

# 2011 Legislative Resolutions

## 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 grass roots 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 members of the state 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 partner with the state and federal government to pro-

tect and preserve the health, safety and welfare of the people of 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 and underfunded state and federal mandates (commonly occurring in the areas of public works, procurement, personnel management, provision of local service, environmental quality enhancements and the loss of the 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, and

**WHEREAS**, Executive Orders Nos. 17 and 25 of the year 2009 address the cost of mandate compliance on local taxpayers by requiring an inventory of existing mandates and full evaluation of the actual cost of compliance with future mandates regarding state agency program bills; **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 members of the 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

#### PROPERTY TAX CAP

**WHEREAS**, towns provide services to more than 8 million New Yorkers, yet account for less than 15 percent of the overall real property tax burden; and

**WHEREAS**, towns are uniquely dependent upon the real property tax to fund town services, more so than counties, cities and villages in that towns do not have the authority to levy sales taxes, occupancy taxes, gross receipts taxes or income taxes;

and

**WHEREAS**, non-property tax revenues (e.g. mortgage recording taxes [fell by \$164 million from 2006 to 2008], sales taxes [declined by \$30 million from 2008 to 2009], and state/federal aid/grant programs [State AIM decreased by 5 percent]) are subject to market fluctuations and the ability of the federal, state and county governments to share revenue with towns; and

**WHEREAS**, the costs to provide town services and to fund town operations continue to increase despite declining revenues, such as:

**Health Care**

Medical insurance costs represent one of the fastest-growing major categories of employee benefit expense, increasing more than 62 percent between 2002 and 2007, and 146 percent between 1997 and 2007. Moreover, employers can expect 2011 health care costs to be at their highest levels in five years, up nearly 9 percent over 2010.

**Transportation/Water/Wastewater**

There is a \$250 billion funding gap in water, wastewater and transportation infrastructure needs over the next 20 years.

**Pension Contributions**

Local governments in New York State will face an unprecedented increase in pension costs that forced them to triple their contributions to the state pension system over the next six years. According to one analysis, pension contribution rates for civilian employees in local governments will soar to 30.3 percent of payroll by 2015 and contributions to police and fire department retirement plans are expected to increase to 41.1 percent of payroll in 2015.

**WHEREAS**, many town expenses are dictated by compliance with federal and state mandates, most notably: stormwater management, prevailing wage, procurement requirements, collective bargaining procedures and the administration of real property exemptions; and

**WHEREAS**, New York State has primarily provided real property tax relief through ad hoc property tax exemptions rather than comprehensive property tax reform, resulting in a tax shift rather than a tax reduction, as well as additional administrative and litigation costs; and

**WHEREAS**, simply capping property taxes will not reduce the cost of health care, mandate compliance, pension contributions or the public's expectation of governmental services; and

**WHEREAS**, town governments have taken initiative in lowering property taxes

through staff and salary reductions, program cuts and voluntary tax caps; **Now THEREFORE BE IT**

**RESOLVED, that the Association of Towns, based upon Home Rule principles, has traditionally opposed state mandated property tax caps; and BE IT FURTHER**

**RESOLVED, that the Association of Towns calls upon the Governor and members of the state Legislature to fund and/or eliminate state mandates, reform the real property tax system and address cost drivers in the provision of local government services/operations before implementing a property tax cap; and BE IT FURTHER**

**RESOLVED, that in order for a real property tax cap to lower property taxes while ensuring the delivery of essential services the program must include at a minimum:**

- Exemptions for structured costs such as pension contributions, debt service, contract obligations, reductions in state or federal aid and emergencies and costs associated with unfunded and underfunded mandates;
- Hardship relief on a case by case basis;
- Mandate relief and reform;
- Increased and predictable state revenue sharing and aid formulas;
- Additional locally generated revenue streams;
- A defined floor of 4 percent with the possibility of an increased cap based upon a percentage of inflation; and
- Local override by supermajority vote of the town board.

**Resolution No. 4**

**REFORM REAL PROPERTY TAX SYSTEM**

**WHEREAS, towns are heavily reliant on real property tax revenues to fund important government services; and**

WHEREAS, New York's real property tax burden is among the highest in the nation, diminishing standards of living and economic vitality across the state; and

WHEREAS, a contributing factor to high real property taxes is the volume of legislation passed each year granting particular property owners and not-for-profits either a partial or full exemption from the payment of real property taxes and relief from established taxable status dates; and

WHEREAS, the manner in which condominiums, cooperative housing and certain multi-family dwelling units are assessed further contributes to high real property taxes in this state; and

WHEREAS, it is essential that the cumulative long-term impact of real property tax exemptions be addressed in New York, particularly in light of the continual erosion of real property tax bases resulting from the above practices; **NOW THEREFORE BE IT**

**RESOLVED, that the Association of Towns calls upon the Governor and members of the state Legislature to 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. 5**

#### **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 non-special franchise real property within the assessor's respective municipality and such corresponding data with re-**

spect to such properties in order to enable assessors to properly assess the utility property.

