

RESOLUTION NO. 805 -2013, ESTABLISHING THE LONG ISLAND COMMISSION ON AQUIFER PROTECTION

WHEREAS, an aquifer system underlies both Nassau and Suffolk County; and

WHEREAS, the critical importance of the aquifer system was recognized by the United States Environmental Protection Agency when the system was designated a sole source aquifer (the "SSA"); and

WHEREAS, numerous studies and reports have recognized the critical importance of protecting the quantity and quality of water in the SSA; and

WHEREAS, groundwater and surface water are inextricably linked in the Long Island water cycle and protecting the quality of groundwater will protect the quality of the surface water into which groundwater flows; and

WHEREAS, notwithstanding the numerous reports and studies prepared to date, the preliminary results of Suffolk County's Comprehensive Water Resources Management Plan highlight the need to undertake additional proactive measures to safeguard Long Island's SSA; and

WHEREAS, the proliferation of local governmental entities and decentralized land use controls on Long Island limits the ability of the two Counties to adequately address water quality issues due to the very nature of the SSA, which crosses all geopolitical boundaries; and

WHEREAS, Nassau and Suffolk recognize the need for comprehensive planning and special studies to focus on opportunities and issues, such as groundwater protection strategies, that are best handled on a broad geographic scale; and

WHEREAS, Nassau and Suffolk Counties need a strong bi-County commission specifically devoted to addressing the host of groundwater issues facing Suffolk and Nassau and to advocate a coordinated approach to the groundwater issues facing our region; and

WHEREAS, the commission membership should include a consortium of private and public experts on groundwater issues; and

WHEREAS, the Suffolk County Executive and this County Legislature have determined that it is in the best interest of the County to establish, in conjunction with the County of Nassau, the Long Island Commission for Aquifer Protection (the "LICAP") to build upon the previous studies and reports, identify areas for further research and suggest programmatic opportunities for preventing the further degradation of Long Island's SSA and identify mechanisms, including land use controls, for improving the quality of water within the SSA and for implementing safeguards to maintain the quantity of water within the SSA; and

WHEREAS, LICAP is intended to be a temporary commission charged with gathering relevant data on groundwater issues and preparing a State of the Aquifer Report and

a Groundwater Resources Management Plan that should form the scientific underpinning for a yet to be established entity; now, therefore be it

1st RESOLVED, the Long Island Commission for Aquifer Protection (the "LICAP") is hereby established; and be it further

2nd RESOLVED, that the Suffolk County Executive is hereby empowered and authorized to enter into an intermunicipal agreement with Nassau County, which agreement will set forth the terms and conditions under which the LICAP will operate, such agreement to be consistent with the terms of this resolution; and be it further

3rd RESOLVED, that the LICAP shall consist of nine members. Five entities shall have a permanent membership position, the Suffolk County Water Authority, the Long Island Water Conference, the Nassau-Suffolk Water Commissioner's Association and the Nassau and Suffolk Departments of Health. Each entity or member may designate a representative to attend meetings and such representative shall serve at the pleasure of his or her designating entity. There shall be four appointed members, two members to be appointed from Nassau County and two members to be appointed from Suffolk County, as set forth below. A quorum of the LICAP shall consist of no fewer than five voting members, which, at a minimum, must include at least three of the permanent members and at least one such member from Nassau County and at least one member from Suffolk County; any subcommittee of the Council shall contain equal representation from each County and at least one permanent member; and be it further

4th RESOLVED, that the Suffolk County Executive and the Presiding Officer of the Suffolk County Legislature shall each, subject to the approval of the Suffolk County Legislature, appoint one member to the LICAP, each of whom shall reside in Suffolk County. Each appointment shall be for a four year term except the initial non-permanent members of the LICAP shall have staggered terms, with the two Suffolk members having initial terms of one and four years and the two Nassau members having initial terms of two and three years. All members appointed pursuant to this resolved clause should have a background in hydrology, geology, hydrogeology, public sanitation, public health, and engineering, academia with a specialization in the study of groundwater issues, environmental protection and advocacy, or employment with a public water provider. Such members shall continue to hold office until their successors are appointed and qualified, provided that the appointment of a successor to a member who has continued to hold office after the expiration of his or her original term shall be for the unexpired portion of the new term; and, provided, further, that the vacancies in the LICAP occurring as a result of something other than the expiration of the term shall be filled by the appointing authority, subject to the approval of the Legislature, for the unexpired term; and be it further

