

# 2009 Legislative Resolutions

As Reported by the Resolutions Committee  
of the Association of Towns

## **Resolution No. 1**

### **PRESERVE AND STRENGTHEN HOME RULE**

**WHEREAS**, beginning in 1894, the people of the State of New York have voted repeatedly to approve Constitutional provisions granting broad home rule powers to local governments and corresponding restrictions on the State Legislature to preserve these powers; and

**WHEREAS**, home rule powers encompass a wide range of subjects including but not limited to: the power to adopt, amend and repeal local laws in the exercise of its functions, powers and duties; the power to share services and act cooperatively with other local governments; the power to acquire real and personal property for its corporate purposes; the power to establish recreational facilities; the power to dispose of its real and personal property; the power to levy and collect rents, charges, fees and penalties in a city, village or town; the power to adopt, amend and repeal zoning regulations; and the power to perform comprehensive or other planning work relating to its jurisdiction; and

**WHEREAS**, the exercise of these powers permits local governing bodies to meet the unique and diverse needs of local residents while fostering citizen participation and grassroots involvement in government; and

**WHEREAS**, New York's diverse communities are best served by maintaining the principles of home rule, including those set forth in the State Constitution, Local Government Bill of Rights, Statute of Local Government and the Municipal Home Rule Law; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the Governor and the Legislature to preserve and strengthen home rule; and **BE IT FURTHER**

**RESOLVED**, that the Association of Towns will strongly oppose any state initiative to weaken or eliminate New York's long-standing tradition of home rule and local government authority.

## **Resolution No. 2**

### **MANDATE RELIEF**

**WHEREAS**, local governments are in partnership with the State and Federal Government to protect and preserve the health, safety and welfare of the people and New York State; and

**WHEREAS**, such a partnership requires collaboration in order to effectively accomplish these goals; and

**WHEREAS**, the imposition of tax-shifting unfunded State and Federal mandates (commonly occurring in the areas of public works, procurement, personnel management, provision of local service, environmental quality enhancements and loss of local tax base) represents a barrier to effective collaboration and good governance; and

**WHEREAS**, the growing expense of tax-shifting unfunded mandates, both individually and collectively, places financial burdens on local governments and, ultimately, the taxpayer and has in some instances forced local governments to drastically underfund crucial local services such as road maintenance, public safety and recreational and cultural services,  
**NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the President and Congress to enhance the Unfunded Mandates Reform Act of 1995 (UMRA; P.L. 104-4) to expand the definition of the term “unfunded mandate” and to fully fund Federal programs administered at the state and local level; and **BE IT FURTHER**

**RESOLVED**, that the Association of Towns calls upon the Governor and the New York State Legislature to enact comprehensive mandate relief legislation that would take into consideration the following among other relief measures: (1) inventory and full funding of existing and future mandates and (2) require all future legislation to include specific local fiscal impact notes.

### **Resolution No. 3** **ECONOMIC STIMULUS**

**WHEREAS**, America has a critical need for transportation infrastructure improvements that require capital investment in roads, bridges, sidewalks, pedestrian and bicycle trails, railroads, airports, harbors and mass transit systems; and

**WHEREAS**, America has a critical need for clean drinking water, fishable rivers and swimable lakes and beaches that requires capital investment in sewage treatment, retention ponds, wetlands and storm water facilities; and

**WHEREAS**, infrastructure stimulus programs would not only provide an immediate economic benefit creating jobs here in America but would benefit both current and future generations; **NOW THEREFORE BE IT**

**RESOLVED**, that in the event Congress decides to undertake any future economic stimulus packages, the Association of Towns calls upon the New York Congressional Delegation to focus funding on our infrastructure needs for transportation and clean water by investing directly in local government public projects that will employ Americans today and that will benefit future generations of Americans for years to come.