## **Resolution No. 6**

### **PUBLICATION OF LEGAL NOTICES**

**WHEREAS**, an informed and engaged electorate is important to the governing process; and

**WHEREAS**, the electorate is notified of many local government actions by means of the publication of a legal notice in a paid daily or weekly newspaper as defined by Public Officers Law §70-a and General Construction Law, §60 (a); and

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

**WHEREAS**, New Yorkers are increasingly turning to alternative sources of news and information such as the Internet and free community newspapers; 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 members of the state Legislature to amend the General Construction Law to allow publications, 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 legal notices in the local publications which may reach a larger audience and/or be less costly to the taxpayers; and **BE IT FURTHER**

**RESOLVED**, that the Association of Towns supports legislation providing for optional alternative media (e.g. town Website) for publication of legal notices in order to improve the citizen participation and awareness of town programs and expenses.

## Resolution No. 7

### SALES TAX

**WHEREAS**, sales taxes represents an important source of revenue that many towns use to help cope with the rising costs of providing services or mitigate property tax increases at the town or county level; and

**WHEREAS**, counties are authorized by Article 29 of the New York State Tax Law to impose a tax on the sale of certain goods; and

**WHEREAS**, a county legislature has the option of using all, or a portion, of its sales tax revenues solely for county or education purposes, or it may apportion some between its towns and cities (Tax Law, §1262); and

**WHEREAS**, a county legislature is additionally authorized to make an agreement with any city or cities in the county to allocate a specific portion of these revenues to such city or cities; and

**WHEREAS**, cities have the right to preempt application of the county sales tax and impose their own local sales tax; and

**WHEREAS**, towns do not presently enjoy the right to levy their own local sales tax, preempt the application of the county sales tax in their town or to require the county to negotiate a sales tax allocation agreement; and

**WHEREAS**, local sales taxes are generally levied at the county level and sales tax proceeds are distributed to other units of government within county boundaries, in accordance with local sharing agreements entered into at the discretion of the county; and

**WHEREAS**, in counties where the county shares sales tax with towns, towns can receive their sales tax distribution in one of three ways: (1) as an offset to reduce county property taxes levied in a town; (2) in cash, or (3) a combination of the two;  
**NOW THEREFORE BE IT**

**RESOLVED, that, to assure a fair and balanced relationship between counties governed by a separately elected board of legislators and local governments within their boundaries, the Association of Towns calls upon the Governor and the state Legislature to amend the New York State Tax Law to require county governments governed by separately elected legislators to share sales tax revenue with towns and to negotiate sales tax allocation formulas with towns; and BE IT FURTHER**

**RESOLVED, that non-negotiated changes to a county sales tax allocation formula are to be subject to a permissive referendum.**

## **Resolution No. 8**

### **HIGHWAY, BRIDGE 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 which expired in 2009; and

**WHEREAS**, the National Surface Transportation Infrastructure Financing Commission, in its 2009 report "Paying Our Way: A New Framework for Transportation" estimates the total funding shortfall, at all levels of government, to be between \$134 billion to \$194 billion per year just to maintain the current system and \$189 to \$262 billion per year to improve the existing transportation system for the period 2008 to 2035; and

**WHEREAS**, the 2010 report "Well Within Reach: America's New Transportation Agenda," estimates that an additional \$134 billion to \$262 billion must be spent annually through 2035 to rebuild and improve America's roads, rail systems and air transportation; and

**WHEREAS**, the New York State "Consolidated Local Street and Highway Improvement Program" (CHIPS) was established to assist localities in financing the construction, reconstruction, maintenance and 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 for local highways and bridges; and

**WHEREAS**, a 2009 state Comptroller report provides that only one-third of the \$30 billion allocated to New York's Dedicated Highway and Bridge Trust Fund has been spent on building and repairing roads and bridges in the state since 1991; and

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

and

**WHEREAS**, according to the Federal Highway Administration, every dollar 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, members of the state Legislature and the Department of Transportation to maintain CHIPS funding in the 2011-12 state budget and to provide a stable and sustainable funding stream for local infrastructure; and **BE IT FURTHER**

**RESOLVED**, that the Association of Towns calls upon the Governor, members of the state Legislature and the Department of Transportation to continue to provide CHIPS reimbursement for maintenance procedures undertaken to extend the useful life of local transportation infrastructure; and **BE IT FURTHER**

**RESOLVED**, that the Association of Towns calls upon the Governor, members of the state 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 New York State and local transportation infrastructure projects.

