

**TOWN OF ANDES PUBLIC HEARINGS NOV. 10, 2011**  
**TOWN HALL REGULAR MONTHLY MEETING 12:15 P.M.**

**PRESENT:**

**Councilman Ritchie Gabriel**  
**Councilman Daniel Grommeck**  
**Councilman Martin Liddle**  
**Councilman Shayne Moshier**  
**Supv. Martin A. Donnelly**  
**Town Clerk Janis L. Jacques**  
**Keough Consulting Marge Merzig**  
**John Moffett Delaware Operations**  
**Shane Boice Delaware Operations Plant Engineer @ Andes WWTP**

**ALSO:**

<b>Bill Feldman</b>	<b>John Bouton</b>	<b>Jesse Tosi</b>	<b>Wayland Gladstone</b>
<b>Buffy Calvert</b>	<b>Tyler Gray</b>	<b>Suzanne Gladstone</b>	
<b>Maria Ditchek</b>	<b>Fred Cubero</b>	<b>Kim Tosi</b>	<b>Anita Lanziero</b>
<b>Linda Goecks</b>	<b>Rob Goecks</b>	<b>Sharon Drew</b>	

**CALL TO ORDER:**

**Supv. Donnelly called the meeting to order at 12:15 P.M..**

**PLEDGE:**

**The Pledge of Allegiance was recited lead by Councilman Gabriel.**

**PUBLIC HEARINGS:**

**Supervisor Donnelly opened the Public Hearings.**

**“ This is not a question & answer time. You may respond either you are FOR or AGAINST.”**

**#1. OVERRIDE TAX LEVY {LOCAL LAW #2 -2011}**

**#2. 2012 TOWN OF ANDES BUDGETS {RES. # 39}**

**Various citizens spoke against the budget. { salaries to low }**

**One spoke against the library budget. { not enough }**

**#3. MORATORIUM ON HEAVY INDUSTRY { LOCAL LAW #3 2011}**

**MOTION made by Councilman Gabriel second by Councilman Liddle to close the Public Hearings and open the Regular Monthly Meeting.**

**VOTE: ALL AYE. So carried.**

**HIGHWAY REPORT:**

**Submitted by Highway Superintendent - Michael McAdams and read  
by Councilman Martin Liddle:**

**Highway Report 10/12/11 – 11/10/11**

**Equipment**

2009 International 6x6 – Changed oil, fuel, fuel/water separator filters, greased, checked all fluids and lights 27,500 miles

2004 International 7600 – Changed oil, fuel, fuel/water separator filters, greased, checked all fluids and lights and replaced air line for power divider 100,596 miles

2000 International – Replaced steering box and checked fluids and lights 158,770 miles

1999 International – Changed oil, fuel, fuel/water separator filters, greased, checked all fluids and lights. Replaced front rear brake can and adjusted brakes. 171,585 miles

2005 John Deere Backhoe – Changed oil, fuel, fuel/water separator, air filters, greased  
3300 Hours

2003 John Deere Loader – Removed Front axle taken to Nortrax found bad o-ring which caused oil to leak out breather, Reinstalled front axle and tested everything working smooth 5900 Hour

**Roads Worked**

Lower Dingle Hill Road - Roger JD Grader, John 04 INT – Added 5 Loads Gravel from below Frank Winklers driveway down the hill on rough spots 10/18/11

Cross Mountain Road – Roger JD Grader, John 04 INT – Added 2 loads rubble to fill in washout areas, Worked rough spots 10/20/11

Engel Road – Roger JD Grader – Fixed ditches and worked 10/24/11

**New Culverts**

Barkaboom Road – 3' x 40' Plastic Culvert just above Mosier's 11/1/11

Wolf Hollow Road – 15" x 30' Steel Pipe Dip before roger terry's field fall clove side 11/4/11

Bush Hill – 4" x 10' Tile Drain 10 feet above lowest pipe off city road 11/1/11

Wedemeyer Road – 4" x 20' Tile Drain Hill below Bergs house 11/4/11

**Other:**

I have turned in a bill from Zwack, INC. for the amount of \$8000. This money was for an insurance claim to our 2004 4x4 International when the plow dug in and damaged the plow frame. We received this money from the insurance company.

