

# Long Island Sound Watershed Inter-municipal Council Case Study

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**1. Municipal Characteristics**

2004 Fiscal Metrics Financial/Statistical Data Item	City of Mount Vernon	City of New Rochelle	City of Rye	Town/Village of Harrison	Town of Mamaroneck	Village of Larchmont
Dicennial census	68,381	72,182	14,955	24,154	28,967	6,485
Land area (square miles)	4.4	10.4	5.8	16.8	6.6	1.1
Constitutional tax limit	\$ 64,575,330	\$ 124,295,865	\$ 77,116,048	\$ -	\$ -	\$ 21,508,123
Constitutional debt limit	\$ 253,681,618	\$ 497,519,178	\$ 304,048,256	\$ 479,817,928	\$ 437,620,601	\$ 85,097,826
Taxable assessed valuation	\$ 167,075,443	\$ 301,095,482	\$ 134,509,350	\$ 151,296,926	\$ 155,335,322	\$ 38,769,058
Full value of real property	\$ 4,055,229,199	\$ 8,029,212,853	\$ 5,095,051,136	\$ 7,204,615,523	\$ 7,258,659,906	\$ 1,602,027,190
Tax levy	\$ 36,656,059	\$ 36,748,402	\$ 15,254,250	\$ 25,884,860	\$ 10,928,215	\$ 8,252,735
Outstanding debt	\$ 18,578,255	\$ 94,675,236	\$ 16,683,013	\$ 38,111,500	\$ 13,327,600	\$ 3,750,022
<b>Revenues:</b>						
Taxes and assessments	\$ 36,349,669	\$ 37,174,128	\$ 15,282,841	\$ 30,425,968	\$ 15,482,357	\$ 8,249,232
Other tax items	4,754,810	1,394,200	268,896	341,111	375,410	19,401
Sales tax	13,403,387	22,612,067	1,801,366	3,159,004	1,323,233	653,840
Other taxes	1,325,976	1,963,388	342,472	670,233	2,719	95,302
<b>State aid:</b>						
General purpose	8,069,559	9,198,968	3,003,659	2,752,869	2,115,920	295,220
Health	85,189	116,730	-	-	238,363	-
Highway and transportation	49,593	2,461,566	215,395	119,943	-	-
Social services	-	17,999	-	-	-	-
Other state aid	709,900	1,955,905	102,776	57,833	63,156	40,141
Federal aid	15,303,358	14,010,095	15,255	266,523	2,407,095	37,452
Revenues from other governments	934,597	1,241,343	72,776	83,390	155,473	881,865
Interest earnings	654,718	890,828	241,918	921,943	272,908	88,838
<b>Departmental income:</b>						
Health	38,071	85,556	6,820	140,208	-	-
Sewer	-	-	-	-	3,190	-
Water	4,809,581	-	-	903,922	335,039	1,040,183
Other home & community svcs	153,071	5,015,702	97,599	24,788	32,850	16,254
Unclassified revenue	7,853,156	34,241,243	8,261,583	4,829,114	3,688,331	1,507,223
<b>Total revenues</b>	<b>\$ 94,494,635</b>	<b>\$ 132,379,718</b>	<b>\$ 29,713,356</b>	<b>\$ 44,696,849</b>	<b>\$ 26,496,044</b>	<b>\$ 12,924,951</b>
<b>Expenditures:</b>						
General government	\$ 14,977,079	\$ 16,123,775	\$ 4,619,093	\$ 15,119,604	\$ 4,311,279	\$ 2,003,902
Police	19,724,015	24,311,338	6,316,723	12,520,907	5,750,958	3,697,777
Fire	15,138,153	20,190,949	3,006,814	3,295,108	1,823,959	1,831,601
Other public safety	1,421,747	3,070,042	768,201	933,947	1,774,576	112,115
Health	241,424	248,996	17,675	724,946	1,276,433	20,000
Transportation	2,424,498	11,484,612	1,960,155	5,310,762	4,271,520	779,443
Economic assistance	1,144,083	2,231,940	-	123,222	33,466	35,444
Culture and recreation	9,234,311	2,977,427	7,261,738	6,378,769	3,230,529	1,949,430
Utilities	5,948,362	1,845,783	576,046	1,970,980	116,451	787,223
Other home & community svcs	25,336,712	20,890,950	3,261,007	4,738,275	4,439,001	1,368,025
<b>Debt service:</b>						
Principal	859,464	4,048,629	227,776	3,549,200	1,521,200	297,416
Interest	350,816	5,849,452	302,216	1,514,850	557,565	196,430
<b>Total expenditures</b>	<b>\$ 96,800,664</b>	<b>\$ 113,273,893</b>	<b>\$ 28,317,444</b>	<b>\$ 56,180,570</b>	<b>\$ 29,106,937</b>	<b>\$ 13,078,806</b>

