

VILLAGE OF KIRYAS JOEL BOARD OF TRUSTEES
COUNTY OF ORANGE

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In the Matter of Petition for Annexation of 507+/-
Acres from the Town of Monroe to the Village of
Kiryas Joel and Petition for Annexation of 164+/-
Acres from the Town of Monroe to the Village of
Kiryas Joel

DECISION AND FINDINGS

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**Findings with Respect to Compliance of the 507-Acre and 164-Acre Petitions for
Annexation with the provisions of Article 17 of the General Municipal Law and with
Respect to the Effect of such Proposed Annexations on the Over-All Public Interest.**

VILLAGE OF KIRYAS JOEL
BOARD OF TRUSTEES

Abraham Wieder, *Mayor*
Moses Goldstein, *Trustee*
Samuel Landau, *Trustee*
Jacob Freund, *Trustee*
Jacob Reisman, *Trustee*
Gedalye Szegedin, *Administrator*

September 6, 2015

I. INTRODUCTION AND PURPOSE

The Village of Kiryas Joel Board of Trustees (“Village Board”) renders this Decision and Findings with respect to compliance of the Petition for Annexation of 507+/- Acres from the Town of Monroe to the Village of Kiryas Joel (“507 Petition”) and the Petition for Annexation of 164+/- Acres from the Town of Monroe to the Village of Kiryas Joel (“164 Petition”) with the provisions of Article 17 of the New York General Municipal Law (“GML”) and with respect to the effect of such proposed annexations on the over-all public interest.

This Decision and Findings is adopted pursuant to and contains the findings required by GML Article 17 that the governing board of the Village of Kiryas Joel, as an affected local government, has made in determining that the annexation petitions comply with Article 17 and that the annexations are in the overall public interest. This Decision and Findings is intended to support the separate decisions of the Village Board as to each the 507 Petition and the 164 Petition.

The 507 Petition¹ is a property owner-initiated annexation petition under GML section 703 that was submitted to the Town and Village on or about December 27, 2013. The 507 Petition seeks the annexation of approximately 507 acres of land in the Town of Monroe that abuts or is adjacent to the current municipal boundary with the Village of Kiryas Joel. A dispute arose as to whether the Village or Town would act as lead agency under SEQRA. That dispute was submitted to the Commissioner of the New York State Department of Environmental Conservation for resolution. During the pendency of the Commissioner’s lead agency decision on the 507 Petition, a second and separate petition of annexation (the 164 Petition²) was submitted in August 2014. The 164 Petition seeks the annexation of approximately 164 acres abutting or adjacent to the current municipal boundary with the Village of Kiryas Joel. The 164 Petition territory consists in large part of parcels that are bounded on three sides by the Village and on the fourth side by the Town/Village of Woodbury. While the 507 Petition and 164 Petition are separate and each has received individualized attention, it should be noted that the territory described in the 164 Petition is also part of the 507 Petition, and therefore these two petitions are discussed collectively below as the “annexation territory.”

For all of the reasons discussed below, the Village Board finds that the annexation petitions comply with GML Article 17 and that such proposed annexations are in the overall public interest and thereby approves the annexation of territory as described in the 507 Petition and approves the annexation of territory as described in the 164 Petition.

¹ 507 Petition, attached hereto as Exhibit 1.

² 164 Petition, attached hereto as Exhibit 2.

II. FINDINGS – SUFFICIENCY OF PETITIONS

The following presents the findings on the sufficiency of both the 507 Petition and the 164 Petition. Each petition is considered separately below based solely on the record of each individual petition filed by the Petitioners with the Town and Village.

A. *The 507 Petition*

The 507 Petition³ seeks to annex approximately 507 acres, comprised of 177 tax lots, from the Town to the Village. The 507 Petition is comprised of a six-paragraph petition that accurately describes the territory proposed to be annexed, states the approximate number of inhabitants and includes 19 signature pages signed by the owners of a majority in assessed valuation of the real property in the territory. Each signature page is authenticated by a witness. The 507 Petition also includes a metes and bounds description of the annexation territory as exhibit A, an annexation map depicting the 177 parcels and listing the Section-Block-Lot (“SBL”) numbers as exhibit B, and a certification of the Town Assessor as exhibit C to the Petition.

The total assessed valuation of the annexation territory for the year 2013 is \$9,175,150.00.⁴ Signatures of 141 petitioners, representing 111 tax parcels and \$6,039,450.00 in assessed valuation, appear on the 507 Petition. Thus, on its face, the petition is signed by owners in excess of a majority in assessed valuation of the real property in the annexation territory assessed upon the last preceding assessment roll.⁵

The 507 Petition Sufficiency chart below shows each GML Article 17 petition requirement with respect to form and content in the left-hand column. The right-hand column shows whether the petition has satisfied that particular requirement and if so, citations to the appropriate source. As indicated by the chart, the 507 Petition meets all GML Article 17 requirements based solely on the face of the petition. All written objections to the sufficiency of the petition were considered, and each objection is addressed in the sections below.

<u>GML Requirement / Form and Content</u>	<u>507 Petition</u>
Any person signing the petition is qualified to	Yes. Any owner, whether natural person,

³ Exhibit 1, 507 Petition.

⁴ Exhibit 1, 507 Petition, 39 at ¶ 4.