I am also going to purchase two new radios for our two new trucks which we also received insurance money from our 91 Autocar claim in the amount of \$800 which will cover this purchase.

At the last board meeting, my full highway report was not reported. The questions about our equipment and the fact that I report that we grease and oil the equipment is part of our maintenance and very important. Any piece of equipment that is not safe to drive, the employee does not have to drive, as stated in the Union contract.

**2012 Budget:**

Two years ago the Town Board cut \$10,000.00 from the snow removal budget (from \$80,000 to \$70,000.00). This year they want to cut another \$10,000.00, bringing it down to \$60,000. The cost of fuel, sand and salt is not going down, but up. We have a duty to keep the Town roads safe in the winter for the buses, ambulances, fire trucks, and the public. It will be extremely hard to do this with \$60,000., especially if this winter is anything like last winter.

And, another \$5,000.00 is coming out of the men's wages, and they will not be able to work as many hours as is needed to maintain these roads in the winter.

The Machinery account was \$120,000.00 and they want to reduce that significantly, along with the account for General Repairs. Parts and tires are not decreasing in cost, either.

The Town Roads are one of the most important things in this town, and it is going to be extremely hard to maintain them with this budget.

Respectfully Submitted:

Michael R. McAdams

Highway Superintendent



**RESULTS OF THE HIGHWAY REPORT:**

**Supv. Donnelly: “ I would like to comment on the 2012 Highway Budget. Up to and including the end of Sept. - so far we have spent \$35,000.00 out of the \$70,000.00. {DA5142.4 } That is the reason we cut that line back. As far as the \$5,000.00 coming out of the men’s wages - first of all we know that is not possible. They have a Union Contract and can not, by law, cut this contract unless we want to re-open it for negotiations - which we would not do. We are not taking money away from the highway employees !**

\*\*\*\*\*

**Supv. Donnelly: “ As of Jan. 1, 2012 - Marge Merzig will no longer be responsible for F.E.M.A. because of the comments, unfair criticism or abuse that she has been subjected to. She was NOT paid for her work. The F.E.M.A. duties will be given to the Highway Supt. And the new Town Clerk.**



**FROM THE SUPERVISOR:**

**1. On Oct. 14<sup>th</sup> I met with the engineers for the Storm-water Improvements Project to make sure the deep culverts were fenced off or filled in to prevent someone from sliding in this winter. Clark Company is taking care of this.**

**2. On Oct. 19<sup>th</sup> I wrote to South Kortright Central School, in reference to the Summer Enrichment Program, requesting the agreed fee of \$300.00. This was promptly paid.**

**3. On Oct. 20<sup>th</sup> I signed a request from the N.Y.S.C.D.B.G. to allow direct deposit, in a separate account, for all funds for this project.**

**4. On Oct. 26<sup>th</sup> Councilman Gabriel & I attended a Delaware County Watershed Affairs meeting in reference to Land Trusts and the D.E.P.. in order for the Land Trust to be able to approach large parcel owners on behalf of the N.Y.C.D.E.P.. The Town Boards must approve a Resolution to allow Land Trusts to approach or deal with owners of large parcels of land. The landowners on the list { we have more than any other Town in Delaware County } some 20 owners representing 7,550 acres of land. All of the land owners on the list have already refused the D.E.P. or did not respond to the N.Y.C. solicitations. If we do not approve a Resolution that would, in effect, invite the Land Trusts into Andes - they can not solicit land sales on behalf of N.Y.C. This would not prevent the Land Trusts from buying land, as they do now, but it can NOT be for N.Y.C.. If we agree to allow the Land Trusts into Andes, the agreement would be for 5 years at which point it can be extended or canceled.**

**{ The Resolution will be brought to the floor at the Dec. 13<sup>th</sup> Town Board meeting }**

**5. On Nov. 3<sup>rd</sup> I signed for and accepted the final check of \$55,000.00 from Walter B. Gladstone for our Patricia & Walter B. Gladstone Town Pool Rehabilitation. Thank you seems so very little to say.**

**6. On Nov. 2<sup>nd</sup> I responded to the N.Y.S. Comptrollers request for comments on the audit of our Town Court.**