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Long Island Sound Watershed Inter-municipal Council

2004 Fiscal Metrics Financial/Statistical Data Item	Village of Mamaroneck	Village of Pelham	Village of Pelham Manor	Village of Port Chester	Village of Rye Brook	Town/Village of Scarsdale
Dicennial census	18,752	6,400	5,466	27,867	8,602	17,823
Land area (square miles)	3.2	0.8	1.3	2.4	3.5	6.6
Constitutional tax limit	\$ 40,303,499	\$ 14,059,945	\$ 18,577,343	\$ 28,684,094	\$ 27,700,438	\$ 78,529,053
Constitutional debt limit	\$ 158,072,607	\$ 53,703,223	\$ 71,617,394	\$ 111,245,386	\$ 109,885,650	\$ 358,733,424
Taxable assessed valuation	\$ 77,127,355	\$ 889,108,526	\$ 1,145,263,498	\$ 53,257,840	\$ 54,061,297	\$ 135,395,380
Full value of real property	\$ 2,932,599,049	\$ 889,108,526	\$ 1,145,263,498	\$ 2,056,287,258	\$ 2,087,308,764	\$ 6,572,591,262
Tax levy	\$ 16,502,696	\$ 6,586,445	\$ 8,139,329	\$ 13,289,789	\$ 9,134,140	\$ 20,318,530
Outstanding debt	\$ 15,669,242	\$ 550,000	\$ -	\$ 25,724,150	\$ 7,188,125	\$ 9,105,337
Revenues:						
Taxes and assessments	\$ 16,512,020	\$ 6,637,744	\$ 8,139,329	\$ 13,358,806	\$ 9,924,591	\$ 20,617,466
Other tax items	88,894	38,354	32,093	226,031	128,588	345,984
Sales tax	1,993,258	640,952	547,413	2,979,022	914,356	1,859,949
Other taxes	311,150	162,755	166,633	619,588	283,785	540,880
State aid:						
General purpose	601,878	273,519	317,065	746,606	469,645	2,359,587
Health	-	-	-	-	8,145	-
Highway and transportation	147,046	214,364	-	155,030	29,984	224,024
Social services	-	-	-	-	-	-
Other state aid	200,104	8,795	-	137,436	27,351	155,846
Federal aid	3,976,448	1,035	-	4,440,262	-	1,102
Revenues from other governments	297,835	175,273	15,685	19,200	-	30,400
Interest earnings	32,214	50,727	59,868	80,677	94,764	506,410
Departmental income:						
Health	11,380	-	620	35,440	2,160	-
Sewer	70,378	-	11,635	-	-	-
Water	-	310,224	-	-	-	2,470,874
Other home & community svcs	32,160	2,100	-	888,743	-	75,760
Unclassified revenue	2,799,356	1,267,678	505,260	4,148,501	930,780	5,906,548
Total revenues	\$ 27,074,121	\$ 9,783,520	\$ 9,795,601	\$ 27,835,342	\$ 12,814,149	\$ 35,094,830
Expenditures:						
General government	\$ 5,572,060	\$ 1,017,865	\$ 1,690,425	\$ 11,376,124	\$ 2,093,639	\$ 8,174,874
Police	7,669,998	3,457,161	3,985,916	8,636,089	3,748,847	5,903,211
Fire	892,313	1,839,296	2,249,478	2,490,716	4,182,839	5,134,901
Other public safety	1,125,123	150,358	7,486	1,204,571	357,549	891,256
Health	90,029	-	-	99,683	69,908	-
Transportation	2,375,086	1,575,962	287,290	2,542,808	1,373,610	1,674,535
Economic assistance	295,736	69,715	-	327,225	295,182	44,181
Culture and recreation	2,549,965	-	538,334	2,389,991	1,278,231	6,232,338
Utilities	981,069	219,707	69,731	63,837	130,647	2,152,801
Other home & community svcs	5,884,816	875,538	1,016,560	6,525,136	958,337	4,555,966
Debt service:						
Principal	2,650,529	10,000	-	1,170,430	656,875	528,444
Interest	552,675	14,675	-	948,222	295,428	461,724
Total expenditures	\$ 30,639,399	\$ 9,230,277	\$ 9,845,220	\$ 37,774,832	\$ 15,441,092	\$ 35,754,231

