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Rule

Village of Tannersville
Board of Trustees

Resolution # 21 of 2004

OPPOSITION TO NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION'S (DEP) INTERFERENCE WITH HOME RULE AND PATTERN OF RESTRICTING ECONOMIC DEVELOPMENT IN WATERSHED COMMUNITIES

WHEREAS, the 1977 Watershed Memorandum of Agreement (MOA) specifically recognized that the goals of drinking water protection and economic vitality within Watershed communities are not inconsistent and it is the intention of the Parties to enter into a new era of partnership to cooperate in the development and implementation of a Watershed protection program that maintains and enhances the quality of the New York City drinking water supply system and the economic vitality and social character of the Watershed communities; and

WHEREAS, the 1999 West of Hudson Economic Development Study prepared under the auspices of paragraph 134 of the MOA recognized the paramount importance of tourism and tourism-related facilities to the economic well-being and growth of the Watershed communities; and

WHEREAS, the MOA and the NYC Watershed Rules and Regulations recognize the City of New York's interest in the protection and regulation of the quality of its water supply by specific provisions in said regulations and through the implementation of other programs provided in the MOA; and

WHEREAS, the MOA and the NYC Watershed Rules and Regulations also recognize the inherent and implicit right of the Watershed communities to plan for and regulate land uses in accordance with the Municipal Home Rule provisions of the New York State Constitution; and

WHEREAS, the New York City Filtration Avoidance Determination is based upon the continued cooperation of the watershed communities; and

WHEREAS, the New York State Environmental Quality Review Act (SEQRA) provides for the comprehensive environmental review of actions, including a proposed development project, imposes different responsibilities on the lead and involved agencies, and also preserves the underlying jurisdictional rights between and among agencies; and

WHEREAS, SEQRA defines the scope of relevant environmental effects of an action to be addressed in a draft EIS, to ensure that the draft EIS will be a concise, accurate and complete document; and involved agencies should be addressing only the issues relevant to their authority; and

WHEREAS, SEQRA recommends that involved agencies should be addressing the issues relevant to their functions and expertise and offer reasonable alternatives and suggest measures to reduce adverse environmental effects; and

WHEREAS, portions of the DEP comments on the Crossroads Ventures Draft Environmental Impact Statement (DEIS) on the Belleayre Resort are beyond the original scope of the DEIS, unreasonable by insisting the project eliminate all golf courses which are the major component of the project, and are an infringement on the authority of local municipal comprehensive plan, regulations and their consideration in relationship to SEQRA and therefore a direct attack on Home Rule; and

WHEREAS, the DEP comments also represent an emerging pattern of economic development restrictions by: inaccurately asserting that the 1997 Watershed Regulations prohibit post-development water quantity and quality loadings from exceeding pre-development levels; by further falsely asserting that the MOA sought to prevent growth "on steep slopes or at locations outside of population centers on large tracts of

undeveloped land with mature forests"; and by exaggerating the environmental significance of potential additional growth from the project; and

WHEREAS, these actions are a threat to the intended spirit of the MOA whereby water quality protection and economic development "are not inconsistent"; and

WHEREAS, DEP's acquisition of lands is violating the letter and spirit of the MOA by restricting the recreational uses of lands acquired by DEP, including prohibiting small game hunting and snowmobiling where the parcel abuts state snowmobile trails.

NOW, THEREFORE, BE IT RESOLVED, that the Village of Tannersville gives notice of its opposition of the DEP DEIS comments that use the SEQRA process and non-water quality related issues to impede development and considers this a serious breach of the intent of our partnership and a continued obstruction to economic development.

BE IT FURTHER RESOLVED, that Village of Tannersville also considers the DEP decision a threat to Home Rule which infringes on the jurisdiction of local municipal decision-making and hereby request that NYS Department of Environmental Conservation dismiss the DEP's comments related to Home Rule jurisdiction.

BE IT FURTHER RESOLVED, counsel to the Village of Tannersville is directed to seek to become a party in the pending NYS Department of Environmental Conservation permit proceeding to contest the inappropriate legal positions being asserted by the DEP.

BE IT FURTHER RESOLVED, counsel to the Village of Tannersville is directed by all appropriate legal means, to seek to enforce the rights of the Watershed Towns in respect to the recreational use of lands acquired by the City of New York pursuant to the NYS DEC Water Supply permit, including administrative revocation and civil action.

BE IT FURTHER RESOLVED, that the Village of Tannersville is very concerned that New York City's continued actions on these issues will jeopardize local cooperation essential for maintenance of the Filtration Avoidance Determination.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to all the member towns and villages with a request that they adopt a similar resolution.

BE IT FURTHER RESOLVED, that copies of this Resolution be sent to Governor Pataki, Mayor Bloomberg, Senator Bonacic, Senator Bruno, Assemblyman Crouch, Assemblyman Hooker, Assemblyman Silver, USEPA Region 2 Administrator, Ms. Kenney and NYS Department of Environmental Conservation Commissioner, Ms. Crotty, and NYC DEP Commissioner Ward.

Put to vote by the Village Board of Trustees of the Village of Tannersville on June 10th, 2004 as follows:

Ayes: Weyant, Morra, Legg

Nays:

Abstentions:

I, the undersigned Clerk of the Village of Tannersville, hereby certify that the above is a resolution duly adopted by the Village Board of Trustees on June 10, 2004.

In Testimony Whereof, I have hereunto set my hand and affixed the official seal of the Village of Tannersville, County of Greene, this 10th day of June, 2004.


Clerk