5th RESOLVED, that the Suffolk County Executive, the Presiding Officer of the Suffolk County Legislature, the Minority Leader of the Suffolk County Legislature, the Commissioner of the Department of Public Works, the Commissioner of Parks, Recreation and Conservation, and the Commissioner of the Department of Economic Development and Planning, or their representatives, shall serve as ex-officio members of the LICAP, but shall not be entitled to vote, and a representatives from the New York State Department of Environmental Conservation, the United States Geologic Survey and the Long Island Groundwater Research Institute shall be invited to serve as ex-officio members; and be it further

6th **RESOLVED**, that the members of the LICAP shall receive no salary or compensation for their services; and be it further

7th **RESOLVED**, that any LICAP member may be removed by their appointing or designating authority for cause, including a member's failure to attend at least half of all regularly scheduled meetings during the calendar year; and be it further

8th **RESOLVED**, the Chair and Vice-Chair of the LICAP shall rotate between the Suffolk County Water Authority, the Long Island Water Conference and the Nassau-Suffolk Water Commissioner's Association on a two-year basis. The first Chair shall be the Suffolk County Water Authority's representative. The Chair shall keep a record of its resolutions, transactions, findings and determinations, which shall be public record, and shall adopt and file with the Clerks of the Nassau County and Suffolk County Legislatures by-laws governing its operations, including by-laws governing procurement that comply with all state requirements and, to the extent possible and reasonable, provide for competitive solicitation of goods and services; and be it further

9th **RESOLVED**, that the LICAP shall meet quarterly, or more often as agreed to by the LICAP. Notice of such meetings shall be provided, and such meetings shall be open to the public in compliance with the provisions of the Public Officers Law. Minutes of the meetings shall be kept and meeting agendas and minutes shall be provided to all LICAP members and ex-officio members; and be it further

10th **RESOLVED**, that the LICAP is hereby authorized and empowered to receive and expend public and private funds, including grants from non-profit foundations, agencies, corporations, including, public benefit corporations, and private entities, contract with public corporations for in-kind services and may apply for and accept grants, donations, subsidies, or other funding from the federal, state and local governments, and enter into contracts for and agree to accept such grants, donations or subsidies in accordance with its approved purposes and make grants to public education and/or research institutions, such funds to be used for research purposes, provided that no more than 15% of the LICAP funds are used to pay for overhead or associated costs; and be it further

11th **RESOLVED**, the LICAP shall have the power and authority to enter into agreements with consultants and experts and to pay for their services; and to provide for such other expenses as may be necessary and proper within the appropriations therefor; and be it further

12th **RESOLVED**, that the members of the LICAP shall be subject to the Codes of Ethics contained in Chapter 77 of the Suffolk County Code or Section 2218 of the Nassau County Charter and Sections 22-4.2 and 22-4.3 of the Nassau County Administrative Code depending on their place of residence; notwithstanding the foregoing, LICAP staff members employed by a public corporation with its own Code of Ethics shall be subject only to the employing entity's Code of Ethics; and be it further

13th **RESOLVED**, LICAP members and the firms that they work for, or are associated with, shall be precluded from providing any paid services to LICAP; and be it further

14th **RESOLVED**, that the LICAP shall prepare and release a State of the Aquifer Report (the "Report") within one year of its first meeting and thereafter provide annual updates of the Report. The Report and its updates shall be issued to the Nassau and Suffolk County

Executives, the Nassau and Suffolk County Legislatures, and public water purveyors in Nassau and Suffolk Counties and posted on the LICAP website; and be it further

15th RESOLVED, that LICAP, on an annual basis, shall conduct at least one public hearing in each County for the purpose of soliciting information necessary for the Report's preparation on issues of regional concern affecting the SSA from members of the public and organizations involved in groundwater research, management and advocacy; and be it further