⁵ Exhibit 3, 507 Annexation Territory Assessed Value Summary Chart; *see also* Exhibit 1, 507 Petition, 39 at ¶ 5.

sign	corporation or other entity may sign an annexation petition. ⁶ A corporation may sign without a seal. ⁷ Corporate resolutions are not required. ⁸
The persons signing the petition represent the owners of a majority in assessed valuation of the annexation territory	Yes. 141 petitioner signatures, representing 111 tax parcels and \$6,039,450.00 in assessed valuation represent 65.8% of the \$9,175,150.00 total assessed valuation of the 507 acre Annexation territory for the year 2013. ⁹
Petition accurately describes the territory	Yes. See Exhibit 1, 507 Petition, 23-38.
Petition states the approximate number of inhabitants within the annexation territory	Yes. See Exhibit 1, 507 Petition, 3 at ¶ 6.
Petition is authenticated as to all signatures by providing an affidavit of a witness as to the subscription on each signature page	Yes. See Exhibit 1, 507 Petition, 4-22.
Petition contains a certificate of an assessor responsible for the preparation of the municipal assessment roll certifying that the petition is signed by the owners of a majority in assessed valuation of the real property in such territory assessed upon the last preceding assessment roll	Yes. See Exhibit 1, 507 Petition, 39-41.

B. The 164 Petition

The 164 Petition¹⁰ seeks to annex approximately 164 acres, comprised of 71 tax lots, from the Town to the Village. The 164 Petition is comprised of a six-paragraph petition that accurately describes the territory proposed to be annexed, states the approximate number of inhabitants and includes and three signature pages signed by the owners of a majority in assessed valuation of the real property in the territory. Each signature page is authenticated by a witness. The 164 Petition also includes a metes and bounds description of the annexation territory as exhibit A, an annexation map depicting the 71 parcels and listing the Section-Block-Lot (“SBL”) numbers as exhibit B, and a certification of the Town Assessor as exhibit C.

⁶ 23 Op.State Compt. 252, 1967.

⁷ General Construction Law §§ 44—a, 45, 46.

⁸ *City of Batavia v. Howland*, 43 A.D.2d 787 (4th Dept 1973).

⁹ Exhibit 3; *see also* Exhibit 1, 507 Petition, 39 at ¶ 5;

¹⁰ Exhibit 2, 164 Petition.

The total assessed valuation of the annexation territory for the year 2014 is \$3,412,900.00.¹¹ Signatures of 26 petitioners, representing 24 tax parcels and \$1,710,400.00 in assessed valuation, appear on the 164 Petition. Thus, on its face, the petition is signed by the owners of a majority in assessed valuation of the real property in the annexation territory assessed upon the last preceding assessment roll.¹²

The 164 Petition Sufficiency chart below shows each GML Article 17 petition requirement with respect to form and content in the left-hand column. The right-hand column shows whether the petition has satisfied that particular requirement and if so, citations to the appropriate source. As indicated by the chart, the 164 Petition meets all GML Article 17 requirements based solely on the face of the petition. All written objections to the sufficiency of the petition were considered, and each objection is addressed in the section below.

<u>GML Requirement / Form and Content</u>	<u>164 Petition</u>
Any person signing the petition is qualified to sign	Yes. Any owner, whether natural person, corporation or other entity may sign an annexation petition. ¹³ A corporation may sign without a seal. ¹⁴ Corporate resolutions are not required. ¹⁵
The persons signing the petition represent the owners of a majority in assessed valuation of the annexation territory	Yes. 26 petitioner signatures, representing 24 parcels and \$1,710,400.00 in assessed valuation represent 50.12% of the \$3,412,900.00 total assessed valuation of the annexation territory for the year 2014. See Exhibit 3, 164 Petition DGEIS Appendix D, 55 at ¶ 5;
Petition accurately describes the territory	Yes. See Exhibit 3, 164 Petition DGEIS Appendix D, 47-52, 53-54.
Petition states the approximate number of inhabitants within the annexation territory	Yes. See Exhibit 3, 164 Petition DGEIS Appendix D, 43 at ¶ 6.
Petition is authenticated as to all signatures by providing an affidavit of a witness as to the subscription on each signature page	Yes. See Exhibit 3, 164 Petition DGEIS Appendix D, 44-46.
Petition contains a certificate of an assessor responsible for the preparation of the municipal	Yes. See Exhibit 3, 164 Petition DGEIS Appendix D, 55-56.

¹¹ Exhibit 2, 164 Petition, 55 at ¶ 4.

¹² Exhibit 2, 164 Petition, 55 at ¶ 5.

¹³ 23 Op.State Compt. 252, 1967.

¹⁴ General Construction Law §§ 44—a, 45, 46.

¹⁵ *City of Batavia v. Howland*, 43 A.D.2d 787 (4th Dept 1973).

assessment roll certifying that the petition is signed by the owners of a majority in assessed valuation of the real property in such territory assessed upon the last preceding assessment roll	
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Public Comments and Objections on the 507 and 164 Petitions

The affected local governments noticed a joint public hearing¹⁶ pursuant to the requirements of GML section 704 and the hearing was held on June 10, 2015 pursuant to GML section 705. Oral comments made at the hearing were transcribed for the record.¹⁷ The affected local governments and their consultants received and reviewed 124 written comment letters on the annexations.¹⁸ Six of the written comment letters purport to present objections to the sufficiency of the 507 Petition and 164 Petition.¹⁹ These comment letters were identified as:

- A. Comment # 1- John Furst (Town of Woodbury)
- B. Comment # 2- Steve Neuhaus (Orange County)
- C. Comment # 4- Dan Richmond (United Monroe)
- D. Comment # 29- Mary Bingham
- E. Comment # 63- Judith Mayle (MWCSO BOE)
- F. Comment # 77- Noelle Wolfson (Town of Blooming Grove)

The above six written comment letters each contained multiple issues in regard to petition sufficiency.²⁰ An Information Request, based on the written objections was sent to the legal counsel for the Petitioners.²¹ Petitioners, through their counsel, responded with detailed information and affidavits addressing each issue raised in the written objections.²² A summary chart of the issues and responses is attached hereto.²³

C. Conclusions on Petition Sufficiency

Based on the information and exhibits referenced above, the Village Board has determined that adequate information has been presented in regard to sufficiency of the 507 and 164 Petitions

¹⁶ Exhibit 4, Notice of Joint Hearing, Affidavits of Publication and mailings.

