

THE DELETERIOUS IMPACT OF PRIVATIZATION UNDER A LONG TERM LEASE AND THE DRAFT AIRPORT MASTER PLAN

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Citizens for a Responsible County Airport

Purchase Environmental Protective Association (PEPA)

Federated Conservationists of Westchester County

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Introduction

The Westchester County Board of Legislators has consistently recognized that expansion of the county airport (“HPN”), whether in operations, capacity, or physical footprint, would be detrimental to the environment and the character of our county. In 2003, the board passed Resolution 245-2003 stating that “the policy of the Westchester County Board of Legislators is and continues to be one of supporting no increase in the total capacity of the Airport's runways, taxiways, ramps, gates, hangars, terminal, motor vehicle parking areas, or access roads, in order that we may protect our fragile environment, including the drinking water for almost nine million people.” Chairman Kaplowitz quoted this policy when he wrote to North Castle in 2011 that this body's “efforts to prevent expansion of the Airport have always been prompted by our desire to protect nearby residential communities.”

Privatization under a long term lease (“Lease”) that is being considered by the Board of Legislators provides the incentive for the county to turn its back on these policies to make more money at the airport. The county’s airport master plan describes how expansion will occur as it predicts a dramatic increase in traffic and recommends hundreds of millions of dollars in public spending to ease this expansion.

I. Privatization Under a Long Term Lease

A. Diversion of Airport Profits Will Create Bad Incentives

Today, although the airport is privately operated by AFCO AvPorts Management LLC (“AvPorts”), it functions as a non profit under a fixed fee agreement. Neither the county nor AvPorts benefits by increasing profits at the airport. The airport's security programs and environmental protections are well funded because there is no incentive to cut costs. Entering the proposed Lease would change all of that by giving the county and the private operator a direct financial incentive to pull as much money out of the airport as possible. Expansion, including by changing the Terminal Use Regulation (“TUR”) or Fixed Based Operator (“FBO”) leases, would be one way to increase profits. Cutting costs on things like security or environmental protections would be another.

Any needed improvements to the terminal could be undertaken today by the county; indeed, for 37 successful years the county has operated the airport in partnership with AvPorts. It is clear that the main reason the Lease is being considered is to allow airport profits to be spent in the operating budget. But if that happens, the Board of Legislators will create a slippery slope towards expansion of the airport. Every budget shortfall and every tax increase could be easily addressed by allowing more traffic – and more profits – at the airport. It would be tempting to short sightedly allow a little bit of growth each year. But as the traffic ratchets up, it wouldn't be long before our communities would be transformed with intolerable noise, traffic, and air pollution. Or even worse, we could be faced with a serious problem at the Kensico.

History shows that expansion occurs when the county profits from the airport. In 1990, County Executive O'Rourke campaigned to approve a referendum for a new terminal, advertising how airport profits would shore up the general budget. Then, as now, the county executive claimed that the TUR

would prevent expansion. Ultimately, that referendum passed by less than three percent. While the new terminal would not open until 1995, air carrier flights more than doubled from 1990 to 1994. It was only after the Federal Aviation Administration (“FAA”) prohibited the county from diverting airport profits in 1994 that the rapid growth stopped.¹ The bad incentives that revenue diversion creates will lead to expansion. We have seen it in the past, and we will see it again.

B. The Terminal Use Regulations Alone Will Not Prevent Expansion

While the TUR alone did not prevent expansion in 1990-1994, it is a critical component in limiting growth at the airport in conjunction with other county policies. Airliners are among the largest and loudest aircraft using the airport, and the TUR is an important factor in limiting their frequency and size. Without the TUR, airlines would likely schedule a flurry of large, noisy flights early in the morning to meet connections at their hubs. Or even worse, they would have the freedom to transform HPN into a hub airport.