**Respectfully submitted, Martin A. Donnelly - Andes Town Supervisor**

**Town of Andes****Andes, NY 13731-0085**

P.O. Box 85 - 115 Delaware Avenue, Andes, NY

1-845-676-4791

TDD -1-800-662-1220

November 7, 2011

Marlys Hann  
Architect  
161 Main Street  
Andes, NY 13731

Dear Ms. Hann,

I am in receipt of your October 27 letter regarding your sump pump. I have included a copy of the Sewer Use Ordinance which is based on a long standing model developed by the NYSDEC statewide and was enacted by the Town Board in 2004 prior to the connection of your property to the sewer system. I direct you specifically to Section 501B. The connection of your property to the sewer system was, upon the directive of DEC and NYCDEP, facilitated by the Town and, upon the decision of the Town Board, assisted financially by the Town for the benefit of all of the property owners who were forced to connect. However, the actual work done at your house was done through a private agreement between you and the contractor and not by the Town. If your contractor erred when he allowed your sump pump to continue to be connected to the sewer system, it was not done with the knowledge or approval of the Town Board or Sewer District.

That being said, you may know that until last fall, we have had many other issues to be concerned about at the wastewater treatment plant. We also have the capacity to handle a certain amount of stormwater (because even the mains have been somewhat subject to infiltration and inflow). However on the last day of September last year, the Andes WWTP was hit by a huge inflow and we were placed under a consent order by NYSDEC. Certain steps have been required of us by the DEC in order to continue to operate the WWTP without fines. One of those steps was to survey the system and determine whether there were any sump pumps connected to the sewer system and see to it that they are disconnected as our Sewer Use Ordinance requires. As part of that directive, the Town surveyed all the connections and as my letter indicates, notified property owners of the need to disconnect. The Town Board has not yet established sanctions for failing to do so, but probably will have to enact some in order to show NYSDEC that we are in full compliance with the terms of the consent order. I recommend you take steps to comply before that happens.

As you are undoubtedly aware from your professional life, environmental requirements cannot be "grandfathered". In addition, state finance laws bar a municipality from doing work on private property for the benefit of a single property owner. A plumber can easily determine what needs to be done to redirect your sump pump away from the sewer system. If you wish to meet with me regarding this situation, please call Town Hall. I am often in Andes on Tuesday mornings and certainly on the day of the Town Board meeting.

Sincerely,



Margery K. Merzig  
Andes Sewer Administrator

Cc: Town Board  
Town Attorney



**MOTIONS:  
NONE**

**RES. #39 LOCAL LAW #2 - 2012 / LOCAL LAW TO OVERRIDE THE  
MUNICIPAL LAW 3-c**

**BE IT RESOLVED that; the Town Board of the Town of Andes  
HEREBY passes Local Law #2 - 2012 - to OVERRIDE THE TAX  
LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW 3-c.**

**Proposed by Councilman Liddle  
Second by Councilman Moshier**

**ROLL CALL:**

**Councilman Gabriel-----AYE**

**Councilman Grommeck-----AYE**

**Councilman Liddle-----AYE**

**Councilman Moshier-----AYE**

**Supv. Donnelly-----AYE**

**VOTE: ALL AYE. So carried.**

**RES. #40 BUDGETS - 2012 - TOWN of ANDES / WATER DISTRICT  
SEWER DISTRICT**

**WHEREAS; the Town Board & the Districts' Board have presented the  
2012 Town Budget and 2012 Special Districts' Budgets at a Public  
Hearing held Nov. 10, 2011 @ Town Hall @ 12: 20 P.M. and;**

**WHEREAS; said Public Hearing and Meeting were advertised;**

**THEREFORE BE IT RESOLVED that; the 2012 Town Budget - the  
2012 Water District Budget & the 2012 Sewer District Budget are  
HEREBY adopted as presented.**