¹⁷ Exhibit 5, Transcript of Oral Testimony.

¹⁸ Exhibit 6, Written Comment Letters.

¹⁹ Exhibit 7, Petition Sufficiency Objection Letters.

²⁰ Exhibit 8, Summary of Written Objections.

²¹ Exhibit 9, Request for Information to Petitioners' Counsel.

²² Exhibit 10, Petitioners' Response to Information Request.

²³ Exhibit 11, Summary of Petition Sufficiency Issues and Responses.

After thorough review of the 507 Petition and 164 Petition, and exhibits attached thereto, the written objections and oral comments, and the Petitioners' responses to the Village Board's Information Request, the Village Board finds that:

a. There are no persons signing the 507 Petition or the 164 Petition that are not qualified to sign;

b. The persons signing the 507 Petition and 164 Petition, respectively, represent the owners of a majority in assessed valuation of the annexation territory; and

c. The 507 Petition and 164 Petition, respectively, otherwise substantially comply in form and content with the provisions of this article. With regard to form and content, the 507 Petition and 164 Petition, respectively, each:

(1) adequately describes the territory proposed to be annexed;

(2) adequately states the approximate number of inhabitants within the annexation territory;

(3) is properly authenticated as to all the signatures by providing an affidavit of a witness as to the subscription on each signature page; and

(4) contains a certificate of an assessor responsible for the preparation of the municipal assessment roll certifying that the petition is signed by the owners of a majority in assessed valuation of the real property in such territory assessed upon the last preceding assessment roll.

As such, the Village Board has determined that the 507 Petition and 164 Petition, respectively, each substantially complies in form and content with the provisions of GML Article 17 and represents the majority in assessed valuation of the annexation territory.

III. FINDINGS – OVERALL PUBLIC INTEREST

The Village Board finds both components of the “overall public interest” inquiry under the General Municipal Law satisfied: (A) whether the benefits of the annexation (here, to the Village and the annexation territory) outweigh any detriment (here, to the Town and the annexation territory), and (B) whether the territory to be annexed and the municipality into which it will go have the “requisite unity of purpose and facilities to constitute a community.” Thus, the Board finds that the annexation of both the 507 Petition territory and/or the 164 Petition territory is in the overall public interest for the reasons set forth in the findings below. Since the 507 Petition includes the 164 Petition, the Village Board finds that the nature of the benefits and detriments from the 507 Petition and the 164 Petition are the same, with the 507

Petition's impacts being only proportionally larger. Therefore, these findings apply to both annexation petitions, with additional findings related to the 164 Petition annexation alone included in section (C), below.

A. Overall Public Interest Considerations

With respect to making a determination as to benefits and detriments, the Village Board has considered how the proposed annexation will result in benefits or detriments to: (1) the territory proposed to be annexed; (2) the annexing municipality; and (3) the remaining governmental unit from which the territory would be taken. In addition, because benefit and detriment are customarily defined in terms of municipal services such as police and fire protection, health regulations, sewer and water service, public utilities and public education, the Board has also considered the effects of the annexation on the school districts, fire districts, and other district corporations serving the annexation territory, and determined that the annexation will improve provision of these services to the annexed territory without compromising their provision in the sending municipality. As provided in New York judicial decisions, the Village Board has considered specific benefits and detriments to the immediately affected municipalities, districts, and annexation territory. Other than reflected in its SEQRA Findings Statement and the FGEIS, no broader analysis of regional or state benefits and detriments was required or performed in relation to the two annexation petitions under Article 17 of the General Municipal Law.

The Village Board finds that the overall benefits of the annexation, particularly to the Village and the annexation territory, outweigh any detriments, particularly to the annexation territory and the Town.

1. Overall public interest of the proposed annexation territory

Benefits

The benefit/detriment balancing inquiry focuses primarily on provision of municipal services, such as sewer, water, and police and fire protection. Here, the Village Board finds that the provision of water to the territory will be enabled by annexation to the Village based on the Village's existing and planned municipal water supply sources. Presently, water is provided in the annexation territory by private groundwater wells or through creation of a special district in the Town and a contract with the Village.²⁴ Annexation will enable residents in the annexation territory to more easily and reliably connect to the Village's municipal water system.²⁵ This will present a safer and more reliable water supply and, with the Village's anticipated connection to

²⁴ DGEIS, 3.5-11.

²⁵ DGEIS, Appendix G3; *see* FEIS Responses 3.5.7-1 and 3.5.7-3; *see generally* FEIS Responses in 3.5.7 ("Community Water Services Comments and Responses").

the New York City Aqueduct system in 2017, will also relieve some of the pressure on the local groundwater aquifer used by residents in nearby communities, including those in the annexation territory and others in the Town of Monroe outside of the Village. Thus, the Board finds that improved water service to the annexation territory is a substantial benefit to the annexation territory weighing in favor of annexation.

The annexation is also likely to improve public sewer service to the annexation territory. Sewer mains are currently in place within the Village and would likely be more easily extended to the annexation territory, even though most properties in the annexation territory are already part of the sewer district and thus entitled to public sewer. Public sewers will also enable the development of the annexed parcels. Public sewer will also provide benefits by eliminating issues of failing private septic systems and potential contamination of private drinking water sources.

The Board also finds that the annexation will bring the annexation territory improvements to public safety, fire, and emergency medical services. The annexation territory will receive enhanced police protection from the Village's resident professional force, the Village Public Safety Department. The Town presently has no police force and relies instead on the State Police and County Sheriff to provide public safety service in the annexation territory.²⁶ Therefore, enhanced police protection from the Village would provide a benefit to the annexation territory.