**Storm Water Operation and Management Budget**

City of Mount Vernon	\$161,306 (a)
City of New Rochelle	\$1,270,000 (a)
City of Rye	\$271,000 (b)
Town of Mamaroneck	\$160,000 (b)
Town/Village of Scarsdale	\$287,000 (b)
Village of Larchmont	\$122,482 (a)
Village of Mamaroneck	\$27,000 (a)
Village of Port Chester	\$111,540 (c)
Village of Pelham	\$97,000 (a)
Village of Rye Brook	\$300,000 (a)

(a) Information provided and confirmed by municipality.

(b) Information provided but not confirmed by municipality.

(c) Reconfirmed by municipality

## **2. Project Description & Impetus**

A major contributor to water pollution in Long Island Sound is improper connections of household roof leaders, sump pumps, driveways, garage and yard drains; which convey storm water directly into the sanitary sewer. During heavy rains, runoff from these illegal connections overloads the sewage treatment plants causing untreated sewage to be discharged into Long Island Sound. Such discharges result in beach closures because of high bacteria counts and, in some areas, the excess water causes sewer backups into streets and basements. Compounding these inflow problems, the age of Westchester's separate sanitary sewage and storm water runoff lines, has created cracks, leaks and faulty joints in the lines causing storm water to infiltrate into the sanitary system.

The Environmental Protection Agency and New York State Department of Environmental Conservation ordered Westchester County to correct these inflow and infiltration (I&I) problems and the County, in turn, required local governments to enforce the correction of these illegal connections.

The LISWIC [was formed] as an outgrowth of a Community Leadership Alliance Program held in the Spring of 1998 at Pace University Law School, [in which] leaders in Westchester's lower Long Island Sound communities realized that they could work together to resolve inter-municipal issues and to achieve common interests within the southern Long Island Watershed. Thirty four people representing ten municipalities, including five Mayors and Supervisors, three Trustees or Council people and four Managers and Administrators attended the four day Leadership Program. To further their common interests, twenty two people met for a fifth day to begin to formulate an Inter-municipal Agreement and ideas for a grant.

Among the goals identified in the IMA establishing LISWIC are:

- a cleaner Long Island Sound with the attendant responsibilities and benefits of protecting the Long Island Sound watershed;
- prevention of non-point source pollution, remediation of existing pollution and the preservation of open space and natural resources;
- appropriate development and restoration of the business and industrial districts to promote economic vitality;
- maintenance and improvement of the quality of life, including the quality of water and air, the control of traffic and noise, the provision of open space and recreational opportunities, the cultural, social, scenic, aesthetic and historical assets of the area;
- preservation and restoration of wetlands, watercourses and associated habitat areas

Through the IMA, the municipalities would develop mechanisms and strategies for:

- sharing information regarding development projects with inter-municipal impacts;
- resolving disputes regarding development projects that impact environmentally sensitive areas;
- developing compatible comprehensive plans, zoning and land use regulations;
- fostering the economic needs of each community;
- monitoring compliance with enforcement of regulations;
- developing programs for educating the public and public officials and;
- achieving municipal cooperation in other efficient ways.

To these ends, the cooperating municipalities would explore mutually beneficial ways of;

- securing and sharing federal, state and county agency funding;

- coordinating efforts with federal, state and county agencies and authorities to assure that activities in the watershed are compatible with the plans and programs of the cooperating municipalities.

### **3. Proposal(s) and Proposed Funding**

The issue [now] being [studied by the LISWIC] is the proposed establishment of a regional storm water management district comprising the geographical area of the 12 municipal members of the LISWIC. The results of the study will be disseminated to all LISWIC members in the Spring of 2007. The local legislative bodies will have to endorse the SUD concept and petition the state legislature to enact special legislation creating the SUD. Consensus will have to be reached on such fundamental issues as the enactment of model legislation to meet Phase II requirements, proportional representation, ownership of assets, implementation and enforcement authority, and the fee structure. The inability to obtain consensus will be fatal to the proposal.

