WC Lincoln have engaged in a history of litigation surrounding the Property. On two separate occasions—once in 2001, and once in 2003—the Village attempted to acquire the Property by eminent domain. On both occasions, the Appellate Division rejected the Village's findings and determinations due to a procedural oversight. A copy of those decisions were included as **Exhibit K** to the hearing record.

In 2003, WC Lincoln applied for a building permit to construct a single-family home on a lot shown on a subdivision plat filed in 1909. The Village Code Officer denied the permit and WC Lincoln appealed the denial to the Zoning Board of Appeals, which upheld the denial. WC Lincoln challenged the Zoning Board of Appeals decision in a verified petition dated December 31, 2001. After significant litigation, including a remand to the Zoning Board of Appeals for reconsideration, Honorable Peter Patsalos, J.S.C. of the Orange County Supreme Court issued a decision and order finding that WC Lincoln did not acquire vested rights in the subdivision approval (the "2003 Order"). A copy of the relevant and available documents associated with the 2003 Order was included as **Exhibit L** to the hearing record.

On and around 2007, the Village and WC Lincoln came to the understanding that the Village would consider WC Lincoln's application for a forty-six lot residential subdivision of the Property, if, upon final approval of the subdivision, WC Lincoln dedicated a portion of the Property to the Village for historical purposes. WC Lincoln submitted the application for the subdivision to the Village Planning Board in January 2007. The Village Planning Board granted WC Lincoln a preliminary subdivision approval in September 2008 (the "2008 Preliminary Approval"). However, the 2008 Preliminary Approval was challenged by the owner of a neighboring property in an Article 78 proceeding which named both the Village and WC Lincoln as respondents. To resolve the Article 78 litigation, the parties entered into a stipulation of settlement (the "Stipulation") whereby the owner of the neighboring property agreed to discontinue the Article 78 proceeding so long as WC Lincoln made certain changes to the subdivision plan. A copy of relevant meeting minutes and other documents related to this time period were included as **Exhibits M, N, and DD** to the hearing record.

Following the stipulation, the Village Planning Board continued to process the revised 2008 Preliminary Approval, however, WC Lincoln made no appearance before, or any submission to, the Planning Board from January 2011 until November 13, 2013. As a result, the 2008 Preliminary Approval expired, and WC Lincoln's counsel was notified of this on November 13, 2013. WC Lincoln was also notified of the expiration by letter dated June 20, 2014. WC Lincoln did not challenge the lapse of the 2008 Preliminary Approval by an application to the Zoning Board of Appeals or by an Article 78 proceeding. Since the expiration of the 2008 Preliminary Approval, WC Lincoln has submitted a new application for preliminary approval, but no such approval has been granted to date. A copy of the relevant meeting minutes, correspondence and other documents were included as **Exhibits N, CC and DD** to the hearing record.

On May 16, 2022, WC Lincoln applied for a building permit to construct a home on a lot of the Property. On May 25, 2022, the Village Code Enforcement Officer denied the building permit because the Property is currently a 19.8 acre parcel with an existing single family dwelling fronting Lakes Road, the referenced Lot 58 does not have a section, block, lot number, and the referenced lot does not comply with bulk requirements having a lot width of 75' rather than the required 100' width. On June 14, 2022, WC Lincoln appealed the denial to the Zoning Board of Appeals asserting vested rights. The Zoning Board of Appeals upheld the denial. WC Lincoln challenged the Zoning Board of Appeals determination in court, but was unsuccessful. The court determined that res judicata applied and that WC Lincoln was bound by the 2003 Order finding that WC Lincoln did not have vested rights in the subdivision plan. Further, the court determined that the Stipulation entered in the proceeding challenging the 2008 Preliminary Approval did not require a different result as the approval was preliminary and WC Lincoln failed to submit the application for final approval. A copy of documents relevant to the 2022 vested rights litigation were included as **Exhibit O** to the hearing record.