Fire service in the territory is presently provided by the Monroe Joint Fire District ("MJFD"), whose boundaries would be unaffected by the annexation, unless the district boundaries are shifted as provided in Town Law § 182. Thus, the annexation would have no immediate effect on fire protection. Increased development within the territory could increase the demands on the MJFD; however, the costs of increased demands are expected to be offset by the increased revenue as a result of an increased tax base. Alternatively, if the fire district boundary is adjusted such that fire protection would be provided by the Village of Kiryas Joel Fire Department ("KJFD"), the KJFD will need to expand its capabilities to meet increased needs. Information provided by the KJFD indicates that it is fully capable of meeting these expanded service needs.²⁷ Among the added benefits from shifting service to the KJFD is provision of Yiddish-speaking dispatchers and firefighters, a service likely to be valued by Yiddish-speaking residents of the annexation territory that the MJFD is presently unable to provide. Therefore, the Village Board finds that fire protection will be unaffected or improved by the annexation, and if improved will benefit the annexation territory.

The Village Board finds that the annexation will enable the Village to provide emergency medical services to the annexation areas from the award-winning KJ EMS, voted the best in

²⁶ DGEIS, 3.3-3.

²⁷ DGEIS, 3.3-15.

Orange County.²⁸ The annexation territory would benefit from having emergency dispatch service in both Yiddish and English located closer to the territory than the present service. The Village Public Safety Department, KJFD, and KJ EMS have all indicated that they are ready and able to provide expanded services in the annexation territory and that they already have had residents asking for their services. Therefore, the Village Board finds that this annexation will streamline public services by removing a political boundary that separates a community from services the residents in the territory need.

Integrating the annexation territory with the Village's upgraded transportation and pedestrian infrastructure also provides important safety, social and cultural benefits to the residents of the proposed annexation territory. Residents of the annexation territory who do not drive for cultural and religious reasons presently have little pedestrian infrastructure such as sidewalks or sufficient nighttime illumination. In contrast, the Village has made providing sidewalks an infrastructure priority with street lights and six-foot-wide sidewalks that are kept fully snow-plowed during the winter.²⁹ The Village Board finds that the annexation will enable pedestrian infrastructure in the annexation territory to be upgraded to Village standards, and thus pedestrian safety would be greatly enhanced within the annexation territory. In addition, the DGEIS traffic study predicted an 18 to 25 percent decrease in the numbers of vehicle trips from inside the Village to outside it as residents of the annexation territory who are already part of the Village community will not need to drive outside the Village as often.³⁰ Reduced traffic will benefit the annexation territory, the Village, and surrounding municipalities such as the Town. In addition, the annexation will enable the Village to provide bus service to the annexation territory, a service likely to be important to the residents of the annexation territory, particularly women, who do not drive for cultural and religious reasons, thus providing a substantial benefit to the annexation territory.³¹

The annexation territory will also benefit from greater access to other Village services such as Village parks and a senior dining program that are only accessible to Village residents,³² and public trash pickup five times per week to all homes, with two bulk pick-ups annually.³³ Village residents also have access to the Ezras Choilim Health Center and the Aishes Chayil Mothers Relief Center, an important service particularly for Orthodox Jewish women in the territory.³⁴

²⁸ FGEIS Response 3.3.8-21.

²⁹ DGEIS, 3.4-27; DGEIS, 3.3-2.

³⁰ DGEIS, 3.4-22.

³¹ DGEIS, 3.3-2; 3.4-8.

³² DGEIS, 3.3-2; 3.4-8.

³³ DGEIS, 3.3-2.

³⁴ DGEIS, 3.3-7.

Detriments

The Village Board finds that the annexation will cause few detriments to the annexation territory. The Board has examined the fiscal impacts of the annexation and finds that the annexation territory will see increased taxes. However, these increased taxes will be commensurate with increased services. Properties in the annexation territory presently pay townwide taxes to the Highway and Town General Fund as well as Town taxes for fire protection, library services, municipal lighting and refuse collection services. As a result of annexation, the annexation territory residents would still pay Town General Fund and Highway taxes; however, they would no longer pay property taxes for other services to the Town; instead, they would pay Village taxes for municipal services. Given the Village's higher level of services and resulting taxes, the annexation territory residents will see some expected increase in tax burden, with an increase of overall municipal taxes collected from the annexation parcels of approximately \$35,477.³⁵ The Village Board finds that the expected increased taxes for the increased services to the annexation territory are in the overall public interest.

In comments on the annexation, the MJFD raised questions as to the adequacy and responsiveness of the KJFD to serve an expanded Village with the annexation territory. However, the Village Board finds that the information in the DGEIS documents the sufficiency of the KJFD, with a response of 90 seconds for first responders and equipment response time of four to seven minutes, somewhat better than currently provided by the Monroe Fire Department.³⁶ The Village has a better fire insurance rating than the Town, and therefore upon annexation into the Village, property owners in the annexation territory will benefit from lower fire insurance premiums.³⁷

Overall, therefore, the Village Board finds that the annexation will result in numerous, substantial benefits to the annexation territory, and that any possible detriments such as increased taxes will be commensurate with improved public services.

2. *Overall public interest of the Village of Kiryas Joel*

Benefits

The Village will benefit in numerous, significant ways from the annexation, most importantly, gaining additional territory for potential development of housing and community buildings within the Village to accommodate a growing local population. As noted in the DGEIS, the land available for development within the Village's current borders is limited,³⁸

³⁵ DGEIS, 3.2-11.

³⁶ DGEIS, 3.3-5, 3.3-4.

³⁷ FGEIS, Response 3.3.8-34.