That said, the airport operates well below the TUR's limits today. Twice as many airline flights could be scheduled from 5:30am to midnight without exceeding the limit of 4 operations per half hour. Over three times as many flights could be scheduled if the period between midnight and 5:30am is included. It is already clear that airlines are happy to ignore the voluntary curfew – there are 4 daily departures before 6:30am, and 2 right at 6:30am.²

Any presumption that the TUR will prevent expansion overall thoroughly misses the point. The vast majority of operations at the airport are not covered by the TUR. Over the past 10 years, according to the FAA, airline flights covered by the TUR made up only 10% of flights at the airport.³ The Airport Noise Monitor compiled by AvPorts shows this figure to be about 15%.⁴ In either case, with over 80% of flights and revenues coming from private aviation, the only effective control the county has over the vast majority of flights at the airport is by restricting development and by preserving control over the FBOs that serve private flights.

Private flights include all manner of aircraft, from small 2-seat trainers like Cessna 152s through large aircraft like Boeing 737s that are larger and noisier than those used by any airline at HPN today. Over 70% of private flights are “heavy GA” (general aviation) - probably meaning large turbine powered aircraft⁵ - and of those, over 80% are not based at HPN. Most curfew violations are caused by these operators, and they are also responsible for a large portion of the noise complaints received by the

¹ The FAA's ATADS database shows air carrier flights grew from 4,991 in 1990 to 11,678 in 1994. They leveled off thereafter, reaching a peak of 13,415 in 2000.

² As of May 2017, airlines scheduled departures at 5:57 (DL 4149), 6:00 (DL 5387), 6:25 (AA 5220), 6:29 (AA 4606), 6:30 (UA 3806), and 6:30 (B6 1895).

³ The FAA's ATADS database divides commercial traffic between aircraft greater and less than 50 seats. It does not separate airliners from private charter aircraft, so the 10% figure is inferred from the mix of airliners operating today that are larger vs. smaller than 50 seats.

⁴ 2016 figures from the December 2016 Airport Monitor. Discrepancies between the FAA's count and AvPorts' count continue and remain unexplained. John Inserra, the airport's environmental manager, has suggested that the discrepancies are because AvPorts counts flights when the tower is closed and the FAA does not, but this does not explain why the FAA's total of all operations are often greater than AvPorts' count.

⁵ These figures are for 2016 from the Westchester County Airport Monitor. The document splits private traffic into “Corporate Operations” and “Light GA” but does not describe further. It seems reasonable to assume that all piston powered aircraft are considered “Light GA” and all turbine powered aircraft are “Corporate Operations.”

airport.

One phenomenon that has occurred over the past few years has been the dramatic growth in private charter aircraft at HPN. NetJets has been joined by operators such as FlexJet, Wheels Up, JetSmarter, XOJet, and Flight Options. There has also been growth in “scheduled charter” operators like Tradewinds and Cape Air that function as airlines but are not governed by the TUR because they operate out of FBOs and not the main terminal. If we assume that these operators are the majority of transient “heavy GA” operations at HPN, they would be responsible for about 50% of all flights at the airport today.

The TUR are an important element restricting the airport's growth, but they must be viewed as just one part of an overall policy. Growth in airline operations can occur under the existing TUR, and growth in private and scheduled charter operations can occur despite the TUR.

C. Restricting the Airport’s Physical Footprint Will Not Prevent Expansion

Some have suggested that HPN cannot grow because the main runway cannot be lengthened and there is no space for an additional runway. It is worth noting that HPN takes up more land area than LaGuardia. In any case, HPN operates far below the maximum capacity of its runway. Consider, for example, Chicago's Midway Airport, which is a major Southwest hub that has over 12 times the airline traffic of HPN. While Midway has 4 runways available for Southwest to use, only 2 are in use at any one time. All of Midway's runways are shorter than HPN's main runway. And like HPN, Midway is located close to a major international airport, Chicago O'Hare, that limits the timing and direction of traffic into and out of Midway. In short, it is clear that it is county policy that prevents HPN's growth, not physics, air traffic control, available land, or runway infrastructure.