**Proposed by Councilman Liddle**

**Second by Councilman Gabriel**

**ROLL CALL:**

**Councilman Gabriel-----AYE**

**Councilman Grommeck-----AYE**

**Councilman Liddle-----AYE**

**Councilman Moshier-----AYE**

**Supv. Donnelly-----AYE**

**VOTE: ALL AYE. So carried.**



**RES. #41 APPOINTMENT - BOARD OF ASSESSMENT REVIEW**

**BE IT RESOLVED that; Laurence Jay Tweedie is HEREBY appointed to the Town of Andes Board of Assessment Review.**

**{ Term 10-1-2011 - Sept. 30, 2016 }**

**Proposed by Councilman Gabriel**

**Second by Councilman Grommeck**

**ROLL CALL:**

**Councilman Gabriel-----AYE**

**Councilman Grommeck-----AYE**

**Councilman Liddle-----AYE**

**Councilman Moshier-----AYE**

**Supv. Donnelly-----AYE**

**VOTE: ALL AYE. So carried.**

**RES. #42 LOCAL LAW #3 - 2012 / LOCAL LAW TO IMPOSE A MORATORIUM ON HEAVY INDUSTRY WITHIN THE TOWN OF ANDES - COUNTY OF DELAWARE**

**BE IT RESOLVED that; the Town Board of the Town of Andes HEREBY approves Local Law #3 - 2012 TO IMPOSE A MORATORIUM ON HEAVY INDUSTRY WITHIN THE TOWN OF ANDES - COUNTY OF DELAWARE.**

**Proposed by Councilman Moshier**

**Second by Councilman Liddle**

**ROLL CALL:**

**Councilman Gabriel-----AYE**

**Councilman Grommeck-----AYE**

**Councilman Liddle-----AYE**

**Councilman Moshier-----AYE**

**Supv. Donnelly-----AYE**

**VOTE: ALL AYE. So carried.**

**MINUTES:**

**MOTION** made by Councilman Gabriel second by Councilman Grommeck to approve the minutes.

**VOTE:** ALL AYE. So carried.

**REPORTS:**

**MOTION** made by Councilman Moshier second by Councilman Liddle to approve the following Oct. Reports: Town Board Bookkeepers Financial Report, Town Clerks Financial Report and Justices Financial Report.

**VOTE:** ALL AYE. So carried.

**WARRANTS:**

**MOTION** made by Councilman Liddle second by Councilman Gabriel to approve the following Warrants:

<b>GENERAL</b>	<b>#323-#340</b>	<b>\$11,915.65</b>
<b>HIGHWAY</b>	<b>#206-#219</b>	<b>42,225.57</b>
<b>WATER</b>	<b>#67-#71</b>	<b>361.59</b>
<b>WWTP</b>	<b>#192-#208</b>	<b>26,257.56</b>
<b>SHAV.TOWN CEM.</b>	<b>#6 - ONLY</b>	<b>500.00</b>

**VOTE:** ALL AYE. So carried.

# DELAWARE OPERATIONS, INC.

8-12 Dietz Street, Suite 303, Oneonta NY 13820 • Phone 607-432-8073 • FAX 607-432-0432

TOWN OF ANDES, NY  
TOWN BOARD MEETING  
REPORT BY DELAWARE OPERATIONS  
November 10, 2011

1. **Water System**

- Daily usage of treated water from the water system averaged 16,436 gallons per day for the month of October 2011.

2. **Plant Purchases**

3. **O&M**

4. **Equipment**

- On October 28<sup>th</sup> plant staff changed second stage filter cartridges.

5. **Distribution System**

- On October 25 & 26<sup>th</sup> the fire hydrants were flushed and main line valves were exercised.



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**TOWN OF ANDES, NY  
TOWN BOARD MEETING  
REPORT BY DELAWARE OPERATIONS  
November 10, 2011**

- 1. WWTP Plant**
  - Plant effluent flows averaged 20,618 gallons per day for the month of October 2011.
  
- 2. SPDES Compliance/NYSDEC, NYCDEP**
  - The plant discharges of treated effluent to the Tremper Kill Brook: permit compliance for October 2011 met all parameters.
  
- 3. Collection System**
  - High Street is being maintained as required.
  
