



FRED W. THIELE, JR.
Assemblyman 1st District

CHAIR
Committee on Local Governments

THE ASSEMBLY
STATE OF NEW
YORK

COMMITTEES
Rules
Environmental Conservation
Oversight, Analysis & Investigation
Transportation

September 9, 2021

The Honorable Thomas P. DiNapoli
New York State Comptroller
Office of the State Comptroller
110 State Street
Albany, NY 12236

Re: Peconic Bay Region Community Preservation Fund-Audit Request

Dear State Comptroller DiNapoli:

Per our previous conversations, by this letter, I am hereby requesting that your office perform an audit of the Peconic Bay Region Community Preservation Fund (CPF).

Together, we sponsored the legislation authorizing the creation of these funds by each of the five (5) East End Towns of Long Island. In 1998, by Chapter 114 of the Laws of 1998, the State Legislature approved this legislation. By referendum held the same year in each of the towns, voters overwhelmingly approved the establishment of these funds.

As you know, these funds, financed by a 2% real estate transfer tax, are dedicated to the acquisition of land for the purposes of open space, farmland, parkland, and historic preservation purposes. In 2015, the law was amended to permit up to twenty percent (20%) of the fund to also be utilized for water quality improvement projects with nearly 80% support approving it by referendum.

By all accounts, the CPF has been overwhelmingly successful in achieving its intended goals. The Community Preservation Fund has generated the revenue necessary for conservation to keep pace with the incredible rate of development on the East End of Long Island, insuring that the region did not become just another suburb.

Since its implementation 23 years ago, the five (5) towns have collected more than \$1.73 billion for land and water protection. More than 10,000 acres of land have been protected. The funds are also playing a critical role of reversing the trend of declining water quality by funding projects, such as the upgrade of individual septic waste disposal systems and sewage treatment improvements.

The CPF has permitted the continued sustainability of traditional industries, such as the agriculture and marine industries. Further, it has been critical to addressing water quality, which is essential to both the environment and the economy of the East End. Dozens of other local governments across the State have copied the CPF to protect the community character of their regions.

However, even the best programs require review and oversight to insure that they are maximizing their stated goals effectively and efficiently. In 2008, former Senator LaValle and I requested that you perform an audit of the CPF, which was ultimately issued by your office in 2009. The audit resulted in administrative recommendations as well as legislative action, which served to markedly improve the administration and operation of the funds.

Twelve (12) years later, it is time that the fund again be subject to an independent review by your office. I had hoped to make this request sooner, however, the COVID-19 pandemic delayed my request.

Notably, the pandemic has resulted in a dramatic growth in revenues during the last 12 months. During this time, revenues have more than doubled over the average annual revenue for the last decade. Consequently, with this flood of additional revenues, an independent review of the operation of the CPF is more necessary than ever. Taxpayers should be assured that the CPF is being administered and implemented as required by law and in good fiscal practice.

I request that your office take a comprehensive review of every aspect of the CPF. Specifically, the following issues should be considered as part of this audit:

- Tax collection- with the increased use of non-deed transfers of real estate, are all taxable transfers paying the tax required by the law? In addition to non-deed transfers, are exemptions from the tax being properly administered?
- Dedicated fund- the CPF is a dedicated fund which can be expended only for certain enumerated land and water conservation purposes permitted by law. Are the funds being used only for such purposes and not for any unauthorized purposes?
- Fair market value- the State Constitution provides that local government cannot pay more than fair market value in acquiring real property from private owners. Are all land acquisitions complying with this state constitutional requirement?
- CPF Project Plan- to be eligible for the expenditure of CPF funds, a project must be included as part of the plan. Are all projects funded by local governments included in their plans?
- Stewardship and Management- are towns complying with the provisions of law relating to the use of funds for the stewardship and management of protected properties, including historic properties?
- Use of protected properties- are protected properties being used solely for the purposes permitted by the law? Has there been any unauthorized alienation of protected properties by local governments?
- Independent audits-are local governments performing the annual independent audits of the fund as required by the law? Have those audits been filed and made available to the public as required by the law?

The Honorable Thomas P. DiNapoli

September 9, 2021

Page Three

- Water quality- With regard to water quality improvement projects, are local governments complying with the requirement to utilize such funds only to improve water quality by meeting water quality standards? Use of the fund to accommodate additional growth is prohibited. Further, is the 20% limit on the use of revenues annually for water quality being complied with?
- Indebtedness- do local governments possess sufficient existing and projected revenues to repay all indebtedness incurred under the CPF?
- Procedural compliance-have local governments complied with all procedural requirements of the law when undertaking individual land and water projects?

I appreciate your consideration of this request and look forward to working with your office on this matter.

Sincerely,

Fred W. Thiele, Jr.
Member of Assembly

FWT/lml