Indeed, a problem the county has struggled with in the past is that once facilities are built at the airport, the county loses much of its ability to dictate how they are used. For example, in 2001, County Executive Andy Spano and the Board of Legislators passed Local Law 18-2001 specifying that the entrance to the airport parking garage be closed from 12:30am to 5:50am. While the law's language avoided mentioning its effect on helping to enforce the voluntary curfew, this was a motivating factor in the passage of the law.⁶ Ultimately the FAA did not allow the county to enforce this policy. Although the county was under no obligation to build the garage, once it was built, the county's control over its operation was limited by FAA rules.

Similarly, Spano tried inserting clauses into FBO leases to limit operating hours. As with the garage, the County was under no obligation to sign leases with FBOs to allow their operation at the airport. Once again, however, the FAA objected to this proposal. Simply put, the county must tightly restrict airport development in order to prevent losing further control over airport operations.

⁶ Worth, Robert. “Officials Promise a Fight As Airlines Defy Curfew.” New York Times, April 15, 2001.

D. Newer, Larger Aircraft Will Not Reduce the Number of Flights or the Amount of Noise

An argument has been made for relaxing the passenger cap so that airlines can fly newer, larger, and quieter or more efficient aircraft out of HPN. While larger aircraft may be quieter per passenger, the laws of physics dictate that more power is needed to carry a heavier load and so, on an absolute level, larger aircraft are nearly always louder than smaller aircraft. Consider the following airliners in use at the airport today, and a few larger airliners that could be used at the airport without strengthening or lengthening the runway:

Model / Operator	Seats	Noise (EPNdB) ⁷		
		Flyover	Side (Takeoff)	Approach
Boeing 737-800	154-175	84.40	94.20	96.40
Boeing 737-700	118-143	84.60	94.70	95.90
Airbus A320 (JetBlue)	150	84.90	91.30	94.40
Embraer E190 (JetBlue)	100	86.90	91.90	92.80
Bombardier CRJ-900 (Delta)	76	84.50	89.40	93.20
Embraer E170 (American)	69-76	82.20	93.30	94.90
Bombardier CRJ-700 (Delta / American)	63-70	82.70	89.40	92.60
Bombardier CRJ/CRJ-200 (Delta / American)	50	78.70	82.40	92.10
Embraer E135 (United)	50	77.90	84.40	92.30

Source: FAA Advisory Circular AC 36-1H

The small 50-seat aircraft are much quieter than the larger aircraft, especially at the full power required for takeoff. The 50-seat aircraft are hardly obsolete; the E135 remains in production today and was introduced in 1997, well after aircraft like the A320 (1988), 757 (1983), 767 (1982), 777 (1995), and is contemporaneous with the latest revisions of the 737 (1997).

Some have speculated that allowing larger aircraft might reduce the number of flights. Any such assertion should be accompanied by examples of where this might actually happen. There are few opportunities for this to occur because few cases exist where the same airline has frequent flights to the same destination. The only case we could find as of June 2017 is Delta's daily flights to Atlanta at 6:00am and 7:30am. Allowing a larger aircraft, though, would likely lead to a noisier 6:00am flight and elimination of the 7:30am flight, because the earlier flight meets more connections in Atlanta.

E. The Environment Will Be Threatened

The Kensico Reservoir provides 90% of New York City's water and 85% of Westchester's water.⁸ Water from the Kensico is not filtered before it is disinfected and delivered to taps.⁹ If pollution caused the Kensico to lose its non filtration status from the EPA, the required filtration plant “would entail capital expenditures of over \$10 billion and annual operation and maintenance costs exceeding \$100

⁷ EPNdB measures noise averaged over 10 seconds. For example, an EPNdB of 100 has the same integrated loudness as a 100 dB sound lasting 10 seconds. Measurements for different phases of flight have different methodology and so are not comparable to each other, but measurements between aircraft for each phase are directly comparable.