³⁸ DGEIS, Appendix E.

while at the same time the population continues to grow at a consistent rate from internal cultural dynamics.³⁹ Inclusion of the territory within the Village's borders will enable provision of services designed to support additional development as discussed above, including provision of municipal water and sewer and furnishing of culturally necessary infrastructure such as pedestrian facilities and public transportation. The Village's growth has required major investments in infrastructure, which can be extended at relatively low marginal cost to the territory, while providing additional tax base to the Village to support these investments. The Village will also benefit by gaining additional tax base support for public safety services, such as police and EMS. The Village Board finds that the additional territory will help defray the Village's higher costs, for example, for professional police and fire services.

The Village Board has also considered land use controls in the benefit/detriment balancing. Although this annexation includes no specific rezoning proposals or development project, the Board finds that the annexation may result in future zoning regulations that enable greater, denser development that would be allowed in the Town. Nonetheless, the Board also finds more permissive zoning regulations are not the sole reason for this annexation. Rather, this annexation is favored because it will enable development in locations where services are available and only the political boundary prevents such development. In addition, the Village's land use regulations, if extended to the annexation territory, are likely to allow higher density development and hence higher tax rates and revenue to support better, more comprehensive public services. Here, the Town's Rural Residential zoning classification restricts the construction of the multi-family housing that is typical in the Village in the vicinity of the annexation territory. If the annexation is completed, the Village is expected, after further planning and environmental analysis, to zone the area in a manner consistent with that presently in the Village in the vicinity of the annexation territory that can be made available to moderate and low income families.

The Village Board finds that the primary purpose of this annexation is not to circumvent zoning regulations, but rather to enable provision of infrastructure and services to the annexed territory which is fully expected to continue to grow.⁴⁰ Much if not all of this growth will be a result of an overflow from the Village. In fact, two development projects are underway in the annexation territory, Vintage Vista and Forest Edge, which are intended to accommodate some of this overflow. The primary purpose of the annexation, as represented by the Petitioners, is to gain access to improved local government services, integrate with Village infrastructure such as sidewalks and street lighting, which will dramatically improve pedestrian safety, and access Village emergency services, which can respond more quickly to the annexation territory, and can offer service in both English and Yiddish, whereas the Town of Monroe has not provided such services.⁴¹ Therefore, the Board finds that the annexation will likely enable greater density

³⁹ DGEIS, 3.2-1.

⁴⁰ FGEIS Response 3.1-28.

⁴¹ DGEIS, 3.3-5, 3.3-4.

development in an area where services can be easily extended to serve the expected inhabitants while increasing the tax base of the Village, a substantial benefit to the Village.

More specifically, the annexation will enable construction of much-needed moderate- to low-income housing, and provision of civic infrastructure and services, which are not as easily accessible in the Town outside of the Village. In addition, the annexation will support “smart growth” principles identified in Village and Orange County planning documents by supporting the concentration of development with available infrastructure to avoid suburban sprawl.⁴² The consistent population growth in the Village is largely independent of available developable land, so the annexation is not anticipated to drive any further growth through an increase in migration. Rather, the annexation will ease development or redevelopment pressure on the existing Village territory, and at the same time will concentrate development within the Village, as opposed to having it sprawled out across the County.

The Village Board’s consideration of taxes has some complexity in this situation as indicated in DGEIS section 3.2, because the tax revenue benefits to the Village will likely increase as development occurs. In any event, the Village Board has determined that the Village will benefit substantially from increased tax revenues based on the existing development on the annexation territory and anticipated future development following annexation. Based on existing conditions, the assessed value in the annexation territory is \$9,751,310. The properties in the annexation territories will continue to pay \$71,296 in Town wide taxes for the Highway Fund and the General Fund. However, they would no longer pay the Town of Monroe \$123,664 for Town outside Village Tax, and instead would begin paying the Village for services such as lighting and refuse, totaling \$159,141. These increased taxes would result in additional revenue for the Village, and an overall net increase in taxes collected (based on the Village’s higher rate) of \$34,577,⁴³ not including the additional revenue that would accrue to the Village if the fire district boundaries were shifted to include the annexation territory within the Kiryas Joel Fire District.

In addition to the immediate net benefit to the Village from increased tax revenue, the annexation is predicted to enable more intensive development of the land in the annexation territory. The DGEIS in Tables 3.2-10 and 3.2-11 provides projections of future tax revenues after conceptual development of 1,431 units projected as needed to accommodate future population growth. The increased tax revenue to the Village post-development with annexation is projected to be \$3,756,168, while without annexation (and hence with construction of more units occurring within existing Village limits) tax revenue would be expected to increase only \$2,251,316. Thus, annexation will provide approximately \$1.5 million in additional tax revenue

⁴² FGEIS Responses 3.1-3 and 3.3-13.

⁴³ DGEIS, 3.2-11.

to the Village post-development. The Village Board finds that this significant increase in tax revenue to the Village is a substantial benefit from annexation.

The Board finds that other cultural and community benefits also favor annexation. Here, the annexation will provide additional developable land for anticipated construction of multi-family housing that will keep large, extended families together, an important cultural value in the community. The annexation will also permit development of important community services such as parks by making available undeveloped land within the Village.

Detriments

The Village may experience some detriments from the annexation. The Village will be required to provide additional services, including expanded water supply, expanded police, fire and EMS services, increased responsibility for additional Village roads, sidewalks and street lights, and expanded waste pick-up. However, the costs for these services are expected to be commensurate and offset by increased tax revenues.

Overall, therefore, the Board finds that the annexation will produce substantial benefits to the Village of Kiryas Joel that greatly outweigh any expected detriments.

3. *Overall public interest of the Town of Monroe*

Benefits

The Board finds that the Town will benefit from the annexation for a number of reasons. First, the Town will be relieved of providing services to the annexed territory such as refuse pick up.⁴⁴ In addition, the residents of the territory will no longer use Town services such as the library, reducing the burden and expense on the Town in providing such services. The Town would also benefit from the proposed annexation's environmentally-friendly orientation toward walkability and mass transit. As discussed above, traffic studies indicate decreased traffic in the area if the proposed annexations were approved, since consistent with current practices within the Village, members of the Village community would not need to drive through surrounding areas to reach the Village, as they currently do.⁴⁵

Although Town roads in the annexation territory will become Village roads following the annexation, the Village presently contracts with the Town to maintain these roads and remove snow and ice. Based on the three miles of existing public roadways and estimated additional three to five miles of additional roads needed post-development, the Town is expected to see

⁴⁴ DGEIS, 3.3-8.

