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2006

AMENDMENT in the nature of a substitute for clerk item # 382-06

Introduced by Presiding Officer Jacobs and Minority Leader Schmitt

Proposed Local Law No. 10 -2006

A LOCAL LAW in relation to establishing an Environmental Program for Nassau County

Passed by the Nassau County Legislature on September 5, 2006

Voting: ayes: 19, Nays: 0, Abstained: 0

Became a law on September 7, 2006 with the approval of the County Executive.

FORM APPROVED

[Signature]
MAJORITY COUNSEL

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF NASSAU AS FOLLOWS:

Section 1. This law shall appear in the miscellaneous laws as title 59.

§ 2. Legislative Intent.

The legislature finds that there continues to be a compelling and urgent need to preserve the County's remaining open space, to provide adequate and diverse kinds of parklands and park facilities for County residents for both active and passive recreation, to protect the County's precious water resources whether above or underground, such as aquifers, recharge areas, ponds, streams, estuaries and other bodies of water, and to provide for the cleanup of brownfields within the County.

Development pressure is threatening open space in the County. The County Legislature finds that the preservation of open space is essential to protect the quality of life of County residents, provide a buffer against sprawl, maintain groundwater recharge areas to ensure the quality and quantity of future drinking water supplies, protect natural habitat and sensitive environmental areas, and provide access for residents to woodlands, coastal waterfronts, trails and other natural areas.

The County Legislature finds, further that many parks, recreational and historic facilities within the County are in need of renovation, restoration, and capital

improvement, and that it is a county purpose to improve the quality of County parks in order to provide increased recreational opportunities, enhance property values and improve the quality of life for County residents.

Storm water runoff pollution is a threat to the quality of water resources of the County's north and south shores. This condition has been documented by the south shore estuary comprehensive management plan and the comprehensive conservation and management plan for Long Island Sound, which found that non-point source pollution is the primary water quality concern in the south shore estuary reserve and Long Island Sound and its estuaries. In addition, the County is required by the Clean Water Act to develop a strategy for mitigating storm water runoff pollution. This Legislature declares that funding necessary storm water projects, which may include pond rehabilitation and/or dredging projects, and assisting the county in preparing for the new federal regulatory requirements are County purposes and, in addition, constitute purposes contemplated by the New York State and County legislatures when they created the county sewer and storm water resources district in two thousand three.

Surface and coastal waters are also a vital element of the County's quality of life, its environmental resources, and appeal to residents and tourists. This Legislature finds that both the quantity and quality of the County's water resources are threatened by increased usage and contamination as a result of past and foreseeable future development, so that the protection of the County's water resources is a county purpose necessary for the wellbeing of residents, the health of the environment, and the vitality of the economy.

Pollution and toxic waste have despoiled many parcels of land in the County and made them unfit for development and other use. This Legislature finds that it is the role of municipalities to fund, where practicable, the clean up of the brownfield areas.

This Legislature finds therefore, that it continues to be necessary to fund a rational and fiscally prudent program to further the purposes of preserving open space; acquiring and improving parks, athletic fields and other recreational facilities; restoring and improving park, recreational, and historic assets; mitigating storm water runoff pollution; protecting and improving the County's water resources, including any projects to accomplish such goal and the goal of mitigation of storm water runoff pollution, and remediating brownfields. In connection with each of the above purposes, the County

should, to the extent practicable, partner with any other municipality within the County, and the state and federal governments.

§ 3. Definitions.

For purposes of this section, the following words shall have the following meanings:

"Active parkland" shall mean parkland that is used for primarily for sports, exercise, entertainment or active play.

"County" shall mean the County of Nassau.

"District" shall mean the Nassau county Sewer and storm Water Resources District, established pursuant to chapter six hundred eighty-five of the laws of two thousand three.

"Environmental bond issue" or "bond issue" shall mean the serial bonds issued by the county or the Finance Authority for the purpose of establishing an environmental program pursuant to this law.

"Environmental program" or "program" shall mean projects funded by serial bonds in any amounts up to a total of one hundred million dollars issued for the purposes set forth in section six of this law. "Environmental program" shall not refer to projects funded by any moneys other than the environmental bond issue.

"Finance authority" shall mean the Nassau County Interim Finance Authority established pursuant to chapter eighty-four of the laws of two thousand or the Nassau County Sewer and Storm Water Finance Authority established pursuant to chapter six hundred eighty-five of the laws of two thousand three, as appropriate.

"Improvement" shall mean an addition made to parkland or an amelioration of the condition of parkland or an amelioration of the condition of an improvement on parkland amounting to more than routine maintenance.