⁸ Westchester County Planning Department. <http://planning.westchestergov.com/watershed-protection>

⁹ Rueb, Emily S. “How New York Gets Its Water.” The New York Times, March 24, 2016.

million.”¹⁰

Despite this risk, the Requests for Proposal (“RFP”) issued by the county requires only \$5 million per incident and \$10 million total of pollution insurance. These limits could be financially ruinous for the County. The cost of a filtration plant is a hundred times more than what the county might make from the Lease and a thousand times more than what insurance might pay. Even if any pollution could be fully cleaned up, it seems obvious that the insurance coverages are not enough to clean up any significant spill into the Kensico Reservoir or Blind Brook. Taxpayers will get stuck with the bill for any significant clean up or for a filtration plant to address the pollution.

For the reasons previously stated, the very idea of entering into a long term lease relinquishes County control over environmental risks. But even so, the RFP simply does not require stringent environmental protections or frequent testing in the lease. Its requirement that the airport maintain its ISO 14001 certification has no teeth. ISO 14001 specifies a way to keep track of environmental targets and whether you are meeting them, but it is silent on what those targets should be. Many of the targets the airport describes publicly today are vague – things like “monitor former Texaco hangar” or “reduce the potential impact of aircraft deicing.” Reinstating the airport's groundwater monitoring program, ended in 2011, has been a goal since at least 2014 but there does not appear to have been any progress on this goal. Any lease must specify precise environmental targets and a strict program for testing compliance.

Even then, a Lease would likely restrict the county’s ability to adjust environmental targets in the future. We cannot know today what pollutants will need to be regulated in the next 40 years. PFOS fire fighting foam was used for decades before it was determined to be toxic. Most famously, a spill of PFOS foam at Stewart Airport in the early 1990s poisoned Newburgh's water supply for years before testing began in 2014. As environmental standards evolve with new science, it is imperative that the county maintain the freedom to amend and enforce environmental controls without threat of legal action or obstruction from a private operator with directly conflicting interests.

F. Accountability

Under the current agreement, AvPorts must use its best efforts to operate the airport in a manner which is compatible with the interest of the County and the surrounding communities.¹¹ It acts as the County’s agent¹² and is in a fiduciary relationship with the County¹³. It operates the airport on behalf of the County, with the oversight of its Legislators, who are public servants. The County has the right to terminate the contract for cause with 45 days' notice, or in 6 months without cause.¹⁴ The county also retains rights of access and inspection to all aspects of the airport and its operations.¹⁵

¹⁰Philip Bein & Charles Silver, Ph.D. Comments of the Office of Watershed Inspector General, New York Environmental Protection Bureau, re: draft scoping document for the proposed Vue project in North Castle. January 25, 2017.

¹¹See, Article 2 of the 1996 agreement between the County and Johnson Controls World Services, Inc. (“Current Agreement”).

¹²See, Article 16 of the Current Agreement, which explicitly states that the airport operator is acting as the County's agent. As the County's agent, the operator has a fiduciary duty to the County.

¹³Under New York law, a fiduciary has a duty of utmost loyalty, and must act with “the punctilio of honor most sensitive”, which is a much higher standard than the morals of the marketplace. An agent has an obligation to act in the best interest of its principal and disclose any material facts. An agent may not self-deal or profit at the principal’s expense.

¹⁴See, Article 11 of the Current Agreement.

¹⁵See, Article 19 of the Current Agreement.

In contrast, under the proposal, the new airport operator will be a leaseholder. A leaseholder has a limited ownership interest in the property and can exercise those rights to the full extent of the law, limited only by the terms of the lease. The oversight of the Board of Legislators under a lease will be limited to its commercial rights. It will forego the right to demand action in the public interest that is not permitted by the lease.¹⁶ Indeed, given the length of the proposed lease, the opportunities to provide legislative oversight may become less and less meaningful in the face of technological advancements. The length of the lease may render legislative oversight to a mere formality.