- 4. Plant Purchases.**
  
- 5. Plant O&M**
  
- 6. Plant Equipment.**
  
- 7. Gladstone Hollow Septic System**

**RES #43 Andes Wastewater Treatment Plant Repair and Remediation Project Professional Services Resolution**

WHEREAS, the Town Board of the Town of Andes is undertaking a Wastewater Treatment Plant Repair and Remediation Project (hereinafter referred to as "the Project") to meet a consent order from NYSDEC at wastewater treatment facilities in the Andes Sewer District #1; and

WHEREAS, the project includes equipment changes and reconstruction of certain processes at the existing Wastewater Treatment Facility on County Highway 1; and

WHEREAS, The Town has received commitment from NYCDEP to share in the cost of the project; and

WHEREAS, The Sewer District has received project funding for Engineering Design from NYCDEP; and

WHEREAS, the Town of Andes is securing additional funding for the system remediation;

WHEREAS, the Town Board, by Resolution 33 of 2010 authorized the commencement of this project;

NOW, THEREFORE BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF ANDES AS FOLLOWS:

1. The Town Board intends to proceed with the Engineering and Design of the WWTP Improvements; and
2. The Town Board hereby authorizes the Supervisor to execute a professional services agreement with Cedarwood Engineering, LLC and
3. The Town Board hereby authorizes the Supervisor to execute a professional services agreement with bond counsel, local attorney and Keough Consulting for legal and fiscal services; and
4. The Town Board authorizes the Supervisor to continue to negotiate on behalf of the Sewer District funding agreements with NYCDEP, USDA-RD, US Army Corps of Engineers and NYS Environmental Facilities Corporation

**Proposed by Councilman Liddle  
Second by Councilman Moshier**

**ROLL CALL:**

**Councilman Gabriel-----AYE**

**Councilman Grommeck-----AYE**

**Councilman Liddle-----AYE**

**Councilman Moshier-----AYE**

**Supv. Donnelly-----AYE**

**VOTE: ALL AYE. So carried.**

Resolution 44 Authorizing the execution and filing of an application and execution and delivery of a agreement setting forth the terms of the Project financing and other documents necessary for CWSRF assistance.

WHEREAS, Andes Sewer District #1 – Town of Andes herein called the "Applicant", after thorough consideration of the various aspects of the problems and study of available data, has hereby determined that the project generally described as:

**WWTP Repair and Remediation Project**

and identified as CWSRF Project Number(s) C4- 5410 - 02 - 00 herein called the "Project", is desirable and in the public interest, and to that end it is necessary that action preliminary to the construction of said Project be taken immediately; and

WHEREAS, the United States, pursuant to the Federal Water Quality Act of 1987 (as such may be amended from time to time, the "Water Quality Act"), requires each State to establish a water pollution control revolving fund to be administered by an instrumentality of the state before the state may receive capitalization grants under the Water Quality Act; and

WHEREAS, the State of New York has, pursuant to the State Water Pollution Control Revolving Fund Act, Chapter 565 of the Laws of New York 1989, as amended (the "CWSRF Act") established in the custody of the New York State Environmental Facilities Corporation (the "Corporation") a water pollution control revolving fund (the "Fund") to be used for purposes of the Water Quality Act; and

WHEREAS, the Corporation has been created, reconstituted and continued pursuant to the New York State Environmental Facilities Corporation Act, as amended, being Chapter 744 of the Laws of 1970, as amended, and constituting Title 12 of Article 5 of the Public Authorities Law and Chapter 43-A of the Consolidated Laws of the State of New York, and constitutes a public benefit corporation under the laws of the State of New York, being a body corporate and politic with full and lawful power and authority to provide financial assistance from the Fund; and

WHEREAS, the Corporation has the responsibility to administer the Fund and to provide financial assistance from the Fund to municipalities for eligible projects, as provided in the CWSRF Act; and

WHEREAS, the CWSRF Act authorizes the establishment of a program for financial assistance for planning, design and construction of eligible projects;

**NOW, THEREFORE, BE IT RESOLVED BY**

Town Board of the Town of Andes as follows;

1. The filing of an application for CWSRF assistance in the form required by the Corporation in conformity with the CWSRF Act is hereby authorized, including all understandings and assurances contained in said application.
2. The following person is directed and authorized as the official representative of the Applicant to execute and deliver an application for CWSRF assistance, to execute and deliver the Project financing agreement and any other documents necessary to receive financial assistance from the Fund for the Project, to act in connection with the Project and to provide such additional information as may be required and to make such agreements on behalf of the Applicant as may be required:

Martin A. Donnelly

Town Supervisor



- 3. The official designated above is authorized to make application for financial assistance under the CWSRF Program for either short-term or long-term financing or both.
- 4. One (1) certified copy of this Resolution shall be prepared and sent to the New York State Environmental Facilities Corporation, 625 Broadway, Albany, New York 12207-2997.