"Natural or scenic resources" shall mean open areas and shall include but not be limited to, agricultural lands, including lands employed for the raising of livestock, defined as open lands actually used in bona fide agricultural production.

"Open space," "open land," or "open area" shall, as set forth in the section two hundred seventy-four of the General Municipal Law, mean any space or area characterized by natural scenic beauty; or where the existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or

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surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources.

"Open space purposes" shall mean purposes or projects that involve one or more of the following: (a) the creation or establishment of parks, nature preserves, or recreation areas; (b) the creation or preservation of open space, including agricultural lands and lands used for livestock, animal husbandry, grazing, or care of animals; (c) preservation of lands of exceptional scenic value; (d) preservation of fresh and saltwater marshes or other wetlands; (e) preservation of aquifer recharge areas; (f) preservation of undeveloped beachlands or shoreline; (g) creation or establishment of wildlife refuges for the purpose of maintaining native animal species, including the protection of habitat essential to the recovery of rare, threatened or endangered species; (h) preservation of unique or threatened ecological areas; (i) creation or preservation of forested land; (j) preservation of public access to lands for public use including stream rights and waterways; and (k) undertaking any of the aforementioned in furtherance of the establishment of a greenbelt.

"OSPAC" shall mean the Nassau County Open Space and Parks Advisory Committee.

"Planning Commission" shall mean the Nassau County Planning Commission.

§ 4. Establishment of environmental program.

Nassau County or the Finance Authority are hereby authorized to issue, appropriate and expend one hundred million dollars in serial bonds of the County of Nassau by means of bonds issued pursuant to duly enacted bond ordinances of the County of Nassau, and all moneys raised pursuant to such bond issues shall be used to implement the environmental program pursuant to this law.

- a. The County Legislature may vote on a bond ordinance and corresponding resolution(s) for a project or group of projects in accordance with section seven of this local law.
- b. The Treasurer shall deposit the proceeds of all such bonds into one or more accounts designated as environmental program funds, which shall be used only for the purposes, and in the manner, set forth in this Local Law. Such funds may include additional moneys from other sources, including but not limited to, dedicated fees, grants, or any other moneys allowed by law; provided, however that such additional moneys shall not be subject to the limitations set forth in this section.

§ 5. Dedicated tax and special revenue fund for payment of debt service.

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A special revenue fund is hereby established, to commence in the first fiscal year in which debt service must be paid for bonds issued pursuant to the program, for the purpose of payment of debt service for projects authorized pursuant to the program. The county budget for the fiscal year in which debt service is payable on bonds issued pursuant to the program shall include a tax levy dedicated to the payment of debt service for County projects funded by such bond issue, provided that clean water projects pursuant to the program shall be funded by the district and the budget for the district commencing in fiscal year two thousand ten shall include a tax levy to pay the debt service for such clean water projects. The taxes assessed pursuant to this section shall appear as a separate item on the tax bill submitted to property owners. Moneys raised through the tax levies authorized by this subdivision shall be placed in the special revenue fund and shall be used only for payment of such debt service. The County may, in its discretion, and as legally permissible, deposit other revenues into such fund; provided, however, that such other revenues shall not be subject to the limitation contained in this subdivision.

§ 6. Expenditures of the proceeds of the environmental bond issue. The net proceeds raised through the environmental program bond issue may be expended as set forth in this section:

- a. Open space preservation. A portion of the net proceeds from the environmental program bond issue shall be expended for the acquisition of real property rights.
 - (i) All real property purchased in fee under the environmental program pursuant to this subdivision may be limited by deed restriction to future use for only park, recreation, agricultural or open space purposes and may be dedicated as perpetual preservation lands under county law.
 - (ii) Parcels of land from which development rights or other interests are acquired may remain preserved in perpetuity via a permanent conservation easement or other means that similarly preserves the open space, ecological, water recharge, or scenic value of the parcel, or the agricultural character of the parcel of land.
 - (iii) The County may enter into agreements with other municipalities within the county, the state, or other entities, as permitted by law, to purchase development rights, conservation easements or other rights or interests in land for the purposes set forth in

this law; provided, however, that the county contribution shall not exceed fifty percent of the total cost of such purchases.

b. Parks expansion and improvement. A portion of the net proceeds from the environmental program bond issue shall be expended for park expansion and improvement, as follows:

(i) Acquisition and improvement of active parkland. A portion of the net proceeds from the environmental program bond issue shall be expended for the acquisition or improvement of land for use as active parklands, except golf courses. In addition to such acquisition or improvement by the County, for purposes of this subparagraph, such acquisition or improvement may also be accomplished through written agreements with municipalities within the County or with a duly incorporated or organized not-for-profit entities to improve the properties for additional space for playgrounds, athletic fields, outdoor concerts, horseback riding or other equine activities, or other community recreational needs; provided, however, that all such agreements shall provide for continued public access to such property; at a minimum allowing free access to all County residents as spectators at sporting events, and providing in lease agreements a mechanism for County residents to maintain reasonable access to facilities when such facilities are not in active use by the contracting municipality or organization. The County may enter into agreements with municipalities within the County to acquire or improve parcels of land pursuant to this subparagraph, or may make grants to such municipalities; provided, however, that the county contribution cannot exceed fifty percent of the total cost of such acquisition or improvement.