⁴⁵ DGEIS, Appendix F3, Table F3-9; DGEIS 3.4-22.

increased annual fees ranging from \$120,000 to \$160,000.⁴⁶ Furthermore, with more intensive development in the territory predicted following annexation, the Town of Monroe is actually expected to see increased revenues post-development of \$1,559,107 as properties in the annexation territories will continue to pay certain Town taxes.⁴⁷

The Town and surrounding municipalities will also experience benefits relating to groundwater. Presently, the annexation territory relies on individual, private groundwater wells as a water source.⁴⁸ After the annexation, residents in the annexation territory would access water from the Village's municipal supply, including the upcoming connection to the Catskill Aqueduct, which is projected to come on-line in 2017.⁴⁹ This would relieve pressure on local groundwater resources for use by other residents of the Town of Monroe and neighboring towns.

Detriments

The Village Board considered the fiscal consequences to the Town. The fiscal projections in the DGEIS estimate that the taxes generated to the Town of Monroe will be reduced by approximately \$123,664 because residents in the annexation territory will no longer pay Town Outside Village Taxes. Although the Town will lose this revenue, it will also see a reduction in the services required from the Town. Because of the Village's higher rate, the overall taxes collected will increase \$35,477. However, as discussed above, an anticipated increase in development in the territory will increase Town revenues post-development of \$1,559,107 as properties in the annexation territories will continue to pay certain Town taxes.⁵⁰

The increased development anticipated in the annexation areas may impact the community character of the adjacent areas of the Town by increasing the density of development in the annexation territory near less dense areas of the Town. However, as represented by the petitions, the annexation area is already largely owned and populated by individuals affiliated with the cultural mores of the Village, and annexation will concentrate development in this area.⁵¹ Since the annexation will likely enable greater density of development than allowed under the Town's zoning regulations, the annexation will tend to concentrate development within the Village, instead of encouraging the expected population growth in the Kiryas Joel community to spread out across the region.

4. *Overall public interest of the Monroe-Woodbury School District, Kiryas Joel School District, Monroe Joint Fire District and Kiryas Joel Fire District*

⁴⁶ DGEIS, 3.2-21.

⁴⁷ DGEIS, Table 3.2-11.

⁴⁸ DGEIS, 3.5-11.

⁴⁹ DGEIS, Appendix G3, Amended Findings for the Catskill Aqueduct Connection.

⁵⁰ DGEIS, Table 3.2-11.

⁵¹ FGEIS Responses 3.1-2 and 3.1-3.

a. School districts—Monroe-Woodbury and Kiryas Joel

The annexation will not automatically reconfigure the school districts, and therefore, the Village Board has considered both the effects to the districts if their boundaries remain as they are and the effects if the boundaries are changed to conform to the new municipal boundaries.

If the annexation occurs, but school district boundaries do not change, the Village residents and expected additional inhabitants of the annexation territory are unlikely to attend Monroe-Woodbury Central School District schools (“MWCS D”), attending instead private, parochial schools, in similar fashion as currently occurs within the Village. However, private school students are entitled to transportation, remedial services, books, and other services provided by the public school district. Therefore, if the annexation enables additional growth in the annexation territory but the territory remains in the MWCS D, additional services will be required. However, if the territory remains in the MWCS D as it develops, increased property valuations and therefore additional tax revenues should provide for the increased services demanded from the projected additional Orthodox families in the annexation territory once it develops. The net benefit to the MWCS D will be \$10,385,769, because most of the growing student population would not attend the MWCS D schools and therefore taxes received will exceed services required.⁵²

If annexation does not occur, the school district boundaries are unlikely to change. However, the MWCS D is still projected to see growth of 1,431 Orthodox families in the territory and increased valuation, with expected fiscal benefit of \$1,721,592 to the MWCS D.

If the boards of the MWCS D and the Village of Kiryas Joel Union Free School District agree to alter their school district boundaries under Education Law § 1507,⁵³ the annexation should have a neutral to slightly positive effect on the MWCS D and the Village of Kiryas Joel School District (“KJUFSD”). The KJUFSD has passed a resolution consenting to extension of its boundaries to be coterminous with the new Village boundaries if the annexation occurs.⁵⁴ The MWCS D has not consented to the shifting of boundaries at this time.

If the boundaries are shifted, the KJUFSD will gain from 71 (under the 164 Petition) to 177 (under the 507 Petition) tax parcels, increasing tax revenue available for the KJUFSD, resulting in a net benefit of \$1,876,582.⁵⁵ On the other hand, the MWCS D will be affected by the loss of 71 to 177 tax parcels. The parcels in the 507-acre annexation currently provide \$1,289,757 in tax revenue to the MWCS D, at a tax rate of \$132 per \$1000 assessed value. The MWCS D would therefore lose this amount of revenue. On the other hand, the MWCS D would also be relieved of paying tuition for special needs students who attend the KJUFSD school, an

⁵² DGEIS, 3.2-33.

⁵³ DGEIS 3.3.10.

⁵⁴ DGEIS Appendix I; FEIS Response 3.3.10-20.