The SUD is proposed to be funded by a user fee based upon the actual contribution of each user to the total cost of storm water services.

### **4. Legal Foundation and Legal Checklist**

LISWIC was formed as an Intergovernmental Relations Council pursuant to an inter-municipal agreement between and among its municipal members. Each member municipality of LISWIC adopted a resolution authorizing its participation in LISWIC. To date no lawsuits have been filed against LISWIC and the proposed SUD, still under study, has not yet been created. State legislation would, most likely, be required to establish the regional SUD.

### **5. Views on the Issue**

#### Those in Favor:

Currently, the leading proponents of the SUD, and the efficiencies and economies projected from its regional approach, are Al Gatta, Manager, Village of Scarsdale and Phyllis Wittner, Council Member, Town of Mamaroneck. There appears to be strong support for the concept in the cities of Rye and New Rochelle.

#### Arguments pro:

Regional SUD proponents cite limited resource and competing priorities to underscore the difficulty in securing sufficient appropriations at the local level to address current and future needs to protect the regional environment. Often local priorities trump regional priorities and storm water management has, historically, not been high on the list of local priorities. While local funds have been appropriated for maintenance of storm water facilities (i.e. cleaning of catch basins and storm sewer lines), few, if any, funds have been appropriated for the capital improvements required to address storm water issues.

Moreover, pollution does not respect municipal boundaries. All developed property throughout the drainage basin contributes runoff that impacts surface and storm water conveyance systems. Thus, to be most effective surface and storm water management should occur on a regional basis to mitigate property damage and soil erosion and to protect regional waterways. Maintenance of existing facilities, such as storm sewers, and construction of new infrastructure should be financed through a regional funding program that recognizes the entire drainage basin.

Communities must realize that they will benefit from projects even though they are undertaken outside their municipal boundaries. For example, the reduction of contaminants flowing into the Long Island Sound helps all communities.

Through a regional district, professional planning and management can be utilized to implement comprehensive operations and maintenance and strategic capital improvement programs. Such a user fee financed, single purpose district, will be more efficient and will provide budget relief to individual municipalities by shifting the costs and responsibilities of storm water management to the district.

The Rye Mayor and LISWIC Vice Chair endorsed the regional SUD approach as being more cost-effective than if each community paid for it. According to him “It would allow for a comprehensive capital improvement and operations and maintenance program to be implemented” that could benefit the participating municipalities without stressing their budget; ultimately, the question is: “Will doing it save the taxpayers money?”

The concept would be for the SUD to fight pollution from storm water runoff as one unit, rather than the individual communities disputing who is responsible for what. “We don’t want to argue with each other, we want to get it done” said Mamaroneck Councilwoman Phyllis Wittner, Chairman of LISWIC.

The method of funding the district is likely to be controversial. According to former New Rochelle Mayor, Tim Idoni, it may not be fair to give credits based solely on open land when a city like New Rochelle makes other contributions, like affordable housing in dense apartment neighborhoods.

In anticipation of the results of Malcolm Pirnie’s study, Scarsdale Village Manager, Al Gatta stated of other LISWIC members “We’re optimistic that once they see the entire picture, they will make a determination that it’s in their best interest to be part of the proposed district.”

Although her community is participating in the SUD Study, Mamaroneck Town Supervisor, Valerie O’Keefe questioned “Why Westchester County’s government didn’t step up to the plate to lead the Phase II response.” According to Al Gatta and others, the County’s refusal to take the lead on this issue is based upon political and/or financial factors.

One of the top priorities identified by the New York League of Conservation Voters’, Westchester Chapter, in 2006 is support for the creation of an SUD through LISWIC to deal effectively with storm water issues in relation to Long Island Sound.

In their resolutions supporting the creation of an SUD, the Village of Mamaroneck and City of Rye declared: “that such a storm water utility district organized on a regional basis structured for the single purpose of managing surface water runoff and water quality can better plan, monitor, and construct facilities that will enhance the overall management and control of storm water with a dedicated funding source that will relieve member municipalities from the burden of taxing its residents and the obligation to individually provide required programs and services.”

