

TOWN OF HARPERSFIELD

RESOLUTION NO. 005 OF THE YEAR 2011

Councilman Harold Bedford offered the following resolution and moved its adoption:

WHEREAS, in December 24, 2010, the New York State Department of Environmental Conservation ("DEC") issued a Water Supply Permit to the New York City Department of Environmental Protection ("DEP") which authorizes DEP (and/or its agents) to purchase land in fee and to purchase conservation easements within the New York City Watershed West-of-Hudson River subject to certain restrictions with a duration of 10 years (with a one five year renewal for a total duration of 15 years). A copy of the Water Supply Permit (Permit No. 0-9999-00051/00001) is available at <http://www/dec/ny/gov/permits/70361.html>.

WHEREAS, under Special Condition 1 of the permit, DEP's acquisition of land in fee and conservation easements under this permit is limited to a cap of 105,043 acres;

WHEREAS, there is no time limit on the City's Land Acquisition Program (i.e., the Land Acquisition Program can be renewed in 15 years for an additional period of 15 years and renewal thereafter;

WHEREAS, as a willing buyer offering to pay fair market value with no mortgage contingency or real estate commission, DEP's Land Acquisition Program has been very successful in purchasing land and conservation easements throughout the watershed;

WHEREAS, there is a concern that the City's Land Acquisition Program will continue until there is no remaining developable land for purchase;

WHEREAS, DEP is not allowed to purchase land or conservation easements outside of its City boundaries for water quality protection without obtaining approval from DEC under Article 15, Title 5 of the New York State Environmental Conservation Law;

WHEREAS, the Water Supply Permit issued by DEC limits the type of land eligible for City purchases such that there must be a significant water quality benefit to the purchase and the program must not have a significant adverse impact on the community's ability to survive and prosper;

WHEREAS, in the Water Supply Permit, DEC has sought to balance the need for future generations to have access to

developable land by restricting from land eligible for acquisition, certain parcels, which from an environmental, social and economic perspective, should be preserved for future residential or commercial development (e.g., access to sewer or other utility infrastructure, road frontage, flat lands, in the hamlet, proximity to the hamlet, dry soils suitable for septic system);

WHEREAS, Special Conditions 7, 8 and 9 of the Water Supply Permit restricts eligibility for land acquisition to land that (i) has certain surface water features and/or steep slopes, (ii) are greater than 10 acres and (iii) are vacant. Subject to certain exemptions, parcels that do not meet that criteria are ineligible for acquisition;

WHEREAS, once the City purchases the land and/or the conservation easement, the land becomes forever limited as open space and prohibited from residential and/or commercial development by future generations;

WHEREAS, in order to protect the land that is most amendable for development, Special Condition 10 of the Water Supply Permit identifies two types of areas where the City may not purchase in fee or conservation easements: The 1997 Designation Hamlet Areas and the 2010 Designated Hamlet Areas;

WHEREAS, Special Condition 2 of the Water Supply Permit provides as follows:

The City's LAP, the City's Watershed Regulations, and the other programs and conditions contained in the Watershed MOA, when implemented in conjunction with one another, are intended to protect water quality while allowing existing development to continue and future growth to occur in a manner that is consistent with the existing community character and planning goals of each of the Watershed communities. The City's land acquisition goals recognize the importance of ensuring that the availability of developable land in the Watershed will remain sufficient to accommodate projected growth without adverse effects on water quality and without substantially changing future population patterns in the Watershed communities.

WHEREAS, the determination whether the 1997 Designated Hamlet Area and the 2010 Designated Hamlet Area is needed to ensure the availability of developable land to accommodate anticipated necessary growth within the community is in the nature of a local land use determination to be made by the Town Board;

WHEREAS, attached as Exhibit A is a listing of tax parcels within the proposed 2010 Designated Hamlet Area - the Town Board may delete parcels from the proposed area;

WHEREAS, attached as Exhibit B is a map showing the 1997 Designated Hamlet area;

WHEREAS, the Water Supply Permit allows the local municipality to determine the boundaries of the two Designated Hamlet Areas and to determine whether both designated areas should be preserved for future generations (rather than eligible for purchase by the City);

WHEREAS, under Section 18-39 (a)(3) of the New York City Watershed Rules and Regulations, the parcels within the 1997 Designated Hamlet Area and the 2010 Designated Hamlet Area are allowed to construct impervious surfaces within 100 feet of a water course subject to an individual stormwater permit from DEP;

WHEREAS, the Town has or will send written notice to all property owners (based upon the current assessment roll) within the 1997 Designated Hamlet Area and the 2010 Designated Hamlet Area notifying them of the opportunity to provide written comment and to provide testimony at a public hearing on the Town's selection of the boundaries of both Designated Hamlet Areas and whether such areas are eligible (or ineligible) for the City Land Acquisition;

NOW THEREFORE BE IT RESOLVED,

1. The Town will conduct a public hearing on May 10, 2011 at the Town Hall, 25399 State Hwy 23, Harpersfield, NY, Delaware County at 7:30 PM to solicit public comment as set forth above.
2. The Town Board instructs the Town Clerk to notify all property owners (based on the most recent assessment roll) within the 1997 Designated Hamlet Area and the 2010 Designated Hamlet Area by letter of the opportunity to submit comments and appear at a hearing regarding the above.
3. Public comments may be submitted in writing or at the hearing. All written public comment must be received by 5:00 PM on May 10, 2011.

Seconded by Councilwoman Catherine Straus with a roll call vote as follows:

Adopted:

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| Supervisor | James Eisel Sr. | Aye. |
| Councilman | Harold Bedford | Aye. |
| Councilman | Morris Riddell Jr. | Aye. |

Councilwoman Catherine Straus

Aye.

Absent:

Councilman

Robert Reeve Jr.

Linda E. Goss

Linda E. Goss, Town Clerk

March 11, 2011