**Resolution No. 4**  
**HIGHWAY AND TRANSPORTATION FUNDING**

**WHEREAS**, a safe and dependable transportation infrastructure network is necessary in order to protect users of New York’s roads, bridges and mass transit and to encourage and sustain economic development; and

**WHEREAS**, the roads and bridges that make up our Nation’s highway and transit infrastructure are built, operated and maintained through the collaborative financial assistance of Federal, State, and Local governments with 85 percent of New York’s roads and bridges maintained by local governments; and

**WHEREAS**, the Federal “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” (SAFETEA-LU) funding program was established to provide federal funding for state and local infrastructure projects and is set to expire in 2009; and

**WHEREAS**, the New York State “Consolidated Local Street and Highway Improvement Program” (CHIPS) was established to assist localities in financing the construction, reconstruction or improvement of local highways, bridges, highway-railroad crossings and/or other local facilities (Highway Law, §10-c) is subject to annual appropriation; and

**WHEREAS**, studies of New York’s extensive local road system continue to identify a multi-billion dollar shortfall in funding of local highways and bridges; and

**WHEREAS**, the Association of Towns is cognizant of the current financial crisis; and

**WHEREAS**, according to the Federal Highway Administration, every \$1.00 spent on street and highway improvements results in \$5.40 in economic benefits; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the Governor, the Legislature and the Department of Transportation to maintain CHIPS funding in the 2009-10 State Budget and to provide a stable and sustainable funding stream for local infrastructure needs; and **BE IT FURTHER**

**RESOLVED**, that the Association of Towns calls upon the Governor, the Legislature and the Department of Transportation to fully fund and preserve the Dedicated Highway and Bridge Trust Fund (DHBTF) for capital infrastructure expenditures and to phase out noncapital expenditures; and **BE IT FURTHER**

**RESOLVED**, that the Association of Towns calls upon the New York Congressional Delegation to renew SAFETEA-LU and to provide an increased and dedicated funding commitment to state and local transportation infrastructure projects.

## **Resolution No. 5**

### **WATER, WASTEWATER AND STORMWATER INFRASTRUCTURE AID**

**WHEREAS**, sound infrastructure ensures a healthy environment for our residents, provides an incentive for businesses to stay in or relocate to New York State and attracts visitors to vacation in this State; and

**WHEREAS**, New York residents, businesses and visitors depend upon local government for clean drinking water and efficient wastewater and stormwater treatment services; and

**WHEREAS**, State and Federal resources were instrumental in funding the initial development of our water, wastewater and stormwater infrastructure; and

**WHEREAS**, the federal government has reduced wastewater infrastructure funding by 50 percent and drinking water infrastructure funding by 40 percent, thereby shifting the burden of paying for this infrastructure onto local government taxpayers; and

**WHEREAS**, recent reports have identified a multi-billion dollar shortfall in water, wastewater and stormwater infrastructure funding; and

**WHEREAS**, adequate State and Federal funding to replace, maintain, update or build water and wastewater infrastructure has been lagging for decades and thereby threatens vital water quality gains of the past 30 years; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the Governor, the Legislature and the New York State Congressional Delegation to provide consistent, secure and increased funding for local government water, wastewater and stormwater infrastructure.

## **Resolution No. 6**

### **PRESERVE AND STRENGTHEN LOCAL GOVERNMENT'S ROLE IN THE SITING OF ENERGY GENERATION FACILITIES**

**WHEREAS**, the New York State Public Service Commission (PSC) adopted a new renewable energy policy which includes wind energy facilities (WEFs) on September 22, 2004 that requires 25 percent of the State's electricity to be supplied from renewable energy sources by 2013; and

**WHEREAS**, the proper regulation of the siting and installation of WEFs is necessary for the purpose of protecting the health, safety and welfare of neighboring property owners and the general public; and

**WHEREAS**, local governments have successfully developed, implemented and administered local WEF siting laws and policies with the input and guidance of local taxpayers, residents, business and agricultural representatives, environmentalists, energy generators, planners and lawyers; and

**WHEREAS**, Article X of the Public Service Law (PSL), which set forth the siting procedure to construct and operate major power generation facilities with a capacity of 80 megawatts or more expired December 31, 2002, thereby requiring electric generating project developers to undergo local zoning review and environmental review pursuant to the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law);  
**NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the Governor, State Legislature and State Agencies to develop new laws and regulations that will preserve local authority over the siting of WEFs and that will provide local government officials from a host municipality with a seat on the New York State Board on Electric Generation Siting and the Environment (Siting Board).