(ii) Park renovation and improvement. A portion of the net proceeds from the environmental program bond issue shall be expended for improvements to county park, recreational, museum and historical facilities, and construction of facilities, amenities and other capital improvements to such park, recreational, museum and historical facilities; provided, however, that no moneys from the environmental bond issue shall be expended for the replacement, repair or maintenance of existing park structures or facilities.

c. Clean water projects. A portion of the net proceeds from the environmental program bond issue shall be expended for capital projects of the district that will contain, abate or mitigate storm water carried pollutants that otherwise would impair the quality of the

County's north and south shore estuaries. Projects may include, but shall not be limited to, sediment collection basins, storm drain catch basins, drainage swales, and end-of-pipe treatment units, such as swirl-type collectors, and water body rehabilitation, dredging and improvement projects.

d. Brownfield clean-up projects. A portion of the net proceeds from the environmental program bond issue shall be expended for capital projects that will remediate brownfield sites. For the purposes of this provision, "brownfield site" shall have the meaning set forth in section 27-1405 of the New York State Environmental Conservation Law.

e. Preliminary and incidental costs. A portion of the net proceeds from the environmental program bond issue may be used, consistent with the Local Finance Law, for preliminary and incidental costs of the capital projects financed under the environmental program; provided, however, that the County shall only expend the minimum amount necessary for such costs.

§ 7. Procedure for proposals under the Environmental Program

a. Proposals in furtherance of this program shall be made by the County Executive; provided, however, that such proposals shall not be limited to any proposal or proposals generated in furtherance of any previous environmental program of the County.

b. Any such proposal may be made at any time and shall be transmitted in writing to the Planning Commission and OSPAC for review, evaluation and recommendation. OSPAC shall, within thirty days of receipt of a proposal, complete and transmit its report and recommendations to the Planning Commission.

c. Not later than seventy-five days following receipt of a proposal from the Environmental Program Advisory Committee, the Planning Commission, shall complete and transmit the findings of such review and evaluation, together with any report and recommendation from OSPAC to the County Executive. The County Executive may introduce the proposal for consideration by the legislature, along with the findings of the Planning Commission and OSPAC; provided, however, that failure by either the Planning Commission or OSPAC to provide such report and recommendations within the time period set forth in this section, shall be deemed to constitute neutral findings and the County Executive may proceed for consideration by the Legislature.

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d. Each such proposal and each corresponding bond ordinance shall be subject to the approval of thirteen members of the County Legislature.

§ 8. Annual report. No later than the first day of September of each year in which there are existing funds raised through such bond issue, the County Executive shall report to the County Legislature in writing, detailing the expenditures of such funds, the balance of funds remaining, and the balance of authorized expenditures during the prior year and recommendations for future years.

§ 9. SEQRA Determination. It is hereby determined, based on the recommendation of the Nassau County Planning Commission acting in an advisory capacity to the Nassau County Legislature, the lead agency, and pursuant to the provisions of the State Environmental Quality Review Act ("SEQRA"), 8 NYECL section 0101 et seq. and its implementing regulations, Part 617 of 6 NYCRR, and Section 1611 of the County Government Law of Nassau County, that this Local Law will not have a significant impact on the environment and that no further environmental review or action is required. A record of the Planning Commission's recommendation of negative declaration for this action shall be maintained in a file, readily accessible to the public, at the office of the Planning Commission.

§ 10. Severability. If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, entity or circumstance involved in the controversy in which such order or judgment shall be rendered.

§ 11. Construction with other laws.

a. This local law shall in no way be construed to limit or restrict the use of funds, or the extent of the environmental program under Local Law No. 14-2004.

b. The proceeds from the environmental program bonds issued pursuant to this Local Law shall not be encumbered unless and until at least ninety percent of the proceeds from the environmental program bonds issued pursuant to Local Law no. 14-2004 have been allocated.

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§ 12. Effective date. This local law shall take effect immediately upon the certification by the Nassau County Board of Elections of an affirmative vote by referendum to be held at the general election to be held in November two thousand six, as required by section one hundred fifty-five of the County Government Law of Nassau County.

APPROVED

Thomas R. Scoppa
County Executive

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