



February 12, 2021

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TheWPF.org

Honorable Benjamin Boykin
Westchester County Board of Legislators
148 Martine Avenue, 8th Fl.
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Dear Legislator Boykin:

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After text of the proposed amended Playland Management Agreement was made public and your Honorable Board held the first public committee meetings on this critically important matter, Westchester Parks Foundation respectfully offers some further thoughts for your consideration.

Initially, we compliment County Attorney John M. Nonna and his team on the remarkable improvements made to the document he inherited during a challenging Bankruptcy Court proceeding. What your Board has now received for discussion was negotiated in very difficult circumstances. Mr. Nonna's extraordinary skill obtained a better deal for the County than was presented at the start of the review process.

However, the length of this complex document, important questions about it stated by seven Westchester Assembly Delegation Members and our concern about potential parkland alienation implications require your Board should provide careful analysis to avoid unexpected consequences from hasty approval of the proposed Act.

We find the new agreement still contains language and terms that are typical of a lease, despite the document's label. Although the County could have more control over Playland than was permitted by the previous agreement, the lack of final decision making authority over the use of County property clearly creates a relationship that delegates "full, exclusive management and operation" of this iconic park to a private business.

We strongly urge your Board to request opinions by the State Attorney General, Comptroller and Office of Parks, Recreation and Historic Preservation answering whether, in the context of the questions raised by the Assembly Members and Parks Foundation's worry about lack of an "at will" clause or other controls, the proposed Amended Agreement is actually a lease which would require State Legislature approval mandated by the Public Trust Doctrine.

We are also interested in whether your Honorable Board has investigated whether or not Judge Drain has been informed that this is a potential issue.

The lack of sufficient explicit controls that could be available for the County's response to public concerns, including those related to use fees or access, is disturbing. The fact there is no way, except because of material breach, for the County to terminate the agreement or to modify it in the public interest creates a bad precedent that would be difficult to prevent being repeated at any other County park in the future.

New York City is involved in unpleasant controversy now while attempting to escape from the requirements of a contract with the manager of a particular golf course in the Bronx. We don't want Westchester to confront a similar problem in the distant future because of failure to analyze the proposed agreement as thoroughly as possible.

The County Attorney's transmittal letter says adoption of the proposed Act would be a "Type II" action under State Environmental Quality Review Act but doesn't explain the specific reasoning for this determination or cite the applicable "SEQRA Type II" listing. We request clarity on this important point.

Protection of our public parks under the long-established Public Trust Doctrine is among the most sacred duties delegated to your Board. Playland was purchased to be a public park nearly 100 years ago and has been used as park continuously after it was opened in 1928.

Your Board must respect and rely upon every potential way to protect these precious lands that belong to all of us and to untold millions of future visitors. Preserving the park so it remains in public, not private control, is the Board's responsibility.

Asking independent but clearly qualified authorities to opine on whether the terms of the proposed agreement comply with State law would be a prudent, practical, and easy way to verify it follows all required legal processes and is in the public interest.

Very truly yours,

Joseph A. Stout
Executive Director

Cc: The Honorable George Latimer, Westchester County Executive
The Honorable Ken Jenkins, Westchester Deputy County Executive
The Honorable Joan McDonald, Westchester Director of Operations
The Honorable John Nonna, Westchester County Attorney
The Honorable Letitia James, New York State Attorney General,
c/o Gary S. Brown, Assistant Attorney General in Charge – Westchester
The Honorable Thomas DiNapoli, New York State Comptroller
The Honorable Andrea Stewart Cousins, State Senator, 35th District, President Pro Tempore and
Majority Leader;
The Honorable Alessandra Biaggi, State Senator, 34th District;
The Honorable Jamaal Bailey, State Senator, 36th District;
The Honorable Shelley Mayer, State Senator, 37th District;
The Honorable Elijah Reichlin-Melnick, State Senator, 38th District;
The Honorable Peter Harckham, State Senator, 40th District;
The Honorable Amy Paulin, State Assemblywoman, 88th District;
The Honorable Gary Pretlow, State Assemblyman, 89th District;
The Honorable Nader Sayegh, State Assemblyman, 90th District;
The Honorable Steve Otis, State Assemblyman, 91st District;
The Honorable Tom Abinanti, State Assemblyman, 92nd District;
The Honorable Chris Burdick, State Assemblyman, 93rd District;
The Honorable Kevin Byrne, State Assemblyman, 94th District;
The Honorable Sandra Galef, State Assemblywoman, 95th District.
The Honorable Linda Cooper, Taconic Regional Director, NYS OPRHP