### **Resolution No. 7**

#### **PRESERVE TOWN LAND USE AUTHORITY IN THE NATURAL GAS EXPLORATION AND EXTRACTION APPROVAL PROCESS**

**WHEREAS**, the towns of New York State are responsible for providing services to their residents to promote the health, safety and welfare of the community, including the regulation of land use; and

**WHEREAS**, by delegating land use authority to local governments, the Legislature has recognized that local governments are in the best position to respond to the needs of residents who are uniquely affected by projects that impact their community and quality of life; and

**WHEREAS**, the exploration, drilling and extraction of natural gas and oil can have significant impacts on local communities and raises numerous concerns about surrounding land uses and the overall quality of life within the community; and

**WHEREAS**, Article 23 of the Environmental Conservation Law (ECL) limits local governments' participation in approving projects for the testing, exploration, drilling and extraction of natural gas and oil; and

**WHEREAS**, other states, including Texas and California, have preserved local zoning and land use authority over the siting of natural gas and oil testing, exploration, drilling and extraction; and

**WHEREAS**, the importance of retaining local land use authority in this area is affirmed by the preservation of local zoning and land use over the siting of mines and mineral extraction; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the Governor, the State Legislature and the Department of Environmental Conservation to amend the Environmental Conservation Law to preserve local land use authority over the testing, exploration, drilling and extraction of natural gas and oil.

**Resolution No. 8**  
**HIGHWAY MUTUAL AID**

**WHEREAS**, the State of New York has long recognized the benefits of sharing resources among and between its local governments; and

**WHEREAS**, the Executive Law provides for the sharing of local government resources and personnel in the event of a disaster, as defined by that law; and

**WHEREAS**, except in the event of such a disaster, local governments may share resources only pursuant to an agreement entered into in advance by municipalities; and

**WHEREAS**, there are certain times that do not rise to the level of a disaster, yet still require additional assistance and resources by the Highway Department or Department of Public Works in order to adequately respond; and

**WHEREAS**, oftentimes there are no appropriate cooperative agreements in place at the time such assistance is required; and

**WHEREAS**, statewide legislation enabling the sharing of highway and DPW personnel and resources and setting forth basic structure, procedures and protocols, in the absence of an appropriate cooperative agreement would improve local governments' abilities to work cooperatively to address unforeseen or unanticipated events and occurrences, **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the Legislature to enact highway mutual aid legislation to enable the department head of a highway department or DPW to request and to offer such assistance in described circumstances and in the absence of a local cooperative agreement between the local governments.

**Resolution No. 9**  
**LOCAL ROAD CLASSIFICATION**

**WHEREAS**, American Association of State Highway Transportation Officials (AASHTO) develops minimum standards for local highways; and

**WHEREAS**, many rural town roads are unpaved and do not meet minimum AASHTO standards; and

**WHEREAS**, upgrading the State's 90,000 miles of county and town roads to meet the AASHTO minimum standards would cost in excess of \$9.7 billion; and

**WHEREAS**, there is a shortage of available state and federal funding for local road and bridge maintenance; and

**WHEREAS**, the proper designation of qualified local roads as minimum maintenance or low volume will simultaneously result in lower real property taxes and more efficient use of state and federal resources while ensuring the public with safe travel; and

**WHEREAS**, other states such as North Dakota and Minnesota have enacted provisions authorizing and regulating low volume and minimum maintenance road standards; and

**WHEREAS**, there is a need to provide an appropriate legal and technical basis for the decisions of those local highway superintendents, town boards and their engineering professionals regarding the maintenance, reconstruction and construction of low volume and minimum maintenance local roads; and

**WHEREAS**, the New York State Local Road Classification Task Force developed guidelines that incorporate a design process for rehabilitation projects on low traffic roads, including recommendations for pavement width, bridge width and roadside clear zones; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns urges the Governor and the Legislature to enact appropriate enabling authority for local road classification as recommended by the NYS Local Road Classification Task Force, as a measure of mandate relief, which will permit local governments to rationally reduce, to more appropriate levels, the costs of maintenance and repair of such low volume roads.

