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## **PRESS RELEASE**

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### **APPELLATE DIVISION OVERTURNS STATE SUPREME COURT RULING ON MINE EXPANSION PERMIT**

#### **TOWN'S LOCAL ZONING LAWS UPHELD**

On May 27, 2021, a State Appellate Court handed a significant victory to the Town of Southampton and its residents when it annulled a sand mine expansion permit that would have authorized mining to encroach significantly deeper into previously unpermitted acreage and closer to the sole source aquifer upon which the residents of the Town (and Suffolk County) depend for their clean drinking water.

The Town challenged in State Supreme Court the grant of a mine expansion permit to Wainscott Sand & Gravel, Corp. issued by the New York State Department of Environmental Conservation on the grounds that state law prohibits the processing of such an application by NYS DEC if local zoning laws or ordinances prohibit mining in the area proposed to be mined. The Court agreed with the Town's position, holding that the law in question "clearly recognizes that the local laws of the municipality are determinative as to whether an application can be processed." The Court further recognized that the statute was "precisely limited" to Long Island, the geographic area to which it applies, because of the region's dependency on the sole source aquifer for its drinking water.

The mine had not been previously authorized by NYS DEC to mine beyond the depth boundaries of its earlier permit, so the expansion, if left unchallenged, would have been in violation of local zoning laws, which prohibit mining in such areas in the Town. The Town believes this to be a significant victory for the right of Town residents to have a say through their local government in matters that implicate potential threats to their source of clean drinking water.

NYS Assemblyman Fred W. Thiele, Jr. stated, "The people of the East End of Long Island have won a major victory. The DEC has failed miserably to protect our groundwater. I am grateful that the Appellate Division of the State Supreme Court recognized both the intent of the Legislature to preserve Long Island's valuable groundwater resources and the home rule authority of local government."

"I was disappointed when the lower court ruled against the town's position." said Supervisor Jay Schneiderman. "But now the Appellate Court, a five-judge panel, has voted overwhelmingly in favor of the Town by reversing the lower court's decision. This is a big win for Southampton

Town and an even bigger win for the environment. The Appellate Division has reaffirmed the Town's ability to safeguard the purity of our drinking water supply, a precious natural resource."

"We will always fight to protect the purity of our drinking water for the wellbeing of our residents and to maintain the quality of the sole source aquifer so that it can be preserved for future generations," said Councilman Tommy John Schiavoni. "I applaud the decision handed down by the New York Supreme Court Appellate Division in the matter of The Town Southampton V. the New York State Department of Environmental Conservation. It affirms the Town's authority to protect its residents by safeguarding the water supply." Councilman Schiavoni recently sponsored legislation that requires those operating mine sites within the Town to monitor the groundwater impacts at such sites.

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