Retaining control over private aviation through the Board's oversight and approval of FBO and corporate lessees is critical to preserving the airport's accountability to the public. It would make little sense to preserve input into the operations of the passenger terminal that serves only 15% of flights while losing any input into the facilities that enable the other 85% of flights. On June 22, 2017, Frasca and Associates LLC ("Frasca"), the County's advisor on the Lease, stated that the draft lease does not restrict the lessee from taking over FBOs, whether by purchasing an existing FBO or by refusing to renew their lease. The Board of Legislators cannot endorse such an arrangement allowing the lessee to build a monopoly and hold total control over the vast majority of operations and fees at the airport.

It is important that the public also retains the ability to inspect airport records and environmental reports. The airport's unique location next to the Kensico necessitates full transparency to mitigate the risk of regulatory capture and to allow the public to collaborate with its representatives to oversee the airport. This document, for example, would not have been possible without both the county's publication of airport records and the FOIL process to obtain documents that have not been published.

The Lease would dramatically change the county's relationship with the airport operator from a partnership with a fiduciary to an arm's length commercial relationship with a counterparty. Both the county and the public would likely lose substantial control over and transparency into the operations of the airport.

G. Forty Years is Too Long

Forty years is an absurdly long time to give away control over a growth asset as valuable and vital as HPN. The average commercial lease in Manhattan is ten years. The commercial aviation industry is less than 100 years old. Commercial aviation in 2057, or even 2027, is likely to be vastly different, and offer vastly different opportunities to airport owners. The value of HPN will likely only grow over the next 10, 20, 30, or 40 years, maybe exponentially, but if it's leased, the taxpayers won't reap any advantages of that growth.

Ceding control for forty years would close the door on any other alternatives for the county to maximize the value of the airport property in the public interest. In forty years, it might not make sense

¹⁶Under a lease, the landlord cedes certain rights of possession it has as owner to the lessee. These are spelled out in a legal arrangement—the lease. But the “four corners” of the lease govern this relationship. A lessee has no fiduciary obligation to a landlord, unless the lease specifically provides otherwise. To the contrary, there is a transfer of legal rights in a lease and the lessee will have control of the real property in question, solely limited by the lease's provisions. Most importantly, the lessee will not have to operate as a fiduciary of the County or consider the best interests of the public. Its sole interest will be to make money, not to act in the public interest, unconstrained by any fiduciary obligation. Oversight alone will not ensure that the lessee safeguards the public interest, as the manager and Board of Legislators do now.

for there to even be an airport on the property. The Lease as proposed would lock the county into the status quo.

H. Other Alternatives Have Not Been Fully Explored

For the reasons previously stated, we believe that using HPN's profits for the county's general budget is bad policy. Maintaining a separation between the county's financial incentives and its policy goals ensures that good policy is not corrupted by short term financial considerations. HPN's surplus provides secure funding for repairs, improvements, security, and environmental protection, and also acts as insurance for unexpected adverse events. There remain many worthwhile projects for the county to undertake at the airport. For example, the surplus could be spent ensuring that the airport's unique environmental impacts on the region's drinking water and its residential neighbors are balanced by innovative programs making HPN the most environmentally sound airport in the country.

Even if the Board of Legislators decides that the best use of HPN's profits is to redirect them into other programs, the proposed Lease is a tremendously awkward, inefficient, and deeply flawed way to access these funds. While a Lease may present the only opportunity currently available to raid HPN's current surplus for the general budget, that scenario could very likely change over time, perhaps soon, with a new federal administration committed to scaling back these types of regulations. There are 12 publicly owned airports in the country today that are allowed to divert revenue for their owners' general budgets.¹⁷