16th RESOLVED, LICAP shall establish two standing committees, the 2040 Water Resources and Infrastructure Subcommittee (2040 WRIS) and the Water Resource Opportunities Subcommittee (WROS). The 2040 WRIS shall develop a 2040 WRIS Plan to identify long-term risks to the water supply industry created by global climate change. The 2040 WRIS Plan shall recommend short term measures to strengthen public water distribution systems against these long term risks, including, but not limited to, the development of well placement criteria, mechanism for hardening water distribution system infrastructure in coastal areas and loss mitigation strategies, including methods for isolating vulnerable portions of distribution system during an event. The WROS will identify and quantify short term risks, if any, to groundwater resources; and be it further

17th RESOLVED, within three years of the Report, LICAP shall issue a Groundwater Resources Management Plan (the "Plan"), containing including, but not limited, to:

- a. Qualitative and quantitative groundwater data;
- b. Anthropogenic threats to groundwater quality and quantity;
- c. Existing regulatory groundwater management regimes,
- d. Assessment of adequacy of existing groundwater management regulations,
- e. Management opportunities;
- f. Development of recommendations;
- g. Methods for implementing the recommendations and proposed regulatory amendments; and
- h. Implementation program, including stakeholders, roles and responsibilities, prioritization of actions, schedule and costs;

and be it further

18th RESOLVED, in preparing the Plan, the LICAP may:

- a. conduct surveys, studies, and research programs that address regional groundwater needs, including general protection, enhancement, quality of life, sustainable growth and development dependent on the SSA, and distribute information and recommendations resulting from such surveys, studies, and research programs;
- b. consult and cooperate with the state government, its political subdivisions

and public and private entities in matters related to regional groundwater protection issues; and

- c. establish relationships with local universities and colleges on groundwater protection issues;

and be it further

19th **RESOLVED**, the LICAP shall provide public notice upon completion of a draft Groundwater Resources Management Plan and shall conduct at least one public hearing in each County on such draft prior to the issuance of the Plan; and be it further

20th **RESOLVED**, notice of all hearings conducted pursuant to this resolution shall comply with the requirements of the Public Officers Law and shall, in addition, be provided to appropriate organizations identified by the LICAP; and be it further

21st **RESOLVED**, if the LICAP maintains funds in its exclusive custody and control or enters into any agreement providing for the payment of LICAP funds, it shall, consistent with the requirements of General Municipal Law Section 239-h, engage a Certified Public Accountant to complete an annual financial audit and audit of the internal control structure of the LICAP, a copy of which shall be included in the annual report:

- a. the LICAP shall file with the Nassau and Suffolk County Executives and the Nassau and Suffolk County Legislatures the terms and conditions of its employment/consultant agreements within 30 days of entering into such agreements; and
- b. the LICAP shall be subject to audit by the Nassau and Suffolk County Comptrollers. LICAP need not prepare such reports, if either County, on LICAP's behalf, engages a third party to perform work at the direction of LICAP or if either County hires employees to work on LICAP projects;

and be it further

22nd **RESOLVED**, the LICAP shall focus its efforts solely on quality and quantity of groundwater in the SSA and methods for preventing further degradation of such waters, improving these waters and ensuring their quality and quantity for future generations and those issues as requested by either County Executive and/or either County Legislature; and be it further

23rd **RESOLVED**, that this resolution shall become effective upon the approval and adoption of a substantially similar resolution or ordinance by Nassau County; provided, however, that such a resolution or ordinance shall not be construed as "substantially similar" if it affects the powers of Suffolk County or its members on the LICAP, including, but not limited to, representation, voting powers or Suffolk County's financial contribution to the LICAP; and be it further

24th **RESOLVED**, that the LICAP will expire and the terms of its members will terminate five years after the effective date of this resolution or the effective date of the ordinance adopted by Nassau County, whichever is later, unless both counties enact a new resolution/ordinance reauthorizing LICAP and its mission; and be it further

25th **RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED: October 8, 2013

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: October 17, 2013