

TOWN OF HARPERSFIELD
RESOLUTION NO. 06 OF THE YEAR 2023

Councilmember Patrick F. Funk offered the following resolution and moved its adoption:

TITLE: RESOLUTION OF THE TOWN OF HARPERSFIELD SUPPORTING THE DECEMBER 2022 REVISED FAD.

WHEREAS, in the spring of 2022 the New York State Department of Health (DOH) released for comment a draft Revised Filtration Avoidance Determination (FAD) as part of the mid-term review of the 2017 FAD; and

WHEREAS, the West of the Hudson Communities (including but not limited to, the Coalition of Watershed Towns, Delaware, Greene and Schoharie Counties, the Towns of Windham, Ashland, Lexington, Prattsville, Jewett, Olive, Shandaken, Conesville, Gilboa, Roxbury, Middletown, Andes, Boving, Stamford, Kortright, Tompkins, Harpersfield, Walton and Delhi) submitted Comments/Board Resolutions to DOH (the "West of the Hudson Communities Comments") which focused on:

- (1) The need to end the core land acquisition program as recognized in the 2020 findings of the National Academies of Sciences, Engineering and Medicine (NASEM) of its study of the watershed protection program; and
- (2) The need to revise the Streamside Acquisition Program (SAP) to require local governments consent for participation in the program; and
- (3) Support for a community based streamside protection program in which the land owners are compensated for stewardship; and
- (4) A requirement that the Conservation Easement granted by the City to NYSDEC for all fee acquisitions be modified to incorporate the requirements and the objectives of the 1997 Memorandum of Agreement ("MOA"); and
- (5) Assure greater compliance by New York City with its MOA obligations as exemplified by the 2022 dispute regarding the acceptance of septage waste at City owned wastewater treatment plants and a sustainable contract administration process.

WHEREAS, in December 2022 DOH issued the final Revised FAD (together with a Comment/Response Document) which directly incorporated and responded to the West of Hudson Comments and specifically stated as follows:

- (1) "NYSDOH agrees that strategic, well-reasoned acquisition of water quality protective parcels should be the focus of the LAP, while allowing future community growth to occur in a manner that is consistent with the existing character and planning goals of each of the Watershed Communities."

(2) "NYSDOH agrees that changes to core LAP are necessary in the West of Hudson Watershed, as guided by the recommendations of the NASEM Expert Panel. The program should be focused on the most sensitive areas for water quality protection, including flood plains, riparian areas, wetlands and steep slopes. NYSDOH agrees that both the Long-Term Land Acquisition Plan and the successor Water Supply Permit should be shaped by the NASEM Expert Panel recommendations and stakeholder input."

(3) "The reduction in LAP solicitation goal from 300,000 acres to 200,000 acres through 2024 is based on recommendations of the NASEM Expert Panel as well as stakeholder input. Solicitation beyond 2024 is contingent upon reissue of a WSP authorizing continuation of the LAP beyond 2025."

(4) "NYSDOH understands that there are several areas of interest that stakeholders have regarding the current and future implementation of SAP, NYSDOH encourages stakeholders to engage in productive discussions with the City and CCCD to integrate common sense program modifications which will position SAP to operate with wide spread municipal support in the future. To encourage the resolution of these issues, the Revised 2017 FAD now includes a requirement for a dedicated SAP work group and a specific reporting requirement on the work group's recommendations. While the determination for the expansion of the PILOT SAP to the remainder of the WHO watershed has not yet been made by NYSDEC, as described in Special Condition 29 paragraph (f), NYSDOH notes that paragraph (f) states that "Such written documentation shall include addressing NYCDEP recommendations."

(5) "Under the Conservation Reserve Enhancement Program (CREP), administered by the US Department of Agriculture's Farm Service Agency and the Watershed Agricultural Council, farmers can receive annual rental payments in exchange for removing environmentally sensitive land from production and installing conservation practices like vegetated streamside buffers, exclusion fencing and animal crossings. These rental agreements usually run for ten to fifteen years, unlike watershed conservation easements which run in perpetuity. The commenters are suggesting a similar program be explored as an option for owners of nonagricultural land. This potential program should be explored in the context of the streamside acquisition work group."

(6) "NYSDOH and the City acknowledge the existing conservation easement language may need to be revised in light of some recent conflicts with public benefit projects. The City agrees to work with the communities to explore potential language changes to future conservation easements which would allow for such activities to take place. The Revised 2017 FAD has been updated to reflect this new activity."

(7) "NYSDOH supports the recreational use of protected land in the Catskill/Delaware Watershed where such use does not threaten to have an adverse impact on NYC water quality. Paragraph 72 of the 1997 Memorandum of Agreement included mountain bicycling as a recreational activity not likely allowed on City land. The City has opened over 135,000 acres of

watershed lands to other recreational opportunities, where it can be demonstrated that recreational use will not harm water quality. The City may consider requests to open specific City owned parcels to connecting existing or planned trail networks where municipal and organizational partners have the capacity to effectively steward the activities and ensure no threats to water quality.”

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Harpersfield hereby thanks the Department of Health for carefully considering the comments of the West of Hudson Communities and incorporating those comments in the Revised FAD and accepts the Revised FAD as a reasonable compromise to assure the continued protection of New York City’s water supply while recognizing the needs of the watershed communities.

LET IT BE FURTHER RESOLVED, that the Town of Harpersfield is committed to continuing work with other watershed stakeholders to develop a revised LAP and SAP that is consistent with the MOA, the NASEM findings, the Revised FAD and the evolving needs of the watershed communities.

Seconded by Councilmember Matthew J. Taylor with the vote as follows:

Adopted:	Supervisor	Lisa M. Driscoll	Aye.
	Councilmember	Matthew J. Taylor	Aye.
	Councilmember	Patrick F. Funk	Aye.
	Councilmember	Erik R. Reeve	Aye.
	Councilmember	Dwayne C. Hill	Aye.

STATE OF NEW YORK }

COUNTY OF DELAWARE }

TOWN OF HARPERSFIELD }

I Linda E. Goss, Town Clerk for the Town of Harpersfield have compared the preceding copy with the original Resolution on file in this office adopted by the Town Board of the Town of Harpersfield at a regular meeting held on March 8, 2023, and I DO HEREBY CERTIFY the same to be a correct transcript therefrom and of the whole of the original.

Witness my hand and seal of the Town of Harpersfield, this 10th day of March, 2023.



Linda E. Goss, Town Clerk, Town of Harpersfield