Federal legislation could completely change the calculus at the airport by allowing revenue diversion or mandatory curfews and noise restrictions. Entering a Lease would preclude the county from taking advantage of federal legislation passed at any point in the next 40 years that would allow it to better achieve its financial or environmental goals at the airport. The federal prohibition on revenue diversion is less than 40 years old.¹⁸ The federal prohibition on local noise and operating restrictions is less than 30 years old.¹⁹

It is nearly impossible to predict what legislation might pass in the future. However, it is worth noting that East Hampton, whose airport handles 1/6 of the traffic as HPN, is vigorously pursuing federal legislation to allow more local control over its airport, including imposing mandatory curfews and noise restrictions. Congressman Lee Zeldin (R-NY) has been supportive of his constituents' efforts to enact these restrictions.²⁰ Westchester County could work with local federal representatives like Nita Lowey (D-NY), Sean Maloney (D-NY), Eliot Engel (D-NY), and Jim Himes (D-CT), as well as representatives from localities across the country with similar problems with airport noise.

Before taking as dramatic and final a step as leasing the airport for several decades, the county should first fully explore other ways to use the airport surplus that do not require handing over control to a for-profit entity. For example:

¹⁷FAA Airport Compliance Manual – Order 5190.6B, Chapter 15: “Permitted and Prohibited Uses of Airport Revenue”

¹⁸The Airport and Airway Improvement Act (Pub.L. 97-248) was passed on September 3, 1982

¹⁹The Airport Noise and Capacity Act (49 U.S.C. 47521 - 47533) was passed in 1990.

²⁰Menu, Kathryn G. “Supreme Court Will Not Hear East Hampton Airport Case.” [Sag Harbor Express](#) June 27, 2017.

- Any municipalities that provide services to the airport could be compensated to the maximum extent allowed by the law. For example, while the airport pays the county nearly \$10 million per year for police services, it does not appear to pay for fire or EMS services provided by Port Chester, Rye Brook, or Purchase.
- The airport could pay its share for the general cost of the county government, as described on Page 15-5 of the FAA Airport Compliance Manual (Order 5190.6B)
- The airport could strengthen its environmental controls, including by reinstating its groundwater monitoring program, updating the noise study, installing additional noise monitors, or assessing air pollution caused by airport traffic.
- The county could explore the possibility of creating a professional fire and EMS department based at the airport that primarily serves the airport but could also serve the surrounding communities.
- The county could explore the possibility of using empty land at the airport for solar electric generation.
- The county could explore the possibility of developing a pilot training or vocational program that could be run by Westchester Community College or by the county's high schools. Such a program should use electric training aircraft to minimize cost, noise, and the use of leaded aviation gasoline.

I. Airport Privatization Has Been a Failure in the Past

There is currently only one participant in the Airport Privatization Pilot Program: the Luis Muñoz Marín International Airport in San Juan, Puerto Rico. San Juan and Westchester County are very different municipalities, and the economic reasons for San Juan participating in the program do not apply here. Notably, Stewart Airport in Newburgh, New York terminated its privatization in 2007, after which the Port Authority of NY/NJ took over Stewart Airport, and hired AvPorts to manage and operate Stewart. The private operator at Stewart paid \$35 million, made \$10 million of improvements, pocketed all airport rents for seven years, and then exited by selling the remainder of its lease for \$78.5 million. For its part, the State of New York used the entire \$35 million from the sale to build a new access road to the airport, including a new exit off Interstate 84. Further, by all accounts, the Stewart privatization was a negative experience for the airport's various stakeholders.

J. Future Capital Projects Will Be More Expensive

Privatization would increase the cost of capital at HPN and make it more difficult and costly to pursue necessary projects. If, as expected, the private lessee will contribute its own capital for projects, this capital would have to be raised at higher rates than the county currently enjoys. Additionally, grants from the FAA's discretionary Airport Improvement Program (“AIP”) would fall from 90% today to 70% under a private owner or lessee²¹. While Frasca claimed at a June 22 public meeting that the airport has not received discretionary AIP funds, this is not true – FAA records show that the airport has received \$39.6 million in discretionary AIP funds since 1991. When presented with this evidence,

²¹49 USC §47109

Frasca dismissed the last such grant to be so long ago as to be irrelevant. Given that the last such grant was in 2008, it is troubling that a consultant advising the county on a 40 year plan considers events from 9 years ago irrelevant.