Narrowly focusing on addressing local flooding concerns may ignore water quality issues and how runoff affects downstream communities. Failing to consider the affects of local solutions on other municipalities or the synergies of inter-municipal efforts, may undermine the efficiency of local storm water solutions, result in duplication of local efforts and ultimately be detrimental to improving the

overall quality of the Long Island Sound. For example, a local hydrologic solution may shift the problematic flows to an adjoining municipality and exacerbate downstream conditions.

Conversely, a regional planning and operations process could coordinate projects across the region, eliminating duplication of efforts, solving rather than moving the problem and generating cost efficiencies region-wide. Centralizing operations through a regional storm water management plan could promote higher utilization of assets, greater consistency and simplified Phase II compliance. Funding for storm water management would be removed from individual municipal tax bases and replaced by a user fee assessed on a per parcel basis dedicated solely for storm water management uses

Those Opposed:

None of the LISWIC communities are currently on record opposing the SUD concept. Ultimately, this will be determined once the SUD study is completed and disseminated in the Spring of 2007.

Arguments Con:

Concerns remain about giving up local authority to an SUD. Former Mayor of Larchmont, Ken Bialo, while supporting cooperation, was skeptical that Larchmont would benefit from giving up a measure of "home rule" power to join a district. Larchmont elected officials also expressed concern that as a small municipality, could its needs be better served by continuing its own program or by joining a group effort to larger communities. Other municipalities, such as the Town/Village of Harrison and the Village of Pelham Manor, have taken a wait and see attitude regarding the SUD and did not agree to fund the SUD study.

Clearly, the major issue of organizational culture will be the willingness of individual municipalities to disregard politics and political boundaries in favor of working together to resolve regional flooding and water quality challenges. Under the status quo, each municipality is responsible for planning, design, construction, operation, maintenance, and repair of facilities; regulation of land use and connections to facilities; and compliance with the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) for Storm Water Discharges From Municipal Separate Storm Sewer Systems (MS4) Permit (GP-02-02). Further, each municipality is responsible for managing and funding such responsibilities.

From a purely local perspective, maintaining the status quo does not generate additional costs or risks attendant to a restructuring of powers in an SUD. Municipalities retain full control over their assets and dedicate local monies to solely addressing local resident concerns. Decision making is less controversial and more aligned with the community since the inter-municipal concerns that a regional planning process would have to address are not included. Accountability for storm water problems remains directly with locally elected officials.

Concerns persist that establishing the SUD will result in a more contentious planning process because of competing priorities, inequitable allocation of funds, and reduction of local accountability. Most importantly, there is the fear of erosion of home rule powers with municipalities being unwilling to turn over assets or to cede decision making authority to a regional entity.

Finally, an in-depth examination and resolution of collective bargaining issues will require special labor counsel to be retained and is not part of the study presently being conducted for the SUD. The authority model common in New York contains provisions authorizing the transfer of employees from municipalities to the authority while preserving employee civil service status and benefits.

### Local News Media Positions

The grant funding and the agreement with Malcolm Pirnie has generated considerable attention in the local news media with articles appearing e.g. in the Larchmont Gazette, The Journal News, Larchmont Ledger, Port Chester Item, Westchester Environment and Sound View News. In an editorial on February 19, 2003, the Journal News, Westchester County's principal newspaper, endorsed the idea of a regional SUD as "a welcome collaboration that could offer a unified front to fight an effusive problem: water pollution." According to the editorial, "taking a regional approach to these concerns – including overseeing construction and maintenance of the municipalities' storm sewer systems is a most sensible idea, since water pollution knows no town borders."

Similar sentiments were expressed by James Tierney, the Watershed Inspector General for then State Attorney General Elliot Spitzer. Praising the LISWIC communities for their vision, Tierney stated "Ten, 20 years down the way everybody will be doing this." Also supporting the concept was State Assemblywoman Amy Paulin of Scarsdale saying that storm water runoff "has got to be a top priority and we need a more systematic approach to making sure our waters stay clean."

