

Submitted by the County Executive and Introduced by

LOCAL LAW NO. 55--2011

A LOCAL LAW TO AMEND THE COUNTY GOVERNMENT LAW OF NASSAU COUNTY, IN RELATION TO MERGING THE DEPARTMENT OF PLANNING INTO THE DEPARTMENT OF PUBLIC WORKS AS A DIVISION OF SUCH DEPARTMENT

APPROVED AS TO FORM
[Signature]
Deputy County Attorney

Passed by the Nassau County Legislature on June 6, 2011
Voting: ayes: 16 nays: 0 abstained: 0

Became a law on June 14, 2011 with the approval of the County Executive.

BE IT ENACTED by the Nassau County Legislature as follows:

Section 1. Sections 1601 through 1604 of the County Government Law of Nassau County, as last amended by Local Law 9-2009, are hereby amended to read as follows:

§1601. **Division established; planning commission; members; terms; vacancies, alternates, training requirements.** a. There are hereby established a Planning Division within the Department of Public Works and a County Planning Commission. The County Planning Commission shall be comprised of nine voting members, appointed by the County Executive subject to the approval of the Legislature, all of whom shall be residents of the County so appointed that there shall be at least one resident from each of the several towns. It shall also include one non-voting member, appointed by the Commissioner of Public Works, who shall be called the Director of Planning and who shall supervise the Planning Division. Among the nine voting

members of the County Planning Commission, at least four shall be residents of incorporated villages, at least one shall be an active member of an environmental or conservation organization or hold an undergraduate or graduate degree in a field of study related to the sustainability of the environment or the conservation of natural resources, at least one shall be an active member of an organization advocating the interests of businesses within the County or an active member of a chamber of commerce, and at least one shall be an active member of an organization advocating the interests of the minority residents of the County or a member of a community development agency or a public housing agency or authority.

The terms of office of the voting members of the County Planning Commission appointed to serve terms which commenced prior to January first, nineteen hundred ninety-six shall terminate December thirty-first, nineteen hundred ninety-five. For those members appointed to serve on the County Planning Commission on or after January first, nineteen hundred ninety-six the term of office shall be three years, except for those initially appointed who shall serve staggered terms as follows: three members for terms commencing January first, nineteen hundred ninety-six and expiring December thirty-first, nineteen hundred ninety-six (one year); three members for terms commencing January first, nineteen hundred ninety-six and expiring December thirty-first, nineteen hundred ninety-seven (two years); and three members for terms commencing January first, nineteen hundred ninety-six and expiring December thirty-first, nineteen hundred ninety-eight (three years). When making the appointments, the County Executive shall indicate the length of the term of each member. For the purpose of making the above appointments, any city heretofore or hereafter created from the territory of any town shall be considered to be part of that town. Vacancies shall be filled by appointment of a

County resident as described above with respect to which such vacancy has occurred.

b. **Alternate members of the County Planning Commission.** The County Executive may appoint for a term of three years, subject to the approval of the Legislature, no more than two residents of Nassau County to be alternate members of the County Planning Commission, who shall substitute for any member who is absent, unable to serve, physically incapacitated, or prohibited by law or disqualified from participation. The County Planning Commission may establish in its rules of procedure established pursuant to section sixteen hundred two of this article, such additional procedures with respect to alternate members as it deems necessary.

c. **Training requirements.** Each member of the County Planning Commission and each alternate member shall complete at least four hours of training approved by the Director of Planning each year, designed to enable such members to more effectively carry out their duties. Approved training completed by a member in excess of four hours in any one year may be carried over into succeeding years in order to meet the requirements of this subdivision. Providers of such training shall include, but not be limited to, a municipal agency or department, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, accredited continuing legal education provider, or a college or university. Training may be provided in a variety of formats, including but not limited to electronic media, video, distance learning and traditional classroom training. A member or alternate member shall not be eligible for reappointment unless such member has completed training in accordance with the requirements of this section. A member's failure to comply with the requirements set forth herein shall not void or invalidate any action taken by the County Planning Commission.

§ 1602. **Organization; rules of procedure; employees.** a. The County Planning Commission shall select from its own voting members a chairperson and vice-chairperson, and shall adopt its own rules of procedure, which may include, but shall not be not limited to, authorization to select such additional vice-chairpersons or other officers as the County Planning Commission determines is necessary and appropriate.

b. The Commissioner of Public Works shall have power, within the limits of the appropriation made by the Legislature, to appoint and employ deputies to the Director of Planning, as he or she deems necessary and appropriate, who may act generally for and in place of the Director; and other necessary clerical assistance, and to employ or contract with such city planners, engineers, architects, and other assistants as may be necessary in the performance of the duties of the Planning Division and the County Planning Commission.