II. The Draft Airport Master Plan

A. The Draft Airport Master Plan (“Plan”) is Deeply Flawed

The Plan, if adopted, would greatly expand the airport, seriously harm our communities, and threaten the environment. Thirty years ago, the county reached a compromise with the airlines that became the Terminal Use Regulation now in county law. But the Plan ignores the TUR to predict a 68% increase²² in airline flights at the airport. It justifies this decision on the grounds that “passengers, when considering which airport to fly from, would [not] consider the TUR in their decision-making process.”²³ It goes on to claim that there are no constraints on airport development, despite the TUR, the adjacent residential neighborhoods, the longstanding policies of the Board of Legislators, the proximity of the Kensico Reservoir, and the environmental laws of multiple jurisdictions protecting the Kensico and Blind Brook.²⁴

Because its assumptions are out of touch with reality, the Plan paints a future of dramatic expansion. Its recommendations include:

- A 50% increase in overnight parking for airliners to allow more early morning departures.
- Adding two new jet bridges to the airline terminal.
- Using \$153 million in public funds to build and renovate facilities for corporate jets, including 3 new hangars, and
- Using \$49.5 million in public funds to build two new parking garages next to the airline terminal, adding 3,400 spaces to triple capacity.

B. Ignoring the Environment

Environmental protection should be an essential and fundamental component of the Plan. The FAA specifically states that environmental factors should be considered, and that potential key environmental impacts of each development project in the Plan should be identified.²⁵ Unfortunately, the Plan's treatment of the environment appears to be no more than an afterthought.

DY Consulting was hired to provide environmental insight and analysis that would illuminate important issues and concerns before moving forward. However, much of what has been produced is merely cut and pasted from other sources. Six pages were taken verbatim from CNN.com, magazine articles, and the county's website. Other pages are attributed to existing reports like the 2010 update to

²²The master plan is already woefully out of date: it does not use any actual data after 2013 in its forecasts. The plan's descriptions of current infrastructure at the airport ignores improvements made after 2014, like upgrades to the stormwater management system and the deicing facilities. We calculate the 68% increase by comparing the actual 2016 count from the FAA to the master plan's 2032 prediction.

²³Westchester County Airport Draft Master Plan, Chapter 3, page 3-22

²⁴Ibid.

²⁵FAA Advisory Circular 150/5070-6B, “Airport Master Plans.”

the airport's storm water management plan, but the text and figures are still directly copied.

Where DY did not copy, they still do not appear to have performed the serious environmental analysis that was expected. For example, in Chapter 5, Page B-3, the entire extent of their evaluation of greenhouse gas emissions is, “the proposed project would not increase GHG emissions compared to the future no action alternative. Therefore, no further consideration of GHGs is necessary.” No evidence or explanation is made for this assertion, despite the plan's calls for \$462 million in construction to expand airport capacity.

Another example is in Chapter 5, Page B-10. Their evaluation of impacts to surface waters, including the Kensico Reservoir and Blind Brook, reads: “The implementation of the Preferred Alternative, however, is not likely to exceed water quality standards established by Federal, state, and local regulatory agencies or contaminate public drinking water supply such that public health may be adversely affected.” Again, no supporting evidence is offered, even though the Plan calls for the construction of three new corporate jet hangars, parking lots for aircraft and cars, and maintenance facilities in an area of the airport where storm water drains into the Kensico. There is far too much at stake to rely on an unfounded assertion that their Plan is “not likely” to exceed water quality standards.