### **6. Results (adopted, amended, rejected etc)**

To start formalizing LISWIC, an organizational meeting was held on June 23, 2000 with official representatives designated by each municipality. An Executive Committee was formed and bylaws were drafted. A Board of Representatives was formed comprised of two representatives of each member municipality. The Board held its first election of LISWIC officers on October 6, 2000. Elected were President – Peter Korn, New Rochelle City Manager; Vice President – Phyllis Wittner, Town of Mamaroneck Councilperson; Secretary – Steven Otis, Mayor, City of Rye; Treasurer – Kenneth Bialo, Mayor, Village of Larchmont. Bylaws were adopted on November 3, 2000 and became effective on January 1, 2001.<sup>1</sup> Also, under the Bylaws the annual dues for each member shall not exceed \$1,000.00.<sup>2</sup> Provision in the Bylaws was also made for the appointment of a coordinator or other paid staff; in April 2002, Elizabeth Paul was hired as LISWIC Coordinator.

Ultimately, on or about April of 1999, acting pursuant to § 239-n of the General Municipal Law authorizing local governments to create intergovernmental relations councils, eleven municipalities signed an Inter-municipal Agreement ("IMA") establishing LISWIC. The Council is comprised of two representatives selected by each member municipality. LISWIC's charter members were the cities of Mount Vernon, New Rochelle and Rye, the Town of Mamaroneck, Town-Villages of Harrison and Scarsdale and the Villages of Larchmont, Mamaroneck, Pelham Manor, Port Chester and Rye Brook. In 2002, a twelfth member, the Village of Pelham, was first approached by and agreed to join LISWIC.<sup>3</sup>

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<sup>1</sup> Under the Bylaws, the offices of Chair and Vice-Chair replaced the offices of President and Vice-President. Phyllis Wittner has served as LISWIC Chair since the inception of that position.

<sup>2</sup> 2006 membership dues were \$500 per member.

<sup>3</sup> Under LISWIC's Bylaws, any village, town or city in Westchester County that drains storm water to Long Island Sound, or generates sewage that ultimately reaches Long Island Sound, is eligible to become a LISWIC member. Based upon these criteria, the City of White Plains, Town of Eastchester and the Villages of Bronxville and Tuckahoe would be eligible for membership. According to LISWIC Chair, Phyllis Wittner, after spending more than a year to get the core group of municipalities to agree to the IMA, the members felt it was best to go forward. They believed if their efforts were successful, others would be encouraged to join. Electoral changes also made the education process more challenging. Some initial discussions were held between LISWIC officials and the Town of Eastchester, City of White Plains and Villages of Tuckahoe and Bronxville and the door was left open for further discussions at a later date. Based upon these discussions, it is unclear whether those communities have merely a curiosity about the concept or a real interest in seeking LISWIC membership.

## **7. Implementation**

### **Inflow and Infiltration**

Within one month after the initial seeds of municipal cooperation were sown at the Community Leadership Alliance Program, in June of 1998, the Town of Mamaroneck applied on behalf of eleven municipalities for a grant to form the Long Island Sound Watershed Inter-municipal Council (“LISWIC”), to prepare a brochure to explain to residents the residential/commercial inflow and infiltration (I&I) problems affecting member communities and to conduct a feasibility study pertaining to storm water management resulting from the corrective I&I work. In 1999, the Town received a grant from the Environmental Protection Agency for \$100,000.00 (with a \$50,000.00 match) which was then adjusted to \$42,000.00 (\$21,000.00 match), because of the reduction of the amounts paid for the brochure and engineering work discussed below.

In July 1999, LISWIC formed a Technical Committee and an Engineering Committee. The Technical Committee took responsibility for writing and publishing a four-color brochure on I&I entitled “Correcting Improper Sewer Hookups and How You Can Help Clean Up Long Island Sound”, which was completed and distributed to member municipalities in November, 1999. The Engineering Committee prepared a Request for Proposals and selected Dolph Rothfeld Engineering to conduct a storm water management feasibility study. The engineering report entitled “Evaluation of Storm Water Conveyance Systems” was completed and distributed in December, 2001.

In 2000, the Town of Mamaroneck, again acting on behalf of LISWIC, successfully applied for grant money for code enforcement of I&I compliance. The Environmental Protection Fund grant was awarded in April 2001. LISWIC received \$50,000.00 with a \$50,000.00 match for code enforcement. Funds were allocated based on each municipality’s population and the number of illegal connections corrected. Funds were distributed in December 2003 and January 2004 to Larchmont, Mamaroneck Town and Village, New Rochelle, Pelham Manor, Rye City and Scarsdale. Harrison received its funds in September, 2004.