§ 1603. **Duties of the Division.** It shall be the duty of the Department of Public Works through its Division of Planning, in coordination with the County Planning Commission, to:

a. Advise and report to the County Executive, the Legislature and other departments of the County government with respect to the physical development of the County, to the end that governmental activities in and for the County that are within the jurisdiction of the County government will contribute toward achieving and maintaining a character of development in the County that will be physically harmonious, economically sound, environmentally sustainable and socially beneficial.

b. Perform such administrative duties as are set forth in this article and such others as may be assigned to the Department from time to time by the County Executive

or the Legislature.

c. Advise and consult with the planning boards and other agencies and officials of the cities, incorporated villages, and towns in the County with respect to such of their activities as relate directly to the physical development of the territories under their respective jurisdictions and invite suggestions from state and federal officials, with the same objective as that set forth in paragraph a of this section.

d. To promote commerce and industry within the County by undertaking the following powers and duties:

1. To confer with and advise the County Executive and the County Legislature on all matters concerning the commercial and industrial development of the County.

2. To advertise the commercial and industrial advantages and opportunities of the County within the means provided by any appropriations made therefore by the County Legislature.

3. To collect data and information as to the type of commerce and industries best suited to the County.

4. To develop, compile and coordinate information regarding available areas suitable for commercial and industrial development.

5. To study and recommend means of encouraging the orderly development of areas suitable for commercial and industrial development and to promote suitable improvement of such areas of the County.

6. To aid the County Executive, the County Legislature and County Planning Commission in the attraction of new commercial business and industries and in the encouragement of expansion by existing industries and business.

7. To cooperate with all community groups which are dedicated to orderly commercial, industrial and economic expansion of the County, and to furnish them such aid and advice as is deemed appropriate.

8. To cooperate with all commercial establishments, industries and businesses in the County in the solution of any community problems which they might have, and to encourage the managements of such concerns to have a healthy and constructive interest in the County's welfare.

9. To periodically survey the County to determine whether the County furnishes such services and facilities as are conducive to industrial and economic expansion.

10. To issue publications and reports designed to promote the County's commercial and industrial growth and development.

11. To recommend to the County Executive and the County Legislature policies and procedures in carrying out the purpose of this section.

12. To submit an annual report to the County Executive and the County Legislature on commercial and industrial development.

13. To engage in such activities as will promote the economic well being of the County, including but not limited to promoting environmental sustainability and efficient transportation systems throughout the County.

§ 1604. **Method of operation.** In the performance of its duties as set forth in

section sixteen hundred three the Division of Planning in coordination with the County Planning Commission, shall:

a. Study the characteristics of and trends in population, economic activity, land use, and related aspects of physical development in the County, taking into account conditions affecting such characteristics and trends both within the County and having a bearing on the County as a part of the intercommunity composite of the New York metropolitan area. In furtherance of the provisions of this paragraph, the County Planning Commission shall, no later than January first, nineteen hundred ninety-nine, prepare and adopt a comprehensive master plan for the development of the entire area of the County which master plan shall include studies and recommendations regarding highways and transportation, economic development, parks, public water supply, air quality, solid waste disposal, historic preservation, wastewater treatment, open space preservation, environmental conservation and sustainability, future land use and availability of housing. Such master plan shall be revised and updated whenever and as often as the County Planning Commission may deem it in the public interest, but at least once every five years after its initial adoption. Nothing herein shall be construed as limiting or diminishing the powers and authority of the several towns, cities and villages within the County to exercise, amend and enforce their own zoning and land use codes and local laws and to publish and adopt a comprehensive plan limited to such town, city or village.

b. Make such studies of and recommendations and plans relating to such phases of the physical development of the County as may be directed from time to time by the County Executive or the County Legislature.

c. Provide, within its ability to do so within the funds appropriated for its work, such information relating to the physical development of the County as may be requested

by other departments or officials of the County government.

d. Maintain information as to the activities of and the regulations in effect in the cities, incorporated villages, and towns in the County that relate directly to the physical development of the respective territories thereof and, within its ability to do so within the funds appropriated for its work, advise the planning boards and the other officials of such cities, incorporated villages, and towns, either on their request or on the initiative of the Division of Planning with respect to such activities and regulations therein.

§2. Paragraph 6 of subdivision a of section 1610 of the County Government Law of Nassau County, as last amended by Local Law 9-2009, is hereby amended to read as follows:

6. "Minor subdivision" means any proposed subdivision resulting in fewer than five lots provided, however, that the Planning Division of the Department of Public Works may determine to be a major subdivision any proposed subdivision that: (a) will result in or necessitate a new or modified public improvement; (b) presents material drainage or slope changes or other environmental considerations; (c) is on or contiguous to a special groundwater protection area, wetland, or park ; or (d) is part of or contiguous to a subdivision that was approved by the County Planning Commission not more than three years prior to receipt by the Planning Division of the application for such proposed subdivision.