## **Resolution No. 10**

### **REFORM OF GML 207-C DISABILITY BENEFITS FOR LAW ENFORCEMENT**

**WHEREAS**, pursuant to General Municipal Law (GML), §207-c, law enforcement personnel are entitled to payment of municipal compensation including payment of salary, fringe benefits and all medical costs when they are injured in the line of duty and these payments are nontaxable and can continue for years or even decades until there is recovery, a disability retirement or attainment of retirement age; and

**WHEREAS**, the New York State Court of Appeals decided (*Matter of Theroux, et al. v. Reilly, et al.*) that pursuant to GML, §207-c, law enforcement officers are entitled to these benefits regardless of the duties performed or the nature of the injury; and

**WHEREAS**, the Office of the New York State Comptroller has the final determination as to when a law enforcement officer is eligible for a disability retirement and historically has been reluctant to issue disability retirements to law enforcement officers who are receiving section 207-c benefits; and

**WHEREAS**, law enforcement officers have been known to stay on municipal payrolls receiving 207-c benefits for multiple years thereby occupying a position that could be filled by another officer; and

**WHEREAS**, this interpretation of GML, §207-c by the New York State Court of Appeals will substantially increase municipal compensation costs and create a great hardship to taxpayers at all municipal government levels; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns supports legislation to amend General Municipal Law, §207-c to require disability retirement benefits to be extended to any law enforcement officer who has been receiving GML, §207-c benefits for a period of 36 consecutive months without the ability to return to work.

**Resolution No. 11**  
**ROAD PRESERVATION BONDS**

**WHEREAS**, well-maintained roads are important to the economic well-being of towns, as are commercial endeavors such as timber harvesting, mining and natural gas exploration; and

**WHEREAS**, many of these endeavors require the frequent transport of heavy equipment and loads over local highways, occasionally damaging local roads in the process; and

**WHEREAS**, current New York State Law does not provide express statutory authority for local governments to require road reconstruction bonds to fund road repairs caused by vehicles moving heavy equipment and loads; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the Governor and the State Legislature to provide express statutory authority for local governments to require the posting of road reconstruction bonds to protect local highways from damage attributable to overweight commercial vehicles and loads.

**Resolution No. 12**  
**PUBLICATION OF LEGAL NOTICES**

**WHEREAS**, current law restricts public notices to be published in paid dailies and weeklies; and

**WHEREAS**, it has become increasingly difficult to purchase adequate citizen coverage under current restrictions regarding what can be designated as an official newspaper; and

**WHEREAS**, the cost of publishing in an official newspaper could become costly; and

**WHEREAS**, studies show the decline in paid local daily and weekly newspaper readership is accelerating; and

**WHEREAS**, studies also show an increase in circulation of free community papers from 30 million in 1968 to 88 million in 2000; and

**WHEREAS**, the intent of required public notice is to increase the likelihood that citizens are well-informed regarding local government actions, finances and plans; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the Governor and the Legislature to amend the General Construction Law to allow papers, distributed without charge, but with an established and large circulation, to be considered newspapers in certain instances to permit towns and other local governments to place the legal notices in the local publications which may reach a larger audience and/or be less costly to the taxpayers.

**Resolution No. 13**  
**REFORM REAL PROPERTY TAX SYSTEM**

**WHEREAS**, towns primarily rely on real property tax revenues to fund important government services; and

**WHEREAS**, New York's property tax burden is higher than the national average, thereby impacting our standard of living and economic vitality; and

**WHEREAS**, a contributing factor to high real property taxes is the volume of legislation passed each year granting particular property owners either a partial or full exemption from the payment of real property taxes, a practice that has continued unabated; and

**WHEREAS**, the legislative trend to grant exceptions from established taxable status dates, either at local option or statewide, contributes to the increase in real property taxes paid by homeowners and small businesses; and

**WHEREAS**, it is essential that the cumulative long-term impact of real property tax exemptions be studied in New York, particularly in light of the retroactive exemptions for specific properties annually enacted and the expanding scope of existing exemptions; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns requests the Governor and Legislature to study, define and enact a uniform, well-defined approach to exemption and taxable status date legislation and provide State funding for any state-mandated or encouraged exemption programs and protect local property tax revenues.