⁵⁵ DGEIS, 3.2-33.

expense of \$474,000 to \$790,000 annually,⁵⁶ and the MWCS D would no longer be responsible for support services for non-public school students, estimated to cost \$850,000. Therefore, the loss in tax revenue is expected to be more than offset by cost savings from the MWCS D no longer paying the KJUFSD to provide special education services for certain pupils, resulting in a net fiscal benefit to MWCS D of \$350,000 annually.⁵⁷

Properties in the Village pay taxes to the KJUFSD at a lower rate of \$74 per \$1000 assessed value. Therefore, the overall tax revenue to schools will likely fall in the short-term as the Village’s rate is lower. However, the Village Board has considered two additional factors. First, the KJUFSD will receive approximately \$723,840 in additional revenue from the annexation territories, even though the public school itself will likely receive few additional pupils. Therefore, the revenue from the annexation territory will only go towards covering the non-public school student costs such as transportation for pupils in the annexation territory, most if not all of whom are expected to attend private schools. Second, the lower tax rate in the KJUFSD will be applied to an expected higher valuation as the annexation territory is developed.⁵⁸ Tables 3.2-14 and 3.2-15 in the DGEIS indicate net benefits to both the MWCS D and the KJUFSD from annexation following development of the annexation territory with the adjusted boundaries.

Various commenters expressed concern about a large increase in population in the annexed territory of families whose children do not attend the public schools in that such a situation could lead to certain negative effects to the District governance and budgeting. As noted in the FGEIS, a reconfiguration of the district boundaries is expected to allay these concerns.

Overall, the Village Board finds that the annexation will benefit both the KJUFSD and the MWCS D, whether or not the school district boundaries are moved to conform to the new Village boundaries, but particularly if they are moved.

b. Fire district or other district corporation—MJFD and KJFD

The Monroe Joint Fire District (“MJFD”), the fire district outside of the Village, will not automatically be altered by the annexation; although Town Law § 182 permits the resident taxpayers of the territory to petition the Town Board to change the boundaries. If the fire districts remain the same, the Village Board finds that the immediate effect on the MJFD and Kiryas Joel Fire District (“KJFD”) will be negligible, as both departments will continue to provide service to their respective districts and mutual aid as necessary. As development occurs in the territory requiring greater fire services, however, the expected growth in valuation would be expected to produce increased tax revenues to cover the increased demand.

⁵⁶ DGEIS, 3.2-27.

⁵⁷ DGEIS, 3.2-33.

⁵⁸ DGEIS, 3.2-28.

If fire district boundaries are shifted, the MJFD may be adversely affected by a reduction in tax base, losing approximately \$46,216. However, it will see a commensurate reduced demand for service. At the same time, the KJFD will see increased tax revenues to cover extension of its services to the territory. If the annexation enables greater, denser development of the territories, the demand for Village fire-fighting apparatus and personnel will increase; however, the Village is planning for expansion of fire services if the annexation occurs.⁵⁹ Moreover, as the annexation territory develops and demand further increases, the increased valuation from more intensive development is expected to support the demand.

The Board further finds that another potential benefit from annexation and shifted fire district boundaries is that, although the KJFD is connected to the Orange County 911 service, some residents call the KJFD directly because KJFD has Yiddish speakers, something County 911 services does not provide.⁶⁰ It is anticipated that residents in the annexed territory may benefit from this additional language service. Comments from the MJFD and others asserted that because of the inability of some Village firefighters to obtain SCBA interior firefighting certification (due to their beards), the Village would need to call in mutual aid and overtax the MJFD's resources. However, these comments provided no data to support this assertion. The Board finds that the KJFD is a legally and properly functioning fire department recognized by New York State and Orange County, and is staffed by eight paid and 60 volunteer firefighters who provide full 24-hour, 7-day-a-week coverage. In 2012, the department responded to 1100 calls for service, of which 30 percent were fires. The volunteer personnel in the KJFD are not all certified as interior firefighters due to the cultural norm for men to have beards, but the eight paid KJFD firefighters are SCBA-rated firefighters to address this limitation. The KJFD is an active member of the Orange County Mutual Aid network and both receives and provides mutual aid within the network, including with the Monroe Fire Department.⁶¹ Given the KJFD's plans to expand if the annexation is approved, calls for mutual aid are not expected to increase materially.⁶²

Increased demand for Village Emergency Medical Services in the territory is predicted; although the Village's EMS appears able to meet the need for increased services.⁶³ As mentioned above, like all Village services, Village Emergency Medical Services can accommodate both English and Yiddish speakers, an important benefit because many community members, especially older ones, are primarily Yiddish-speaking. Increased assurance of an ability to communicate during an emergency is an important benefit.

As discussed above, the Village Department of Public Safety (police) will serve the residents of the annexed territory, a service the Town presently does not provide.

⁵⁹ DGEIS 3.3-15.

⁶⁰ DGEIS, 3.3-5.

⁶¹ DGEIS, 3.3-5.

⁶² DGEIS, 3.3-15.

⁶³ DGEIS, 3.3-6 to -7.

The Town currently depends on the State Police to service the proposed annexation territory. While acknowledging that the State Police also provide assistance in the Village, the Village's Department of Public Safety provides substantial policing services within the Village. If the Village boundaries are extended, police services can be provided to the annexed territory by the Village directly and far more efficiently than the Town through the State Police.

Overall, the Village Board finds that the annexation will have a positive effect on the fire districts and other emergency services, with improved services to the annexation territory.

B. Requisite Unity of Purpose and Facilities to Constitute a Community

The Village Board has carefully assessed the second prong of the "overall public interest" determination, examining the physical and social characteristics of the area to be annexed and its ties with the Village. Examining the particular facts and circumstances of this case, the Village Board finds that the annexation territory and the Village have the requisite unity of purpose and facilities to constitute a community.

