



Westchester Joint Water Works

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June 28, 2023

Hon. George Latimer
Westchester County Executive
148 Martine Avenue, 9th Floor
White Plains, NY 10601

Hon. Vedat Gashi, Chairman and Honorable Members
Westchester County Board of Legislators
148 Martine Avenue, 8th Floor
White Plains, NY 10601

Re: Westchester Joint Water Works ("WJWW") Request for County Approval of the Exchange Transaction for Construction of a Filtration Plant in the Town of Harrison

Dear County Executive Latimer, Chairman Gashi and Members of the County Board of Legislators:

In my letter dated June 15, 2023 (copy attached), WJWW formally requested the County to approve the proposed real estate transaction (the "**Exchange Transaction**") by which the County would deed title of the 13.4-acre County-owned parcel adjoining the County airport (the "**County Parcel**") to WJWW for construction of the Filtration Plant in exchange for a WJWW-owned 13.4-acre parcel, also adjoining the County airport, that WJWW would deed to the County (the "**WJWW Parcel**"). I am writing again to inform the County that on June 27, 2023, the New York State Supreme Court for Westchester County dismissed the only lawsuit that was filed to challenge the proposal to locate the Filtration Plant on the County Parcel. A copy of the Court's decision is attached.

The WJWW Board of Trustees is comprised of the Supervisor/Mayor of the Town/Village of Harrison, the Supervisor of the Town of Mamaroneck, and the Mayor of the Village of Mamaroneck. The litigation challenge that has now been rejected by the Court had sought to nullify the unanimous resolution of the WJWW Board, made on October 12, 2022, to approve a resolution selecting the County Parcel as the best location for the Filtration Plant pursuant to the State Environmental Quality Review Act ("SEQRA"). The Court upheld WJWW's determination that, from an environmental perspective, the County Parcel is the best location for the Filtration Plant. *See* Decision, pp. 14-18.

The Court also rejected petitioner's contention that the Filtration Plant would result in significant noise impacts (Decision, pp. 9-10), rejected petitioner's contention that the Filtration Plant would result in significant historic and archaeological resource impacts (*id.*, pp. 10-12), rejected petitioner's contention that the Filtration Plant would result in significant adverse visual impacts (*id.*, p. 11); rejected petitioner's contentions that the Filtration Plant would result in significant growth-inducing impacts (*id.*, pp. 12-13), and rejected petitioner's challenge to the assessment of the Filtration Plant's effect on water rates. *Id.*, pp. 13-14.

The Court also held that WJWW complied with all of the required SEQRA procedures in preparing the DEIS, FEIS and SEQRA Findings Statement for the Filtration Plant. *See* Decision, pp. 3-5.

More specifically, with regard to the selection of the County Parcel as the preferred location for Filtration Plant, the Court stated that:

[T]he record reflects that [WJWW] ... considered the [County Parcel] ... location preferable due to the lesser impact that it would present to the significant existing and progressing residential use of the areas lying in close proximity to the [WJWW Parcel].... [T]he Court finds that the record amply demonstrates that [WJWW] ... undertook the requisite hard look at feasible alternatives to the [County Parcel] ... for the location of the [Filtration] Plant, and further provided a reasoned elaboration for its conclusion that the development and operation of the Plant upon the [County Parcel] ... would be a superior choice when compared against the ... alternative [the WJWW Parcel].... [T]his Court's review of the respondent WJWW's determination to deem the DEIS and FEIS complete ... reveals that the respondent [WJWW] identified the pertinent areas of environmental concern, took a hard look at those areas and made a reasoned elaboration of the basis for its determination.....

Decision, pp. 16-18.

Regarding the issue of airport growth, the Court stated that:

[T]he primary concern raised by the petitioner relates to its speculative concern that the development of the [Filtration] Plant upon the ... [County Parcel] might impact the County's potential plan for growth of the airport in the future , [but] Westchester County's representation that it has no intention of making any use of that land parcel for the expansion of the ... [airport], nor any other development or use aside from serving as an undeveloped buffer between the ... [airport] and surrounding properties is referenced within the DEIS and the Findings Statement.... [T]he record is devoid of any indication that the development and

operation of the Plant to filter and treat water from the nearby Rye Lake could in some manner spur or otherwise induce commercial, residential or any other form of increased development upon any parcel of land associated therewith, which leaves the petitioner's contrary suggestion to be lacking a fact-based foundation.... Accordingly, the Court finds that the record amply demonstrates that [WJWW] ... undertook the requisite hard look at the potential growth inducing impact of the proposed [Filtration] Plant....

Decision, pp. 12-13.

Regarding the issue of noise buffering, the Court stated that:

[T]he primary concern which the petitioner raises is related to the proposed removal of trees incident to the diminishment of noise buffering that is anticipated by the petitioner as a result ... As detailed in the DEIS and FEIS, and summarized in [WJWW's] ... Findings Statement, the proposed construction of the Plant could require the removal of approximately 408 trees, whereas the landscaping plan associated with the development of the Plant site provides for the installation/planting of approximately 300 new trees, in addition to the existing unspecified number of trees which will remain undisturbed within the area lying between the Plant and the Meeting House. In addition, the DEIS, FEIS and Findings Statement reveal that although the Meeting House is currently impacted by significant levels of noise generated by the routine operation of the ... Airport due to its location beneath the flight path used by planes accessing one of the airport runways, the proposed location of the Plant upon the undeveloped land lying between the Meeting House and the airport-related facilities would serve as an additional noise buffer inuring to the benefit of the petitioner.... Furthermore, the record demonstrates that the only anticipated exterior noise emanating from the Plant's operations would be generated by the Plant's own air-conditioning units and [emergency] generators, which would be mitigated by sound-attenuated enclosures and exhaust silencers.... [T]his Court finds that the record reveals that [WJWW] ... made a reasoned elaboration of the basis for its challenged determination as required by SEQRA.

Decision, pp. 9-10.

Regarding the issue of visual impacts, the Court stated that:

In relation to [the potential for visual] impacts upon the petitioner's members, the record reveals that the ... DEIS, as well as ...


[WJWW's] Finding Statement, reflect its consideration and recognition of the mitigating effects anticipated from the existing trees and the additional trees to be planted in the buffer area of concern to the petitioner, as well as the several hundreds of feet of distance between all points of the proposed Plant and the petitioner's property, the design of the proposed Plant's dimensions and appearance in compliance with all applicable zoning codes, [and] the design of exterior lighting to minimize its exposure to the Meeting House and its surrounding environs....

Decision, p. 11.

* * * *

WJWW would be pleased to provide any further information that the County may request to consider the request for approval of the Exchange Transaction.

Respectfully submitted,



Paul Kutzy, P.E.
Manager, WJWW

cc: Hon. Kenneth Jenkins, Deputy County Executive
Joan McDonald, Director of Operations
Hon. Thomas A. Murphy, Mayor, Village of Mamaroneck
Hon. Rich Dionisio, Supervisor/Mayor, Town/Village of Harrison
Hon. Jaine Elkind Eney, Supervisor, Town of Mamaroneck

Attachments:

Tab A WJWW Letter dated June 15, 2023
Tab B Court Decision dated June 27, 2023