According to Stephen Altieri, Mamaroneck Town Administrator and administrator of the 2001 EPA Grant, the brochure served to educate the public as to the inflow and infiltration problem and to facilitate public cooperation in the remediation process. Grant funds were distributed based upon each LISWIC municipality certifying that they have done the necessary inspections and performed the requisite remedial work to fix catch basins, reline sewer pipes and disconnect illegal connections.

Beyond the brochure and the 2001 EPA grant, the Town of Mamaroneck increased enforcement to eliminate illegal storm connections and reduce the overload problem by adopting legislation requiring, as a prerequisite to the issuance of a certificate of occupancy on the sale of a home, that the building inspector verify that there are no illegal connections to the sanitary sewer system in the house. A copy of that legislation is attached as an appendix to this report.

### **Storm Water Utility District**

In 2002, Alfred Gatta, Scarsdale Village Manager and Peter Korn, New Rochelle City Manager, submitted an outline for the creation of a storm water utility district (“SUD”). AN SUD Committee was established to work on the district model. Throughout 2002, numerous drafts for proposed legislation were written and critiqued by the Board of Representatives. A Technical Advisory Committee was formed to continue to review the SUD legislation. The SUD was seen as a vehicle that could assist member municipalities in complying with Phase II Storm water Regulations.

In 2003, LISWIC continued to investigate the appropriate methodology for establishing a regional SUD that would provide an organizational and financial structure for the implementation of identified storm water pollution preventive measures within the lower Long Island Sound drainage area. It was envisioned that the SUD would have a basic watershed plan, an educational and outreach program, a capital improvement plan, an operations and maintenance program and a source control plan. Fundamental issues concerning proportional representation on the governing body, ownership of infrastructure and the fee structure would also have to be addressed.

In October 2003, an application was made by the Village of Scarsdale on behalf of LISWIC for an Environmental Protection Fund grant to formulate the necessary plans and address organizational and operational issues in connection with the regional SUD. Nine LISWIC members supported the application as did the Westchester County Department of Planning.<sup>4</sup>

In May 2004, the Village of Scarsdale, acting as administrative agent for LISWIC, received a \$228,000.00 Environmental Protection Fund (“EPF”) grant from New York State to study the creation of a regional SUD for the lower Long Island Sound Drainage Basin. The Grant was to be funded by \$100,000.00 from the State, with a local match of \$45,000.00 in cash and \$83,000.00 in in-kind services from the participating LISWIC municipalities. In response to letters submitted by the member municipalities to their State-elected representatives, an additional \$3000.00 member item for the project was obtained by State Senator Suzie Oppenheimer. A work plan was submitted to DEC on or about November 2004 and the contract took effect in August, 2005.

The grant provided funding to enable LISWIC to retain an experienced professional consulting firm to provide a district management and operations plan providing the appropriate methodology for establishing the regional SUD. A Request for Proposals was developed and circulated and four firms submitted responses. Ultimately, Malcolm Pirnie, Inc. and its legal consultant on the project, Lester D. Steinman, Director, Edwin G. Michaelian Municipal Law Resource Center of Pace University, was selected. An agreement was then entered into with Malcolm Pirnie, Inc. to identify and evaluate the methods of providing services, funding scenarios, organizational structures of the SUD, proposed staffing, details of governance and the advantages and disadvantages of a regional SUD.

Phase I of the agreement, data gathering and analysis, including existing studies and reports, GIS and drainage maps, infrastructure inventory, tax maps and parcel data from the participating LISWIC municipalities, has largely been completed by Malcolm Pirnie. Currently, Malcolm Pirnie is engaged in Phase II of the study focusing on the presentation of model storm water management districts with funding scenarios. Included in this phase are the following tasks:

1. Regional Storm water Management District outline focusing on:
  - the management, engineering, operations, maintenance and support personnel for the new regional SUD;
  - the present “overhead” functions (payroll, human resources, accounting, legal, information technologies, labor management, security, etc.) and related personnel to the new regional SUD;
  - the mission and authority of the regional SUD;

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<sup>4</sup> The Town-Village of Harrison and the Villages of Larchmont and Pelham Manor did not participate in the grant application. In April 2006 Larchmont joined in supporting the SUD Study.

