

Wastewater Management Plan
Submittal Request
City of Ocean City
August 2009

All developed areas of Ocean City have sewer service. The proposed center boundary follows the sewered area. No growth is proposed in the area outside the sewer service area or center boundary.

The City of Ocean City has officially designated Cape May County Freeholders as the primary agent responsible for Water Quality Management Planning. The County is working with the New Jersey Department of Environmental Protection to develop and submit a plan. Pending that submittal, the City of Ocean City requests that this requirement can be submitted as a PIA item.

BOARD of CHOSEN FREEHOLDERS
COUNTY of CAPE MAY

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Mayor Sal Perillo
City of Ocean City
861 Asbury Avenue
Ocean City, NJ 08226

August 12, 2008

Dear Mayor Perillo,

The New Jersey Department of Environmental Protection has adopted new Water Quality Management Planning Rules (N.J.A.C. 7:15) which significantly alter the scope and methodology for developing and implementing Water Quality Management Plans throughout the State of New Jersey. Through the introduction of new standards and requirements, the new regulations place additional restrictions on the development potential of our local communities. These regulations expand the responsibility of counties and municipalities to monitoring and enforcement of water quality standards, though the use of zoning authority. They also withdraw wastewater service areas where wastewater management plans are not current and new plans have not been developed within the allotted timeframe (April 2009 if County is the WQMP agency; July 2009 if a municipality is the WQMP agency). These issues were discussed in several public meetings held by the NJDEP, as well as an information session that all of our local municipalities were invited to, held in the Cape May County Administration Building on Tuesday, July 15th.

The regulations officially designate counties throughout the State as the primary agencies responsible for Water Quality Management Planning. According to NJDEP, this was done in order to make the WMP process more efficient, bringing the number of planning agencies from 166 statewide to 21. Although this is not a change in policy in our area, as the County has traditionally served in that capacity, the increased responsibilities warranted by the regulations have caused the County to question its continuation in this role. Several main concerns have been identified.

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Specifically, the regulations require the County to serve as a negotiating entity between municipalities regarding the potential alteration of local zoning ordinances to increase minimum lot sizes in order to meet water quality standards within HUC-11 watershed areas (2 ppm nitrate dilution standard; previously it was 10 ppm which resulted in the countywide 35,000 square foot minimum lot size requirement). As the County has no legislated authority with regard to zoning issues, it is felt that the regulations overstep the rights instilled in the municipalities via the Municipal Land Use Law (40:55D-1 et seq.). We also have concerns regarding liability issues that could arise as a result of the increasing minimum lot sizes for water quality purposes. Further, we question the use of water quality standards as the sole consideration for determining the development potential of land throughout the state.

In reviewing the regulations and their requirements, several other concerns have arisen. It is felt that there is both inadequate time and inadequate funding being provided for the development of a new Water Quality Management Plan. The rules require that a new WQMP be developed within 9 months of the adoption of the regulations, which means that the County would have to submit a complete plan by April 2009. The development of a WQMP would require a significant degree of coordination between the NJDEP, its individual program units, the County, the municipalities, and neighboring counties/municipalities. Currently, there is no entity (nor is there adequate staff) to facilitate this initiative. Therefore, it would take a good deal of time to develop a program of this nature. Further, although the NJDEP has offered \$100,000 in grant funds to support this initiative, it has been determined that based on past costs, as well as costs incurred by other Counties for these purposes, this funding would be woefully inadequate, considering the amount of work to be done and the level of coordination required.

In short, the County is in the process of determining a course of action regarding its continued role as the Water Quality Management Planning agency for our 16 local municipalities. If we do continue in this role, we would accept the \$100,000 in NJDEP funding and would make a concerted effort to develop a WQMP within the allotted timeframe, despite the difficulties that we perceive. Our acceptance of this responsibility would likely require the addition of County staff to manage the program, a required high degree of cooperation from the local municipalities, as well as the execution of an Interlocal Agreement or other such document whereby the municipalities would hold the County harmless from any litigation that may result in the development and implementation of the Plan.

An alternate scenario would be that your municipality could request to be designated as its own WQMP agency, thereby accepting all responsibility for the development and implementation of the plan. As a municipal WQMP agency, you would be given an additional 3 months to develop the plan (until July 2009). There would not be any grant funds offered by NJDEP. The County would be available to provide any necessary guidance and technical support to assist you in the development of your plan. It is anticipated that the majority of this support would come in the form of digital data bases and assistance from the County's Geographic Information Systems staff. This

course of action would give your municipality the most flexibility and control over WQMP issues and could enable you to deal directly with the NJDEP to resolve issues.

At this point, we are reaching out to all of our local municipalities to determine what course of action you would like to see the County pursue. **As such, I am asking that you respond to this correspondence in writing, stating that you are in favor of either the County as the lead WQMP agency, or if you would prefer to be your own municipal WQMP agency.** Once the County has received responses from all of the municipalities, we will develop the appropriate strategy to address our collective responsibility on this issue. As indicated previously, time is of the essence with this project. As such, I would ask that you **forward your response to my attention by Friday, August 22nd.**

Thank you in advance for your cooperation and your attention to this matter. If you have any questions or would like to discuss the issue further, please do not hesitate to contact Steven Hampton, Deputy County Administrator at (609) 465-6892.

Sincerely,



Daniel Beyel
Freeholder Director

Cc: Municipal Clerk/Administrator
Municipal Engineer
Municipal Planning/Zoning Administrator
Stephen O'Connor, County Administrator
John Porto, County Counsel
Jim Smith, PP, AICP, Planning Director
Kevin Thomas, Director, Department of Health
Leslie Gimeno, PP, AICP, Supervising Planner