§3. Subdivision f of section 1610 of the County Government Law of Nassau County, as last amended by Local Law 9-2009, is hereby amended to read as follows:

f. Subdivider duty to provide notice of public hearings. 1. A subdivider seeking approval of a proposed subdivision shall provide to all property owners of record as of the most recent county assessment roll whose property is within two hundred feet of

the perimeter of the subject property notice of the time, date and location of any public hearing at which the Planning Commission will consider his or her application for such approval. Such notice (a) shall be provided no later than thirteen days before the date of such public hearing; except for public hearings on final map approvals if the County Planning Commission permits such a reduction of time, but in no event later than seven days notice, and (b) shall be sent by certified mail, return receipt requested, or by overnight mail with proof of delivery, on forms supplied by the Planning Division of the Department of Public Works. All hearings for major subdivision applications shall be advertised at least once in a newspaper of general circulation in the County at least thirteen days before the date of such hearing, or as otherwise directed by the Commission. Not later than five days before the date of such public hearing, such subdivider shall file with the Planning Division an affidavit, executed by the applicant on a form supplied by the Planning Division, stating the name and address of each person to whom notice was sent and the date when such notice was sent. In addition to the foregoing notice requirement, the major subdivision applicant may be required to post copies of such notice in such places and in such manners as may be prescribed by the County Planning Commission and may further be required to advertise in such manner as the County Planning Commission deems most appropriate to provide for full public consideration of such proposed subdivision. Additional notice shall not be required when a hearing has been adjourned or continued, unless otherwise required by the County Planning Commission.

§4. Subdivision k of section 1610 of the County Government Law of Nassau County, as last amended by Local Law 9-2009, is hereby amended to read as follows:

k. Review of Planning Division and Commission Determinations. No decision by the Planning Division of the Department of Public Works regarding an application for subdivision approval shall be deemed a final determination until reviewed and acted upon by the County Planning Commission. Any person aggrieved by a final determination of the County Planning Commission may apply for review pursuant to article seventy-eight of the Civil Practice Law and Rules.

§5. Subdivision c of section 3 of Title 47 of the Miscellaneous Laws of Nassau County, as added by Local Law 9-2001, is amended to read as follows:

c) (i) Identifying financing mechanisms, including mechanisms involving assistance from other levels of government, to fund the acquisition, preservation, protection, restoration or enhancement of open space, parks, and areas of recreational, cultural archeological, habitat or historic significance or of an otherwise environmentally sensitive nature that have been identified and prioritized utilizing the criteria listed in this title or authorized by it to be developed. As part of identifying these mechanisms, OSPAC shall refer to and consider utilizing the mechanisms and criteria articulated in the Master Plan as developed pursuant to section sixteen hundred and four-a of the Charter to fund the acquisition, preservation, protection, restoration or enhancement of these areas. Such mechanisms shall include, but not be limited to: private funding; federal grant and funding programs; state programs and grants; the submission to the state legislature or to the voters of measures to authorize taxes or obligations to fund open space purposes; and potential local funding sources such as, to the extent permitted by law, fines or penalties imposed by the Planning Division of the Department of Public Works and Fire Marshall for violations of county environmental laws, ordinances or regulations.

(ii) The Planning Division and the Fire Commission shall each prepare an annual report analyzing the ways which, to the extent permitted by law, the fines or penalties imposed by such departments for land use development and environmental violations can be used for the purposes of open space acquisition. Such report shall be submitted before the first day of January each year to OSPAC, the Committee on Planning, Development and the Environment of the Legislature and the Office of the County Attorney.

(iii) OSPAC shall submit a report pursuant to this subdivision to the County Executive, the County Attorney, the Committee on Planning, Development and the Environment of the Legislature and the Planning Commission at least twice each year, in the months of January and July. Such reports shall: (a) contain recommendations for the funding of open space acquisition; (b) describe and update the research by OSPAC required pursuant to paragraph (i) of this subdivision into such funding sources and the status of its efforts to obtain such funding; and shall (c) include, but not be limited to, a description of existing, new and potential funding sources, including the potential sources identified by the Fire Department and the Planning Division pursuant to paragraph (ii) of this subdivision.

§6. Construction. Any reference in the County Government Law of Nassau County, the Nassau County Administrative Code or any other law, ordinance, resolution, rule or regulation or in any contract, grant, lease or other agreement to the Department of Planning shall be deemed to apply to the Division of Planning of the Department of Public Works and any reference to the Executive Commissioner of Planning shall be deemed to apply to the Director of Planning.

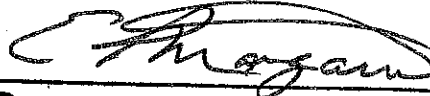
§7. It is hereby determined, pursuant to the provisions of the State Environmental

Quality Review Act, 8 N.Y.E.C.L. section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a “Type II” Action within the meaning of Section 617.5(c)(20) of 6 N.Y.C.R.R. (“routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment”), and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

§8. Severability. If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

§9. Effective Date. This local law shall be effective immediately, provided that the Department of Planning shall not be abolished nor its functions transferred prior to compliance with the provisions regarding transfer of employees pursuant to section 70 of the Civil Service Law and the provisions of section 307 of the County Government Law of Nassau County regarding the transfer of appropriations to the Department of Public Works.

APPROVED



County Executive

DATE June 14, 2011