This Resolution shall take effect immediately.

**Proposed by Councilman Gabriel**  
**Second by Councilman Grommeck**  
**ROLL CALL:**

**Councilman Gabriel-----AYE**  
**Councilman Grommeck-----AYE**  
**Councilman Liddle-----AYE**  
**Councilman Moshier-----AYE**  
**Supv. Donnelly-----AYE**  
**VOTE: ALL AYE. So carried.**

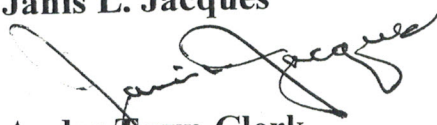
**ADJOURN:**

**MOTION made by Council**  
**to adjourn.**  
**VOTE: ALL AYE. S**  
**TIME: 1:30 P.M.**

**second by Councilman Gabriel**

*All sign*

**Janis L. Jacques**



**Andes Town Clerk**  
**Andes District's Clerk**

*Robert Grommeck*  
*Maureen Grommeck*  
*Michael Grommeck A.S.*

Local Law No 2 of the year 2011

Town of Andes County of Delaware

**A local law to override the tax levy limit established in General Municipal Law 3-c**

**Section 1. Legislative Intent**

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Andes, County of Delaware pursuant to General Municipal Law § 3-c, and to allow the Town of Andes, County of Delaware to adopt a town budget for (a) town purposes (b) fire protection districts and (c) any other special or improvement district governed by the town board for the fiscal year 2012 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law § 3-c.

This legislation is required because of the potential for difficulty in determining the actual tax limit for 2012 under the new legislative mandate, as well as the meet contractual expenses.

**Section 2. Authority**

This local law is adopted pursuant to subdivision 5 of General Municipal Law § 3-c, which expressly authorizes the town board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the town board.

**Section 3. Tax Levy Limit Override**

The Town Board of the Town of Andes, County of Delaware is hereby authorized to adopt a budget for the fiscal year 2012 that requires a real property tax levy in excess of the limit specified in General Municipal Law, §3-c.

**Section 4. Severability.**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 5. Effective date.**

This local law shall take effect immediately upon filing with the Secretary of State.

**LOCAL LAW # 3, 2011****A LOCAL LAW  
IMPOSING A MORATORIUM  
ON HEAVY INDUSTRY WITHIN  
THE TOWN OF ANDES  
COUNTY OF DELAWARE**

WHEREAS, the Town of Andes has received requests from its citizens concerning the need to address and possibly regulate heavy industry in the Town: and

WHEREAS, the Town Board has discussed several recommendations for proposed actions, surveys and statutory changes to accomplishment such regulation within the Town; and

WHEREAS, the Town of Andes is also considering local laws to preserve roadways in the Town, as well as other related statutes that may effect the quality of life for all Town residents, and these local laws, if implemented, would have a significant impact on the overall development and regulation of land and road use within the Town;

NOW THEREFORE, BE IT ENACTED by the Town Board of the Town of Andes as follows:

**Section 1. PURPOSE**

The current local laws of the Town of Andes as currently written may be inadequate to address certain uses of property within the Town. The anticipation of possible heavy industry, including but not limited to, hydrofracturing activity in the Town, as become a matter of public concern. Any decision the Town Board makes in this matter within the Town could have a dramatic and long-term impact on the public health and safety, quality of life, environment, natural resources, public infrastructure, and revenue base of the Town. In addition, heavy industrial activity within the Town may have other significant consequences including a broad effect on the economic value of adjoining lands. Each of these impacts, as well as others, requires evaluation to determine the extent to which such matters can and should be regulated.