Since the early 2000s, the Village has made numerous attempts to obtain the Property either through eminent domain or through voluntary purchase. To date, these efforts have not been successful. As a result, the Village continues to move forward with the acquisition of the Property through its power of eminent domain.

At its meeting on July 13, 2023, the Village Board classified the Action as an "Unlisted" action under the New York State Environmental Quality Review Act ("SEQRA") and determined that there were no other involved agencies. At its meeting on December 19, 2023, the Village Board determined that the Action would not have any significant adverse impacts on the environment. The Village's SEQRA determination and findings, along with a copy of the Environmental Assessment Form (EAF), are attached as **Exhibit 6** to this document. The Village Board made the following findings concerning the potential for adverse impacts to the environment:

- (L) The Action will not result in: (i) substantial adverse change in existing air quality; ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; or a substantial increase in potential for erosion, flooding, leaching or drainage problems; (ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of a resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on threatened or

endangered species of animal or plant, or the habitat of such species; or (iii) other significant adverse impacts to natural resources;

- (M) The Action will not affect a critical environmental area as designated pursuant to 6 NYCRR § 617.14(g);
- (N) The Action will not conflict with the community's current plans or goals as officially approved or adopted;
- (O) The Action will not result in the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;
- (P) The Action will not result in a major change in the use of either the quantity or type of energy;
- (Q) The Action will not result in the creation of a hazard to human health;
- (R) The Action will not result in a substantial change in the use, or intensity of use, of land including architectural, open space or recreational resources, or in its capacity to support existing uses;
- (S) The Action will not result in encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;
- (T) The Action will not result in the creation of a material demand for other actions that would result in one or more of the above consequences;
- (U) The Action will not result in changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; and
- (V) The Action will not result in two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in 6 NYCRR § 617.7(c).

Pursuant to EDPL Section 204(B)(1), the Village concludes that the Action will serve a legitimate public purpose. The proposed use of the Property to preserve a historic site and to create a visitors and /or educational center or park will contribute to the health, safety, general welfare, convenience and prosperity of the community. The Property is a site of great historic significance to the Village. It includes not only the historic home that was once the residence of Roscoe Smith, but also numerous artifacts which were collected by Roscoe Smith over the course of his lifetime. The acquisition serves a public use and benefit by preserving the Property, restoring the Roscoe Smith house and other features, creating walking trails, and educating the public as to the importance of Roscoe Smith to the Village community. In addition to historic preservation, the Village believes that its acquisition of the Property would carry environmental benefits, including maintaining the waterway and stone dam which contributes to the pond on the Property as well as the two ponds located in the center of the Village around which public parkland and walking trails are located. The case law is well settled that the historic preservation of the Property is a valid public purpose. *See, e.g. Lubelle v. City of Rochester*, 145 A.D.2d 954, 954 (4th Dep't 1988) ("there is no dispute that historic preservation serves a public purpose") (citing *Trustees of Sailors' Snug Harbor in City of New York v. Platt*, 29 A.D.2d 376 (1st Dep't 1968)); *see also In re Acquisition of Real Prop. by City of Albany*, 9 A.D.3d 551, 552 (3d Dep't 2004) (emergency stabilization and historic preservation was valid public purpose for eminent domain acquisition of former church).

Pursuant to EDPL Section 204(B)(2), the Village concludes that the Property is the appropriate location for the Action because it is the former homestead of Roscoe Smith and is the only Property uniquely situated to satisfy the public purpose of the Action. However, the Village has considered alternative methods for preserving the historical Property to honor Roscoe Smith, including prior eminent domain, settlement agreements, negotiated purchases and other lawsuits.

None of those alternatives have proven successful to satisfy the Village's objectives of preserving the Property.