C. Ignoring the Public

In the five years between 2012, when the county began working on the Plan, and 2017, when it was deemed complete and submitted to the FAA, only one public meeting was held, on July 17, 2013. This meeting is detailed in Chapter 9 of the Plan. Less than 10% of the attendees were airport neighbors or community members; the vast majority were pilots and representatives of businesses at the airport. Even so, a full third of the feedback included complaints that additional information and input were needed. But there were no additional public meetings. Instead, the county ignored repeated requests by the public over the years to comment on or see the Plan.

D. Ignoring Logic

The Plan states in Chapter 5 that its plan for development follows from its predictions of future demand. Its plans for expansion of airline infrastructure are indeed explained by its traffic forecasts, as flawed as they may be. However, the Plan also calls for \$153 million in public funds – \$116 million of it from the county – to build and renovate hangars for corporate jets.²⁶ This makes no sense as the Plan predicts that no new corporate jets will be based at the airport and that private flights will decrease by 5%.²⁷ Public funding for these facilities is also unnecessary because Million Air, for example, is already building new hangars for jets at its own expense.

The list of suggested construction projects doesn't make sense unless the real plan is to increase profits at the airport. Although the Plan's traffic forecasts are deeply flawed, an honest plan based on the forecast would suggest reducing or making no changes to facilities for a shrinking number of private flights. But the Plan does no such thing; instead, it recommends expanding facilities for more profitable

²⁶Westchester County Airport Draft Master Plan, Chapter 7. Projects 12, 17, 27, 33, 44

²⁷Westchester County Airport Draft Master Plan, Chapter 3. Pages 3-50 & 3-52.

corporate jets, while eliminating facilities for small airplanes that are affordable for ordinary residents and provide training for aspiring pilots in our community.²⁸

The Plan is a template for making more money at the airport at the cost of everything else. It is exactly the kind of plan we would expect to see under unrestricted privatization. It ignores the environment. It means more corporate jets at the airport. It means more airline flights at the airport. It even means destroying the light general aviation community that has been present since the beginning of the airport in the 1940s and provides our residents with an opportunity to experience the wonder of flying a plane themselves.

E. A Threat to be Taken Seriously

Some have suggested that the Plan is irrelevant,²⁹ saying that perhaps it was prepared only because of an FAA requirement and that development at the airport would not follow the Plan. This view is naïve. Substantially all of the construction in the previous 1986 airport master plan in fact occurred. All of the taxiways and ramps called for in that plan were built. The new passenger terminal and its attendant parking garage were built. The two FBOs on the western side of the airport were first described in the plan. And hangars M, T, V, and W were all described in the plan.

What is at stake here is the quality of life in our communities and the safety of our drinking water. The Plan provides a template for expansion and profits while ignoring the environment. The Lease will provide the motive to implement it. For decades, the Board of Legislators has been committed to no expansion of the airport so that Westchester County continues to be a great place to live. Honoring that commitment does not require an updated master plan – indeed, in 2001 the Board affirmed its pledge “that there should be no expansion of Westchester County Airport facilities beyond those set forth in the Airport Master Plan Update of 1986.³⁰” If the county insists on updating the 1986 airport master plan, it must start over with a different author. DY has disqualified themselves through their failure to perform the work they were paid to do. Any airport master plan accepted by the Board of Legislators must respect the environment, obey county policy and law like the TUR, and incorporate real public input.

²⁸The Plan calls for removing all tie downs for light GA aircraft that make up over 50% of the aircraft based at the airport today. The Plan assumes that these aircraft will be parked in new hangars, despite rents for hangars being 3 times the price. Additionally, the Plan calls for \$30.4 million in construction to narrow runway 11-29 (used primarily by light GA) for no reason other than the current width being wider than required by the FAA.

²⁹Wilson, David McKay. “Tax Watch: Rob Astorino's fancy dance on Westchester airport's master plan.” The Journal News, June 1, 2017.

³⁰Local Law 18-2001