**Resolution No. 14**  
**JUSTICE COURT SECURITY**

**WHEREAS**, the safety and security of the public and of the municipal officers and employees, appearing in local Justice Courts is a matter of utmost importance; and

**WHEREAS**, the presence of Uniformed Court Officers with the powers of peace officers would help local governments maintain a safe and secure justice court facility; and

**WHEREAS**, uniformed Court Officers of the Justice Courts do not have peace officer status except where granted by special legislation; and

**WHEREAS**, in the past two years, six special bills that would grant peace officer status to uniformed court officers of the Justice Courts have been vetoed; and

**WHEREAS**, these vetoes cited, in part, the need for comprehensive legislation increasing the required training for peace officers and setting forth the categories of employees that need peace officer status on a statewide basis; and

**WHEREAS**, the Association of Towns believes that Uniform Court Officers of the Justice Courts is such a category of employee; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the Legislature to enact legislation granting peace officer status to the Uniformed Court Officers of the Justice Courts across the State.

**Resolution No. 15**  
**INVENTORY OF UTILITY PROPERTY**

**WHEREAS**, certain utility companies have refused to submit to town assessors an inventory of their property on private lands and corresponding data relating thereto; and

**WHEREAS**, such inventory and data are needed by the assessors, when faced with potential judicial review, to defend the assessments placed on utility property; and

**WHEREAS**, such data is needed in order for assessors to determine the appropriate assessment; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns requests that the Governor and the State Legislature enact legislation requiring utility companies to furnish to each assessor an inventory of all nonspecial franchise real property within the assessor's respective municipality and such corresponding data with respect to such properties in order to enable assessors to properly assess the utility property.

**Resolution No. 16**  
**PRESERVATION OF TOWN REGISTRARS OF VITAL STATISTICS**

**WHEREAS**, the New York State Local Government Commission on Efficiency and Competitiveness has made certain recommendations to the Governor which affect the operation of local governments; and

**WHEREAS**, one of the recommendations of the Commission was to move all Registrar of Vital Statistics duties to the county level under the direction of the New York State Health Commissioner; and

**WHEREAS**, the NYS Department of Health has developed a program bill that would allow the Commissioner to consolidate the function of the local registrars of vital statistics; and

**WHEREAS**, New York State Department of Health has inappropriately attached these proposed changes in the structure of the Registrar of Vital Statistics duties to the “Pandemic Flu and Public Health Emergency Preparedness Law”; and

**WHEREAS**, the Commissioner could consolidate these services without county legislative approval; and

**WHEREAS**, the local city, town and village clerks have provided this service professionally and efficiently over the years; and

**WHEREAS**, losing this function would have a financial impact on the local governments; and

**WHEREAS**, many citizens are under financial stress due to fluctuating fuel costs, layoffs, rising food healthcare and utility prices; and

**WHEREAS**, the town, city and village clerk offices are conveniently located thereby reducing the cost and burden to receive this service; **NOW THEREFORE BE IT**

**RESOLVED**, that in the interest of good government and accessibility to the taxpayer, the Association of Towns calls upon the Governor, the State Legislature and the Commissioner of the Department of Health to continue to allow town, city and village clerks to provide this important service; and **BE IT FURTHER**

**RESOLVED**, that the Association of Towns calls upon the Governor, the State Legislature and the Commissioner of the Department of Health to work with local governments to provide the necessary resources (including voluntary cooperation, local opt out or voluntary consolidation) to assist local registrars in the provision of this important service in order to comply with the Federal Intelligence Reform and Terrorism Prevention Act of 2004 and the pending regulations.

**Resolution No. 17**  
**RETENTION OF LEVER VOTING MACHINES**

**WHEREAS**, for many decades New York State has successfully used mechanical lever-style voting machines, with very few problems, and is desirous of continuing to do so; and

**WHEREAS**, the continued use of lever voting machines is in the best interest of the public and should be permitted to be used in future general elections; and

**WHEREAS**, the elimination of lever voting machines, as required by statute, is costly to taxpayers, will result in another burden upon the local taxpayers and will be confusing to the voting public without adequate time and education, **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns hereby requests the United States Congress, Governor of New York, New York State Legislature and the New York State Board of Elections to enact laws, rules and regulations and take all other needed actions to specifically authorize the continued use of lever voting machines.