### **Resolution No. 9**

#### **PRESERVE AND FULLY FUND THE LOCAL GOVERNMENT RECORDS MANAGEMENT IMPROVEMENT FUND**

**WHEREAS**, the Local Government Records Management Improvement Fund (LGRMIF) was established by the New York State Legislature in 1989 as “a dedicated fund to improve records management and archival administration in New York’s local governments” (Ch. 78, Laws of 1989); and

**WHEREAS**, LGRMIF provides necessary support, advice and assistance to local governments to support the development of records management programs in accordance with the Local Government Records Law of 1987; and

**WHEREAS**, LGRMIF is sustained by a \$5 fee collected by the county clerks and the New York City Register on recordings and for the assignment of index numbers to

actions pending in county or supreme court; and

**WHEREAS**, approximately 9,000 grants totaling about \$175 million have been given out over the past 20 years to assist local governments in proper records management; and

**WHEREAS**, this program provides support services such as digital imaging, saving taxpayers approximately \$4.5 million annually; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the Governor and members of the state Legislature to support the LGRMIF by increasing available revenue through the enactment of legislation increasing fees (see A.06783A/S.3640-A 2010 Legislative Session) and fully funding the LGRMIF and its programs.

### **Resolution No. 10**

#### **ELIMINATION OF THE REQUIREMENT TO COLLECT STATE ANIMAL POPULATION CONTROL SURCHARGE**

**WHEREAS**, New York State is no longer participating in the licensing, registration and tracking of dogs as of January 1, 2011, and

**WHEREAS**, the entire responsibility and costs for providing said services will be borne by municipalities as of that date, and

**WHEREAS**, New York State is requiring municipalities to collect a surcharge on all dog licenses in order to fund a statewide animal population control program constitutes an unfunded mandate, **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns calls upon the Governor and members of the state Legislature to amend the Agriculture and Markets Law to authorize municipalities to retain funds collected for animal population control to be used for local programs.

### **Resolution No. 11**

#### **RECONSIDERATION OF THE FEDERAL TMDL REGULATIONS FOR THE CHESAPEAKE BAY**

**WHEREAS**, clean water and healthy watersheds are a priority for all New York local governments; and

**WHEREAS**, the U.S. Environmental Protection Agency Region 3 is implementing a Chesapeake Bay TMDL regulatory structure intended to limit nitrogen, phosphorous and sediment discharges into the Chesapeake Bay watershed; and

**WHEREAS**, New York State represents 10 percent of the Chesapeake Bay watershed area; New York accounts for 10 percent of the total watershed area which is mostly forested (76 percent), is home to 4 percent of the total population in the watershed and includes 19 counties, 650,000 residents and 2,000 New York family farms; and

**WHEREAS**, NYSDEC projects the federally designed TMDL program will cost New York State as much as \$250 million over the next 15 years, without being able to satisfy EPA's regulatory goal; and

**WHEREAS**, the best way to achieve the important public benefit of clean water at a regional level is through locally led conservation efforts, rather than a top-down federal, one-size-fits-all regulatory approach, such as EPA's TMDL for the Chesapeake Bay watershed; and

**WHEREAS**, New York State, unlike the rest of its Chesapeake Bay watershed partners, has, since 1985, been implementing programs and creating structures to achieve for its portion of the watershed water quality which meets the TMDL thresholds set for water entering Chesapeake Bay; and

**WHEREAS**, EPA's TMDL regulation imposes disproportionately heavier restrictions for water quality in New York in order to help other states meet their overall TMDL goal, ignores New York's excellent record of environmental accomplishments over the past 25 years using state and local conservation efforts and thereby forces unrealistic costs on the businesses, governments and residents within the watershed area; and

**WHEREAS**, the EPA-mandated TMDL allocations for New York State by 2025 are unattainable even with the elimination of animal agriculture and utilizing every best management practice available in the watershed area; and