Pursuant to EDPL Section 204(B)(3), the Village concludes that the general effect of the Action on the Environment will be negligible. Since the proposed acquisition will prevent development of the Property, result in the retention of and continued upkeep and maintenance of historic structures on the Property, and/or the creation of a public park, it is anticipated that the environment would benefit as a result of the acquisition. Potential environmental benefits include maintaining the waterway and stone dam which contributes to the pond on the Property as well as the two ponds located in the center of the Village around which public parkland and walking trails are located.

Pursuant to EDPL Section 204(B)(4), the Village Board considered other relevant factors, including comments and concerns raised by members of the public during the public hearing process. All comments have been given careful, extensive and due consideration by the Village Board.

DETERMINATION

Based on due consideration of the record and the foregoing findings, it is determined that the Village should exercise its power of eminent domain to acquire the above-described property to promote and permit the public purposes of the Action to be achieved.

Copies of this Determination and Findings by the Village are available and will be forwarded without cost and upon request, by writing to the Village Clerk.

ATTENTION: ANY PERSON WHO WISHES TO SEEK JUDICIAL REVIEW OF THIS DETERMINATION AND FINDINGS, OR WHO CLAIMS TO BE AGGRIEVED BY SUCH DETERMINATION AND FINDINGS AND WISHES TO CHALLENGE SAME, MUST DO SO, IF AT ALL, (1) BY DULY COMMENCING A LEGAL PROCEEDING IN THE APPELLATE DIVISION, SECOND DEPARTMENT, SUPREME COURT, STATE OF NEW YORK, 45 MONROE PLACE, BROOKLYN, NY 11201, NO LATER THAN JANUARY 30, 2024, OTHERWISE ANY SUCH CHALLENGE OR JUDICIAL REVIEW MAY BE TIME BARRED, AND (2) BY DULY SERVING A DEMAND UPON THE VILLAGE TO FILE THE RECORD UNDERLYING THIS DETERMINATION AND FINDINGS. THE APPELLATE DIVISION MAY CONSIDER THE PUBLIC USE, BENEFIT OR PURPOSE TO BE SERVED BY THE PROPOSED ACQUISITION AND OTHER MATTERS SET FORTH IN NEW YORK EMINENT DOMAIN PROCEDURE LAW SECTION 207. UNDER SECTIONS 207 AND 208 OF THE EMINENT DOMAIN PROCEDURE LAW, THE EXCLUSIVE VENUE FOR ANY CHALLENGE TO THIS DETERMINATION AND FINDINGS IS THE ABOVE-DESCRIBED APPELLATE DIVISION. ANYONE WISHING TO CHALLENGE THIS DETERMINATION AND FINDINGS IS ADVISED TO CONSULT AN ATTORNEY PROMPTLY.

On a motion by Trustee Karl, seconded by Trustee O'Connor

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

POLICE DEPARTMENT – INVENTORY – REQUEST TO DISPOSE:

RESOLVED, the Board of Trustees declares the following Police Department non-working equipment surplus and of no value and authorize its removal from inventory and disposal:

Decatur Genesis U Select Radar, *SING2S-3 I006* (antenna, front and rear tuning forks)
Decatur Genesis II Select Radar, *SIN02\$-2460 7* (antenna, front and rear tuning forks)
Decatur Genesis II Select Radar, *SING2S-24542* (antenna, front and rear tuning forks)
Stalker Dual, *SIN DO 13033* (antenna, front and rear tuning forks)
Dell Monitor *CN0Y42997161858GCEGR*
HP Laserjet P2035 *SIN CNB9C13365*

On a motion by Trustee Behringer, seconded by Trustee Karl

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

AUTHORIZATION TO ADVERTISE - INVITATION TO BID – VILLAGE HALL RENOVATIONS PROJECT:

This topic has been tabled.

VILLAGE OF MONROE BOARD OF TRUSTEES RESOLUTION CONCERNING VIOLATION OF PROPERTY MAINTENANCE – 20 PARK AVENUE SBL #202-3-14:

This violation has been referred back to Code Enforcement in the Building Department for an appearance ticket to be issued.

