

State will help Milan battle mining project Greenway act offers indemnity

BY RASHEED OLUWA • POUGHKEEPSIE JOURNAL • AUGUST 13, 2008

MILAN - The state attorney general's office has decided to take on Milan's legal battle against Red Wing Sand and Gravel.

The office informed town officials of its decision last week. The state will represent the town through an indemnity - a type of security against hurt, loss or damage - the Hudson River Valley Greenway Compact offers to all its communities.

Milan will become the first community in the compact to take advantage of the indemnity.

"There was great wisdom demonstrated when the Green-way concept was enacted," said Ross Williams, a member of the Milan town board. "The indemnification in the act recognized that good planning and community vision were not ensured as long as deep-pocketed corporations could drag financially limited municipalities into court at will."

Milan and Red Wing have been in a legal tug-of-war since the town passed its comprehensive plan in 2006. The plan has language calling for the elimination of mining in the town.

This language was added after residents complained about a proposal made by Red

Wing for a 69-acre mining operation in Milan. Residents have concerns the operation will bring additional noise, traffic and dust pollution to the area.

Town officials also repealed the floating light industrial zone, a law that allowed light industry such as bus depots and gravel mines to be approved despite zoning hurdles at a given location. The repeal of that law essentially stopped future mining operations from starting in Milan.

State Supreme Court Justice James Brands voided the town's comprehensive plan and repeal of the floating light industrial zone in a decision made in April.

The town board was concerned about appealing the decision because the town's budget line for legal costs is running dry.

Environmental law studied

That's when officials started looking into Section 44-119 of the state environmental conservation law. That section states Greenway communities will be provided with an indemnity from the state in the event legal actions are brought against the community resulting from its acquisition of land consistent with its regional plan, or the adoption and use of any zoning laws or ordinances.

Mark Castiglione, acting executive director of the Hudson River Valley Greenway, said other communities had inquired about the provision. But since the provision had never been tested before, those municipalities chose not to pursue it.

"Through this benefit, the local planning process is further strengthened for the 56 communities that have made a commitment to the regional vision of the Greenway Compact," Castiglione said. "Supporting regional planning is a central goal of the Hudson River Valley Greenway program, and indemnity is one incentive to support the regional planning goals of the Greenway Compact."

Reach Rasheed Oluwa at roluwa@poughkeepsiejournal.com or 845-437-4823.

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