Many of the residents and property owners in the annexation territory already affiliate with the culture of the Village. Annexation will permit extension of the Village's urban infrastructure into the territories, including sidewalks, street lights, and public transit, further incorporating the areas into the Village.⁶⁴ Within the annexation territory, the Village already provides schools, limited water (by contract), fire and EMS services (through mutual aid and Yiddish-speaking dispatchers), local synagogues and other community services related to Orthodox Jewish culture. Many roads pass through the Village to connect to the annexation territory. Moreover, in contrast to its close proximity to the Village, the territory to be annexed is quite separated from the majority of the Town by New York State Route 17.⁶⁵

The Village Board has also considered the shape of the annexation territory. The territories to be annexed share long, contiguous borders with the Village and are designed to bring in areas that already have ties with the Village, while avoiding areas that do not. Indeed, many of the annexation parcels are surrounded by the Village on two or more sides, and in the 164-acre annexation area, many of the parcels are completely surrounded by Village land. On the other hand, because the annexation territory does not comprise all of the land north of NYS Route 17, the annexation does leave limited parcels in the Town remaining after the annexation. Although these parcels are still connected to the Town by Town roads and areas purposefully left out of the proposed annexation, the courts have shown concern over "baroque" boundaries or "islands." Here, however, this was apparently done to avoid compelling residential property owners to participate in the annexation against their wishes. Here, any minor irregularities are the result of political boundaries being adjusted to conform to social and community reality. The

⁶⁴ DGEIS 3.4-9.

⁶⁵ DGEIS, Figure 2-2.

existing and predicted expansion of residential development from the Village into the annexed territory supports a conclusion that the territory is unified with the rest of the Village. Provision of municipal services from the Village further supports this conclusion. Moreover, there are already two subdivisions in the annexation territory being constructed to accommodate the local extended Kiryas Joel community. In summary, the Village Board has examined the overall effect of the annexation, and hereby finds that the territory is already unified with the Village's purpose, community and facilities and is poised to become more so with the annexation.

C. 164-Acre Annexation

Generally, the benefits and detriments of the 164-acre annexation are the same as those projected for the 507-acre proposal, only proportionally smaller. The Board has also specifically considered the overall public interest of the 164 Petition, particularly in the second major prong of the inquiry, the unity of purpose and facilities. Overall, the 164 Petition has no irregular boundaries, and has the same expected development and potential for extension of water, sewer, and transportation infrastructure. Indeed, the 164 Petition presents an especially compelling case for annexation in this respect because many of the parcels in the 164 Petition are bounded by the Village on three sides and on their fourth side by the Town of Woodbury. Their annexation to the Village will remove existing "islands" within the Village and knit together politically what is already a unified community culturally—factors that the Village Board finds favor the overall public interest supporting the annexation.

IV. FINDINGS CONCERNING ASSUMPTION OF INDEBTEDNESS, OR OTHER LIABILITY OR THE DISPOSITION OF PROPERTY

The Village and the Town have not entered into an agreement under GML §§ 707 (2) or 708 (2), and therefore, as required by GML § 711 (a) (2), in assessing the overall public interest, the Village Board has considered and based its findings on the assumption of indebtedness and disposition of property prescribed in GML §§ 707 (1) and 708 (1), respectively. Upon annexation, all such Town property of the types specified in GML § 707 (1) will become Village property, exclusive of any real and personal property or rights in real and personal property of, or acquired for, special or improvement districts in such territory. The Village Board finds that this includes, without limitation, certain Town roads as shown in the petitions. Similarly, the Village shall assume the portion of indebtedness attributable to the territory to be determined in the manner specified in GML § 708 to be computed as of the date of the annexation. The Village Board finds that the disposition of property and the Village's assumption of indebtedness are both in the overall public interest.

V. CONCLUSION

In conclusion, the Board has examined the procedural requirements of the General Municipal Law, the sufficiency of the annexation petitions and the overall public interest of the annexations. As such, the Village Board hereby determines that all procedural requirements of the General Municipal Law have been met, that the petitions are sufficient under the General Municipal Law, and that the annexations are in the overall public interest and, accordingly, approves the proposed 507 Petition and 164 Petition.

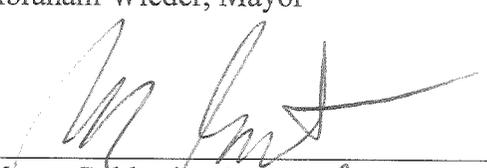
The Board authorizes the Village Clerk to file a signed and certified copy of the Village Board's written order/resolution approving the 507 Petition and 164 Petition, a copy of this Decision and Findings, together with copies of the petitions, the notice, the written objections, and testimony and minutes of proceedings taken in the offices of the clerks of all the affected local governments.

Dated: September 6 2015

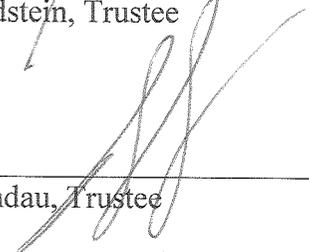
VILLAGE OF KIRYAS JOEL BOARD OF TRUSTEES

[abstained]

Abraham Wieder, Mayor



Moses Goldstein, Trustee

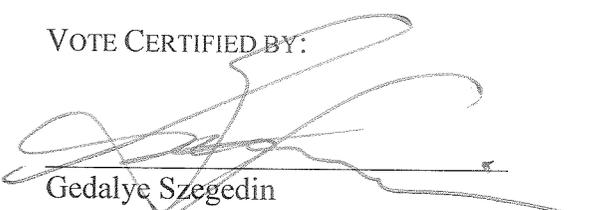


Samuel Landau, Trustee

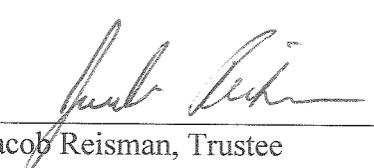


Jacob Freund, Trustee

VOTE CERTIFIED BY:



Gedalye Szegedin
Village Administrator and Clerk
Village of Kiryas Joel



Jacob Reisman, Trustee