RESOLUTION TO ACQUIRE REAL PROPERTY – 150 FRANKLIN AVENUE:

This topic has been tabled.

With

DISCUSSION – LIFE INSURANCE BROKER – VILLAGE OF MONROE EMPLOYEES:

RESOLVED, the Board of Trustees designates Marshall & Sterling Insurance as an Insurance Broker for group and voluntary life insurance for Village of Monroe employees through Mutual of Omaha.

On a motion by Trustee Karl, seconded by Trustee O'Connor

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

MAYOR & TRUSTEE'S REPORT:

Mayor Dwyer discussed the town wide garbage district including the Town of Monroe, Village of Harriman, and Village of Monroe. Mayor Dwyer met with Supervisor Cardone and is now asking his Board for their concerns regarding the contract for garbage.

Trustee Behringer shared her concern of the container(s) allowed, two (2) 35-gallon cans per pickup. How will this be enforced? Will they leave the garbage in excess of the allotment? What discussions were had with the vendor and are they now part of the contract?

Trustee Ferraro expressed his concerns for recycling. No more clear plastic bags? This means the remnants of paper shredding that were once picked up in the clear bag now have to be put directly into the green recycling bin, which makes for a confetti disaster.

Trustee Karl noted the 2023 flyer says to have your garbage curbside by 5am, although they come at 3am, for the people that wait to put the garbage out, their garbage sits and doesn't get picked up. The 2024 flyer says to have it curbside the night before, which he agrees with. The new contract mimics the 2018 contract for less service and an increase in cost. The flyer is conflicting with the contract as bulk pick-up is one item per week and the contract states one bulk item pick-up per month. Larger families will suffer with the two (2) 35-gallon garbage cans rule. This will lead to animals and make properties unsightly along with property maintenance violations, as all the garbage will not be picked up. Trustee Karl feels that the Village of Monroe and Village of Harriman should have been included on any negotiations the Town of Monroe had with the garbage company, Marangi. There is also a typo in the agreement dated August 3, 2022, Modifications to 2018 Agreement, Section A, letter d, Effective January 1, 2028, the monthly rate for service per single-family household shall be \$34.79 through December 31, 2026 (one year period).

Trustee O'Connor commented single family homes will suffer when they are being used for large families or boarding homes with greater amounts of garbage created.

Mayor Dwyer asked about how the new process has been advertised? Constant Contact,

mailing, newspaper? He also feels that perhaps properties could be classified in a more rigid format and should be charged as per the type of property. Also noted, senior citizen residents shall be entitled to receive a \$1.00 discount per month from the amount so billed as per the contract. How are seniors being made aware of this?

Attorney Terhune added that in Tuxedo, NY you must schedule your bulk pick-up. That could be something to think about.

Trustee Behringer said the Winterfest was very well attended. They went through 28 gallons of hot cocoa and lots of cookies. Mayor Dwyer thanked Trustee Ferraro and Andrew Ruiz for setting up the wireless microphones so the carolers could sing throughout the downtown. The musicians are so gifted. It was amazing! Visit www.villageofmonroe.org to watch a video of the carolers and Mayor Dwyer caroling and walking through the downtown.

Trustee Karl is excited that the work being done on the transmission line is moving along, they are just about to the backyard of the water filtration plant. He also said the Kalvin Terrace Waterline Replacement project is scheduled to begin the first week of February.

ATTORNEY'S REPORT:

Nothing to report.

PUBLIC COMMENT: # PRESENT 2 TIME: 8:55PM

Steve Kushner, 128 Carpenter Place, has just become aware of a new local law that was put into place this September, Local Law 14. He was unaware of the impact this new law would have on his two properties on Carpenter Place. His property, 128 Carpenter Place, was zoned CB for at least the last 43 years. There is some confusion for the designation of his empty building lot's designation. All of the other properties on the block have been unaffected by this new law. He and his wife, Donna, are looking to retire and a change like this has a major impact on what is to be used as part of his nest egg. The negative impact of such a change could be as much as \$100,000 in the resale value of his home and vacant lot. He would like to reset the designation of the property back to a residential commercial property (CB).