**WHEREAS**, we oppose EPA's one-size-fits-all federal regulatory control that usurps state and local jurisdiction and authority in order to impose their TMDL, instead of working collaboratively with state agriculture and environmental protection agencies, Soil and Water Conservation Districts and local communities to address Chesapeake Bay watershed water quality concerns; **NOW THEREFORE BE IT**

**RESOLVED**, that while the Association of Towns of the State of New York fully supports responsible efforts to improve water quality in all watersheds, including the Chesapeake Bay watershed, and protect our state's environment

and natural resources, we object to the unfair and unattainable mandate the Chesapeake Bay TMDL forces upon our local governments, local communities and family farms; and **BE IT FURTHER**

**RESOLVED, that the Association of Towns of the State of New York urges New York State Congressional and state Legislative Leaders to work with the EPA to provide fair and equitable standards, flexible time frames and sufficient funding to facilitate compliance.**

### **Resolution No. 12**

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

**WHEREAS,** the proper regulation of the siting and installation of wind energy facilities (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,** the Wind Code of Conduct negotiated by the New York State Attorney General's Office and agreed to by the predominate players in the Wind Energy Market has addressed potential conflicts of interests in the siting of wind energy facilities; 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 Dec. 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, members of the state Legislature and state agencies to develop new laws and regulations that will preserve local authority over the siting of WEFs; and BE IT FURTHER**

**RESOLVED, that legislation authorizing the renewal of the state siting procedure for power generation facilities (PSL, article X) should include measures to enhance local government participation in the siting process such as, but not limited to: ad hoc membership on the state siting board, adherence to local siting policies, required community host agreements, and/or access to intervenor funds.**

## **Resolution No. 13**

### **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 state 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 raise numerous concerns about surrounding land uses and the overall quality of life within the community; and

**WHEREAS**, the scope of local land use authority under Article 23 of the Environmental Conservation Law (ECL), which regulates the testing, exploration, drilling and extraction of natural gas and oil, has been called into question; and

**WHEREAS**, other states, including Texas and California, have expressly 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 express 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 members of the state Legislature and the Department of Environmental Conservation to amend the Environmental Conservation Law to expressly preserve local land use authority and promote police power objectives relating to the safety and welfare of its citizens, encouraging the most appropriate use of land throughout the municipality, conserving the value of property, minimizing overcrowding and traffic congestion and providing adequate open spaces.

## **Resolution No. 14**

### **ROAD PRESERVATION SECURITIES AND ROAD USE AGREEMENTS**

**WHEREAS**, well-maintained roads and bridges are important to the economic well-being of New Yorkers; and

**WHEREAS**, many commercial endeavors such as, but not limited to, timber harvesting, wind energy development, mining and natural gas exploration are dependent on local roads and bridges and are therefore important to New York's economy; 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**, most local roads and bridges are not designed to accommodate the weight, volume and frequency of vehicles used in support of these industries; 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 members of the state Legislature to provide express statutory authority for local governments to require the posting of road reconstruction securities to protect local highways from damage attributable to commercial vehicles and loads; and **BE IT FURTHER**

**RESOLVED**, that the Association of Towns calls upon the Governor, the members of the state Legislature and the Department of Transportation to amend the Highway, Vehicle and Traffic Law and Town Law to expressly allow local governments the authority to require and enter into Road Use Agreements when the proposed activity will result in road usage that exceeds the normal usage and is beyond the carrying capacity of a road.

**Resolution No. 15**

**SUPPORT FOR THE ADIRONDACK PARK LOCAL GOVERNMENT REVIEW BOARD**

**WHEREAS**, the Chairman of the Adirondack Park Agency recently indicated in his statements that the Adirondack Park Local Government Review Board did not have the support of the local governments in the Adirondack Park; and

**WHEREAS**, issues raised by the Adirondack Park Local Government Review Board are those of the many local governments in the Adirondack Park; and

**WHEREAS**, we appreciate the fact that these issues are provided to the Adirondack Park Agency and the Executive Branch; **NOW THEREFORE BE IT**

**RESOLVED**, that the Association of Towns of the State of New York supports the Adirondack Park Local Government Review Board and encourages it to continue to monitor and advise the Adirondack Park Agency as required by its statutory mission.

# **ADDITIONAL DIRECTIVES TO THE EXECUTIVE DIRECTOR AND STAFF**

The Resolutions Committee, having considered other recommended position proposals of general concern to towns, has directed the Executive Director and staff to proceed in the following areas:

**Funding and Services for Youth Programs**

**Funding and Services for Senior Programs**

**Funding for the Tug Hill Commission**