

Resolution #14-2009

Town of Barton, County of Tioga, State of New York

REQUESTING SENATOR THOMAS W. LIBOUS, ASSEMBLEYMAN THOMAS F. O'MARA AND ASSEMBLEYMAN GARY D. FINCH TO SPONSOR LEGISLATION TO AMEND SUBSECTION 2 OF SECTION 23-0303 OF THE ENVIRONMENTAL CONSERVATION LAW OF THE STATE OF NEW YORK (OR SOME OTHER SECTION OF NEW YORK STATE LAW) TO ALLOW GOVERNMENTAL SUBDIVISIONS OF NEW YORK STATE TO ADOPT LOCAL LAWS REQUIRING PERMITS AND PROVISION FOR FINANCIAL SECURITY AS TO POTENTIAL DAMAGE TO LOCAL ROADS BY VEHICLES INVOLVED IN NATURAL GAS EXPLORATION TRAVELING THEREON

PRESENT: Councilperson: Chad Stolicker, James Smith, Raymond Tyrrell, Shirley Lopreste. Supervisor Leon Cary

ABSENT: N/A

At a regular meeting of the **Town of Barton Town Board**, County of Tioga, State of New York, held at the Town of Barton Town Building on the 11 day of May, 2009, the following resolution was

OFFERED BY: Councilperson James Smith and

SECONDED BY: Councilperson Raymond Tyrrell

WHEREAS, Section 23-0303(2) of the Environmental Conservation Law of the State of New York provides that "[t]he provisions of this article shall supersede all local laws or ordinances relating to the regulation of the oil, gas and solution mining industries; but shall not supersede local government jurisdiction over local roads or the rights of local governments under the real property tax law;"

WHEREAS, Section 385(15) of the Vehicle and Traffic Law of the State of New York authorizes a local (governmental) authority to regulate and issue permits for the operation of vehicles with weights or dimensions exceeding the limitations provided for in said Section 385

when those vehicles are traveling over the local (governmental) authority's roads or highways;
and

WHEREAS, certain governmental subdivisions of the State of New York located in Tioga County desire to require permits and financial security for potential damage likely to be caused to local roads and highways by vehicles utilized in exploration for natural gas that exceed the limitations provided for in Section 385 of the Vehicle and Traffic Law of the State of New York; and

WHEREAS, it is the position of the Town of Barton, County of Tioga, State of New York, that Section 23-0303(2) of the Environmental Conservation Law of the State of New York authorizes the Town of Barton to regulate by local law the use of its roads and highways by requiring permits and financial security (i.e. road remediation fees, bonds, letters of credit, etc.) explicitly allowed under Section 385(15) of the Vehicle and Traffic Law of the State of New York for damage to roads and infrastructure caused by vehicles utilized in exploration for natural gas; and

WHEREAS, vehicles engaged in natural gas exploration that exceed the weight and dimension limitations provided for in Section 385 of the Vehicle and Traffic Law of the State of New York or use and travel the roads and infrastructure so regularly that the frequency of use, are likely to damage local roads and infrastructure, the potential expense of repairing such damage is great, and financial security in connection with a local permit in the form of a road remediation fee, bond, letter of credit or some other form of security is necessary to protect the local governmental subdivisions of the State of New York from the expense of repairing such damage.

NOW, THEREFORE, BE IT RESOLVED by the **Town Board** of the Town of Barton, in regular session duly convened, as follows:

RESOLVED, that the Town of Barton, hereby requests that Senator Thomas W. Libous, Assemblyman Thomas F. O'Mara and Assemblyman Gary D. Finch sponsor legislation to be introduced in the New York State Senate and the New York State Assembly amending Section 23-0303(2) of the Environmental Conservation Law of the State of New York or another applicable law of the State of New York to:

1. clarify the exception for local government jurisdiction over local roads contained in Section 23-0303(2); and
2. specifically authorize local governmental subdivisions of the State of New York to regulate by local law the use of local roads and highways by vehicles engaged in natural gas exploration by requiring permits and financial security, including, but not limited to, requirements for road remediation fees, deposits, bonds, letters of credit or other forms of security to insure the availability of funds for needed repairs for damage to local roads, highways and infrastructure caused by such vehicles; and
3. confirm that a requirement for some form of financial security (i.e. road remediation fees, deposits, bonds, letters of credit, escrow accounts, etc.), contained in a local law as a prerequisite to obtaining a permit for use of local roads and highways, does not constitute an impact fee.

RESOLVED, that certified copies of this resolution shall be forwarded to Senator Thomas W. Libous, Assemblyman Clifford W. Crouch, Assemblywoman Donna A. Lupardo, Assemblyman Gary D. Finch, the Broome County Legislature and Governor David A. Paterson.