- The Tax id numbers are:
 - 128 Carpenter Place 212-6-7.13
 - Vacant building lot 212-6-7.12

Mayor Dwyer said this will be discussed with the Planner at the next meeting scheduled in January to review the adopted Comprehensive Plan and Local Laws.

EXECUTIVE SESSION:

On a motion by Trustee Behringer, seconded by Trustee Karl, and carried, following a 5-minute recess, the Board convened in Executive Session at 9:05PM for discussion of Attorney Client, litigation, and personnel.

OPEN SESSION:

On a motion by Trustee Ferraro, seconded by Trustee O'Connor and carried, the Open Meeting resumed at 10:25 PM.

ADJOURNMENT:

On a motion by Trustee Ferraro, seconded by Trustee O'Connor and carried, no further business, the meeting was adjourned at 10:25 PM.

MONTHLY REPORTS:

On a motion by Trustee Karl, seconded by Trustee Ferraro, with all in favor, the department monthly reports were accepted and filed.

Respectfully submitted,

Kimberly Zahra
Village Clerk

NOVEMBER 2023 VILLAGE CLERK'S REPORT SUBMITTED BY KIMBERLY ZAHRA, VILLAGE CLERK:

1. Minutes prepared, processed associated correspondence and Legal Notices completed for the November 6th and November 21st Board of Trustee Meeting.
2. Permits issued: Handicap Parking: 16 Garage Sale: 0 Solicitor/Peddling: 0 Road Opening: 0 Blasting Permit: 0 Liquor License: 0 Towing Permits: 0
3. Processed 2 Event Applications.
4. Public Hearings Held: 1 Due Process Hearing: 2
5. Bi-Weekly payroll worksheets completed and submitted.
6. Bi-Weekly payroll worksheets for Highway and Water Departments completed and submitted.
7. Collected November water rents.
8. Required paperwork filed with O.C. Department of Human Resources.
9. Processed FOIL requests.
10. Provided Notary Services.
11. Oversee updates and maintenance, of Village Website and Constant Contact. (33 sent)
12. Daily retrieval of messages left during the day and after hours. Forwarded messages and responded as required.
13. Vouchers completed as required. Transmittal of money collected completed and bank deposits done.
14. Scan and email pertinent information to Board and Attorney.
15. Scan documents into DOCUWARE.
16. Maintain calendar for Mayor Dwyer.
17. Closed out mailing machine for month 11/30.
18. Property Maintenance Violation processing.

NOVEMBER 2023 JUSTICE COURT REPORT:

Total Fines: \$22,161.00 Total Surcharges: \$6,542.00 Total Parking: \$3,405.00
Total Civil Fees: \$2,602.00 Bail Poundage Collected: \$0.00 Total Bail Forfeited: \$0.00
Total for November: \$34,710.00

Vehicle & Traffic Tickets: 513 Disposed: 289
Criminal Cases: 39 Disposed: 22 Civil Cases: 1 Disposed:1
Paid Parking Tickets: 48 Dismissed Traffic Tickets: 68

NOVEMBER 2023 POLICE DEPARTMENT REPORT SUBMITTED BY DARWIN GUZMAN, CHIEF:

CALLS FOR SERVICE

TOTAL CALLS – 2,084
CASES/CRIMINAL OFFENSE - 147
ARRESTS – 67

TRAFFIC REPORT

TRAFFIC TICKETS – 484
GAS – N/A
MVA'S – 40

TRAINING

RANGE – DEPARTMENT

TRU – ROMER/BEACH

BAO – HANSEN/MINUTOLO/PARADA

K9 – BERKE

EMT - ROONEY

NOVEMBER 2023 FILTRATION PLANT REPORT SUBMITTED BY ERNEST

MABEE, CHIEF OPERATOR:

Production: Lake Mombasha: 26,073,613 24,940,214 Gallons LY 2022
Well #4: 5,180,607 3,891,093 Gallons LY 2022

Consumption: 31,254,220 Gallons / 28,831,307 Gallons LY 2022

Water Samples / Testing: Passed

Rainfall: 2.29”

Reservoir: full

Miscellaneous:

Mark Outs

2 Reservoir Inspections

Final Water Reads

Daily Equipment Maintenance at Plant and Well

Weekly and Monthly Water Testing to Lab, All Results Good

Updated Diamond Maps

Cleaned All Venturi's

Installed Tank Mixer at Van Keuren Pump Station

Adjusted PRV on Gilbert St

Turned Heat on at all Buildings

Cleaned out Hydrant Valve Boxes

NOVEMBER 2023 DPW SUBMITTED BY ALDO CHIAPPETTA, WORKING LEADER:

Repaired basins along Village roads

Leaf removal throughout Village streets

Sweeping Village streets

Install drainage on Newbury Street

Mowing of common grass areas throughout Village

Maintain Village equipment

Check and clean basins

Clear behind bus garage

Started decorating Village for holidays

Picked garbage throughout Crane Park

Fix traffic light sensor

Installed salters and plows fleet for snow season

Maintain Lake View property

Work on MS4 report

Change out garbage cans around park area

NOVEMBER 2023 BUILDING DEPARTMENT AS SUBMITTED BY ASSISTANT BUILDING INSPECTOR PROULX:

Building Permits Issued:	26
Rental Inspections Completed:	37
Title Searches Completed:	17
Violations Issued:	28
Building Permit Inspections Performed:	49
C.O's Issued:	20
Complaint Inspections:	34
Fire Inspections:	9

Open, active building permits:	412
FOIL Requests:	2

Building Permit Fees:	\$ 6,519.50
Rental Permit Fees:	725.00
Fire Inspection Fees:	375.00
Title Search Fees:	1,650.00
Total Collected Fees:	\$ 9,269.50

Monthly Assessor's Report
Daily cash deposits to Clerk
Bi Monthly mailing for expired permits

NOVEMBER 2023 TREASURER'S REPORT SUBMITTED BY ANTHONY FELIZ:

Treasurer's Report Village of Monroe November 2023
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SIGNIFICANT ACTIVITY (REVENUES)

Franchises	29,840
Metered Water Sales	\$513,089
Int Penalty Water Rents	16,658

SIGNIFICANT ACTIVITY (EXPENDITURES)

Auditor Contractual	13,003
Law Contractual	11,909
Law Contractual/Other Atty	32,345
VH Contractual	\$25,186
PD Motor Vehicles	\$49,994
ST. Maint. Asphalt	252,780
ST Maint Gas Car/Truck	8,845
Off Street Parking Striping	15,343
Parks Contractual	5,748
Planning Contractual	15,979
Source Contractual	\$ 6,936
Purification Chemicals	19,159
Distribution Contractual	108,003
Radio Reads	\$ 9,631

Health Insurance - General Fund	160,932
- Water Fund	16,143
	177,075

Workers Comp. - General Fund	39,813
- Water Fund	8,189
	48,002

Liability Insurance - General Fund	41,426
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- Water Fund

11,643

53,068

STATUS OF FY2024 CONTINGENCY ACCOUNTS

CURRENT BALANCE

General Fund Appropriation -budgeted \$100,000
Water Fund Appropriation -budgeted \$51,500

83,198
51,500

PD
Chief

COMMENTS:

We have completed 6 months of the fiscal year and expenses should be at 50%. The expenses are at 49.8% for the General Fund and 34.3% for the Water Fund inclusive of budget adjustments to be approved by the board.

Respectfully submitted,

Anthony Feliz
Treasurer