- the organization and responsibilities of the regional SUD;
  - a staffing profile;
  - existing storm water infrastructure assets;
  - storm water infrastructure ownership options.
2. Watershed Management Plan for Long Island Sound
  3. Storm water Management Plan for the regional SUD to comply with Phase II Municipal Separate Storm Sewer System (MS4) Regulations
  4. Storm water Capital Improvement Plan
  5. Financial Plan
  6. Public Education Plan

Also, as part of Phase II, the contract provides for a summary of legislative requirements needed to create a regional SUD in New York State. To assist it in performing this portion of the contract, Malcolm Pirnie has entered into a subcontract with the Edwin G. Michaelian Municipal Law Resource Center of Pace University. This work will include a proposal for State legislation to authorize establishment of a public authority to operate the regional SUD.

Phase III of the study entails production of a final report and meetings with LISWIC communities to provide them with a summary of the study's findings. The anticipated date for completion of the study is the Spring of 2007.

### **8. Expectations vs. Implementation**

Successful enactment of State legislation creating the regional SUD would transfer storm water management responsibilities, including Phase II compliance, from local municipalities in the region to the SUD. Funding would also be removed from local budgets and replaced with user fees imposed by the SUD. It is anticipated that political concerns will be expressed regarding the loss of home rule power, the equitable apportionment of governing power over the authority and its method of financing its operations. It is also anticipated that storm water enforcement will be made uniform throughout the region and strategic planning will be conducted more efficiently.

The Malcolm Pirnie study was commissioned by LISWIC to address these types of issues.

### **9. Factors contributing to success/failure/Lessons Learned**

Due to the ongoing research and examination of the SUD through the Malcolm Pirnie Study, the instant study only addresses some of the items in the case study template. When the Malcolm Pirnie report is issued and the municipalities' reactions to that report can be gauged, this question can be answered.

### **10. The 10 Step Program**

No answer provided

### **11. Technical Assistance**

The Municipal Law Resource Center has been working with Malcolm Pirnie, Inc. for several months in connection with their technical and financial evaluation of a regional storm water management district for LISWIC. A draft report has been prepared which is not yet available to the public. That report

includes a storm water management program description, watershed management plan, source control, capital improvement plan, operations and maintenance framework, financial plan, public educational plan, legal requirements, and evaluation of proposed organizational and operational structures for the management of a regional storm water management district. Ultimately, once that document is finalized and made public, a copy of that document could be attached to this case study.

## **12. List of documents**

1. Inter-municipal Agreement forming LISWIC
2. LISWIC Bylaws
3. Request for Proposals Issued by LISWIC to study the regional SUD
4. Malcolm Pirnie Proposal
5. Contract between Malcolm Pirnie and the Village of Scarsdale, on behalf of 10 LISWIC members, to perform the SUD study; Contract between Malcolm Pirnie and Pace University
6. Town of Mamaroneck Discharge Compliance Certificate Law
7. Map of LISWIC Drainage Basin

## **13. Additional comments/suggestions/helpful hints**

### Westchester County Government and LISWIC

Historically, there have been strained working relations between County governments and the cities, towns and villages within the County. Although there have been instances of successful County-municipal cooperation, local governments often are dissatisfied with the delivery and cost of County services and the County's failure to work cooperatively and/or consult with the municipalities on issues of common interest. Against this background, LISWIC members did not actively solicit the County's participation in LISWIC's formative stages. However, the County is aware of LISWIC's efforts and its Planning Department continues to monitor its progress.

That said, County participation on the board of directors of any public authority that might be created for LISWIC has been considered, particularly since some of the required capital improvements may be on property or facilities owned by the County.

Given that, under existing law, Phase II compliance responsibilities rest with individual local governments, the County, to date, has not evinced an interest in taking a regional leadership role. The County has indicated its availability to act in an advisory role and is apparently advising a group of municipalities in the northern portion of the County on working together to comply with Phase II. Ultimately the question will be how to involve the County without the County dominating the process. This remains a highly sensitive political question which can be better addressed after the Malcolm Pirnie report for LISWIC becomes a public document.

**14. Contact Information**

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