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David Church, AICP  
Commissioner of Planning  
County of Orange  
1887 County Building  
124 Main Street  
Goshen, NY 10924

Re: "Kiryas Joel's Proposed Annexation of Unincorporated Land in the Town of Monroe: An Independent Assessment of Circumstances"

Dear David:

On behalf of the Village of Kiryas Joel, thank you for making your consultant Kent Gardner of CGR available for a briefing of the findings of the CGR report noted above. The briefing, which was accompanied by an 8 page summary, was welcome and informative, as were your comments that this report was not intended to be a parallel SEQRA review to that being completed by the Village, or even a report anticipated to be released as a pre-requisite to the Town and Village annexation decision, but rather as a tool for future County planning. However, as pointed out at the briefing, for the report to be viewed as complete and useful for the noted purpose, a number of the supporting facts and conclusions drawn therefrom are misstated or incomplete, not likely due to any intentional effort on the part of CGR or the County, but more due to time constraints and the lack of available information.

Accordingly, based on the number of inaccuracies identified in the limited 8-page summary, we can only conclude, and indeed believe that everyone in the room seemed to agree, that certain acknowledged shortcomings in the CGR report were in need of correction. This letter reasserts the request made yesterday that the County refrain from formal release of this report as "final" until such time as the identified inaccuracies are corrected and full information acquired. If, as represented at the meeting, this report was not intended to precede the Village's and Town's annexation decisions, then there is no urgency in its release, and the document

would be more useful and legitimate with complete and accurate information. Releasing the report first as a draft would allow your consultant to incorporate accurate information in a final report. A number of the shortcomings in the summary are provided below.

1. The report makes an unsubstantiated conclusion that the Village fails to comply with the NYS Open Meetings Law by failing to provide notices to news media or conspicuously posting such meeting notice. However, no specific examples were provided and, indeed, as represented by the robust record of public notice associated with the current annexation actions, the Village does present relevant notice to the news media and also regularly posts such notices at Village Hall. The CGR report goes further to conclude from this incomplete factual statement that this makes it difficult for the County to issue water supply permits or monitor sewer hookups. This conclusion is incorrect. First, the county does not issue water supply permits for the Village's public system. Such permits, as far as public water supply for the Village is concerned, are issued by the NYSDEC. The County receives full notice of all such permit applications to the State and indeed, in conjunction with NYSDOH signs off on all public water systems installed by the Village. Second, regarding sewer hookups, the County is fully aware and approves all sewer hookups. In sum, there is absolutely no connection between the NYS Open Meetings Law and the approval of water supply and sewer hookups and to relate the two in this way is not a responsible conclusion.

2. Regarding sewer treatment capacity, the summary states that the Village has pushed the capacities of sewer infrastructure to its limits. However, this statement is contradicted by the summary's report that the County's wastewater treatment plant has adequate capacity through the year 2027 and that the County has commenced a planning process to expand such capacity further. Moreover, the summary reports that the Village contributes 17% of the total wastewater flows to the Harriman plant and appears to correlate this to the Village's 6% share of county population to conclude that the Village utilizes a disproportionate share. Correlating these two figures is simply incorrect, as the sewer use figure represents use within the sewer district only rather than across the entire county against which the population percentage is based. If one were to compare sewer use to the population of the district, then the comparative figures would likely not seem so disproportionate. Further, the summary then seems to allege that the financial structure supporting both operating and capital construction is not transparent and may be "inequitable," implying perhaps that Village residents do not pay their fair share. As you know, the Village is not responsible for the management of the sewer district. Linking such criticism of the county district's administration to the pending annexation (as if annexation would make these matters worse) is simply incorrect and inappropriate.

3. Regarding water supply, the summary erroneously concludes that the additional well fields owned by the Village have limited capacity only through 2023. This conclusion is not based on fact as presented in the Annexation DGEIS, which identifies the total potential supply

through wells in which the Village has ownership interests, at approximately 4.36 mgd, well beyond the DGEIS's projected demand of 2.79 mgd in 2025 with annexation. Finally, the report continues to perpetuate the myth that the Village's pipeline to the Aqueduct is far from settled, when in fact the Village has repeatedly demonstrated, including in numerous courts of law, that it is entitled to a water supply from the Aqueduct and in fact has now completed nearly 7 miles of pipeline installation.

4. Regarding Section 8 vouchers, the report mischaracterizes the use of this program by Village residents as disproportionate with the Village population as compared to the rest of the County. However, the figure cited by the report summary fails to acknowledge that this is a competitive program for limited vouchers and thus is not reflective of the overall unmet need within the county. The fact that Village residents may be more successful in obtaining these vouchers does not reflect a disproportionate utilization of the program or its benefits and thus correlating this misstatement of data with annexation or even growth of Village population is inaccurate and inappropriate.

5. Regarding sewer treatment issues, the summary inaccurately states that the Village does not comply with the Clean Water Act based, apparently, on the fact that the Kiryas Joel Poultry (KJP) entered a consent decree with EPA to rectify issues related to its private commercial operations. This statement fails to acknowledge that the Village does not regulate the KJP discharge; rather the County regulates KJP via its industrial pre-discharge permit program. The KJP/EPA consent decree had absolutely nothing to do with the Village, the Village was not a party to that consent decree and, therefore, to correlate this decree with the Village's compliance with the Clean Water Act or any other law, as well as the annexation is, again, inaccurate and inappropriate. Moreover, the summary concludes that the Village's treatment plant frequently discharges wastewater in violation of its discharge permit. This statement is also false, the Village is in full compliance with its NYSDEC issued discharge permit which, contrary to the report summary, does not contain discharge limits on "salt." Finally, the report summary makes the gratuitous statement that Orange County is not using its powers to "scale the growth of KJ to existing sewer capacity." This sort of statement is troubling because it assumes and perpetuates a myth that the County can control the Village's population growth via its management of the wastewater treatment plant.

6. Regarding land use laws, the report summary makes the bald conclusion that the Village does not comply with State land use laws. This overbroad statement appears based, as noted during the meeting, on the County Planner's objection to the way the Village implements limited county planning referral provisions of General Municipal Law 239. Translating the single objection as a failure to comply with all land use laws is inaccurate, as the Village responsibly administers the full range of land use laws represented by its Village zoning code.

7. Regarding the issue of “mutual aid,” the report reaches an unsubstantiated conclusion that the Village “relies heavily” on mutual aid and identifies this as a “problem” which will be exacerbated by annexation. First, this improper conclusion fails to recognize the purpose of mutual aid, in that all communities that voluntarily participate stand ready to assist the other in time of need; in fact, the Village provides at least as much mutual aid as it receives. There also appeared to be a lack of understanding of how the mutual aid system works. This was based on the comments at the meeting that the source of the conclusion that the Village relies more heavily on such aid was provided solely through statements of individuals from other service providers. However, a more accurate source of such information rests with the County. The County is responsible for all requests for mutual aid and should be able to provide data that accurately reflects usage of this program. Also missing from the summary is any acknowledgement of the significant mutual aid service provided by the Village EMS program. Contrary to the summary, should annexation be approved, the Village stands ready to expand the emergency services it responsibly provides to its residents as well as to its neighbors through mutual aid.

In sum, the Village respectfully requests that the County and its consultant refrain from the release of its “independent” report until such time as it is fully able to complete its research in a responsible and accurate manner. The Village remains available to assist as needed.

Very truly yours,



Michael G. Sterthous

cc: Harry Porr (via e-mail [HPorr3@orangecountygov.com](mailto:HPorr3@orangecountygov.com))  
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