January 10, 2022

S.2995 (Harckham)/A.6838 (Galef)

**Summary:** An act to amend the environmental conservation law, in relation to providing an exemption from requirements for the alienation of parkland for renewable energy generating projects.

**Statement of Support:** During the 2019-2020 legislative session, legislation was passed (S.5041/A.5839) to amend the sections of the Westchester County Administrative Code related to the lease or sale of real property for park purposes, in order to prevent the county from alienating parkland without action by the State Legislature.

This legislation does preclude actions by Westchester County such as those that occurred in the past, i.e., selling and leasing parkland without appropriate legislative action. But it has an unintended consequence: municipalities that want to install solar canopies in the parking lots of their parks are blocked from doing so. This is because one of the non-park uses that requires alienation is a lease for any purpose. Municipalities that want to install solar canopies in their parking lots often do not want to pay for the project out of their available funds and do not want to incur debt. So they may engage with a solar developer who will finance and build the project. The developer then owns the solar installation and sells the electricity, but he must make lease payments to the municipality for use of the land and the airspace.

S.2995/A.6838 does not explicitly say “solar canopies” or “solar carports”, but its meaning is clear and the exemption is very specific. The exemption allows solar energy projects under 2 megawatts that are located directly above real property currently being used for vehicle parking to bypass the procedure of requesting an act from the Legislature.

As New York State looks for ways to implement the Climate Leadership and Community Protection Act, interest in solar projects in the airspace above vehicle parking has increased. Solar canopies are a source of renewable energy, providing cost savings and generating revenue. Getting parkland alienation approval for a single project from the State Legislature could take a year or more and potentially discourage municipalities and their developers from proceeding. The exemption provided by this bill will make the permitting process for these installations less costly and more efficient, analogous to the way in which regulations of the Office of Renewable Energy Siting will speed up the process for large-scale renewable projects. Note that if the municipalities are willing and able to provide funds to build the solar canopy, then no special permission from the State Legislature is needed. It’s only when park property is to be leased to a developer that this permission is required.

**The Sierra Club Atlantic Chapter Urges Your Support of S.2995/A.6838**