The Town Board has been addressed by many citizens requesting that the Town Board review the Town's land resources, current laws and existing land use regulations, and that the desires of the residents of the Town regarding the long term impact this activity be considered.

In order to provide an opportunity to perform this task, there shall be a moratorium on any activity related to the development, implementation or commencement of site preparation for any heavy industry, or heavy industrial activity, including gas well drilling of any kind, within the Town of Andes for a period of six (6) months, (or extension thereof), from the date of the implementation of this statute.

For the purpose of this moratorium, heavy industry, or heavy industrial activity shall be defined as any use or activity which generates significant volumes of smoke, odors, noise, or other polluting wastes, which requires truck traffic of more than three semi-trailers a day on



local roads and which uses natural water sources in excess of 1000 gallons per day and requires site configuration and intensive monitoring which would impact local traffic that are not compatible with other uses in the municipality. Examples of "heavy industry" which are intended to be included in this definition are: chemical manufacturing; exploration for natural gas; extraction of natural gas; natural gas processing facilities (as defined elsewhere in this law) and/or compressor stations; exploration for crude oil; extraction of crude oil; oil refineries; coal mining; coal processing; and steel manufacturing. It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to the activities identified in the examples.

Generic examples of uses not intended to be included in the definition of "heavy industry" are: milk processing plants; dairy farms; office and communications uses; garment factories; woodworking and cabinet shops; automobile repair shops; wineries and breweries; warehouses; equipment repair and maintenance facilities; helipads; parking lots and parking garages; light manufacturing or light industrial facilities, as defined below; agriculture; and surface gravel and sand mining. It is expressly stated that the foregoing examples are not intended to be exhaustive shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to those activities identified in the examples.

## Section 2. AUTHORITY

This moratorium is enacted by the Town Board of the Town of Andes pursuant to its authority to adopt local laws under the New York State Constitution Article IX and Municipal Home Rule Law §10.

## Section 3. ENACTMENT OF TEMPORARY MORATORIUM

For a period of six (6) months following enactment of this Local Law, all heavy industrial activity, including any activity related to hydrofracturing or gas drilling within the Town is prohibited. There shall be no acceptance of any plan for, or review by the Town Board or the Planning Board related to any heavy industrial project, nor shall there be authorized the issuance of any permit, variance, or other authorization of any kind by any Board, Officer or employee of the Town of Andes for such activity.

## Section 4. DEFINITION

For the purposes of this Local Law "HEAVY INDUSTRY" shall be defined as:

Any use or activity which generates significant volumes of smoke, odors, noise, or other polluting wastes and is not compatible with other uses in the Town. Examples of "heavy industry" which are included in this definition are: chemical manufacturing; exploration for natural gas; extraction of natural gas; natural gas processing facilities (as defined elsewhere in this law) and/or compressor stations; exploration for crude oil; extraction of crude oil; oil refineries; coal mining; coal processing; and steel manufacturing. It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit

the meaning, scope or application of this definition or to limit the application of this definition solely to the activities identified in the examples.

#### Section 5. EARLY TERMINATION OR EXTENSION OF THIS LOCAL LAW

In the event that any new Local Law which addresses the substantive issues set forth herein, should be enacted and adopted by the Town Board prior to the date that the moratorium imposed by this Local Law expires, then in that event, the moratorium imposed by this Local Law shall expire on the date such new Local Law takes effect in accordance with §27 of the Municipal Home Rule Law.

In like manner, if more than four (4) months have passed since the implementation of this Local Law, and it shall be determined by a finding of the Town Board that an extension of this moratorium is required, then the Board, by Resolution, may extend this moratorium for such a period of time as it deems necessary in order to fulfill the findings heretofore made by the Common Council, up to and including six (6) additional months from the date of the original intended expiration of this Local Law.

#### Section 6. CONFLICTS WITH STATE STATUTES AND AUTHORITY TO SUPERSEDE

To the extent any provisions of this Local Law are in conflict with or are construed as inconsistent with the provisions of New York State Law, this Local Law shall control.

#### Section 7. SEVERABILITY

If any part of this Local Law is deemed by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Local Law.

#### Section 8. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.