RARITAN RIVER AND BAY COMMUNITIES

RESILIENT NJ
RARITAN RIVER AND BAY COMMUNITIES

APPENDIX L

Feasibility of Implementing a Stormwater Utility

The Middlesex County region experiences localized flooding and additional stormwater-related problems such as sedimentation build up. A dedicated stormwater funding, such as a stormwater utility, can be used to solve these issues by implementing capital improvement projects and best management practices, paying for administration and operations services, meeting permit-required minimum control measures, and performing ongoing operations and maintenance activities.

Reliable stormwater funding helps increase resilience by allowing municipal agencies to address issues related to aging infrastructure, increasing flooding problems, and increasing regulatory requirements for stormwater management and pollution reduction. Creating a dedicated reliable funding source for stormwater management provides a stable revenue source for stormwater and resilience programs.

FUNDING METHODS AND THE ROLE OF STORMWATER UTILITIES

Funding Methods

There are numerous funding methods available to municipalities and utilities for the development and implementation of stormwater and resilience programs. The following table presents the funding methods that typically form part of stormwater financing strategies.

Table 1. Traditional and Innovative Funding Sources

Traditional Funding Sources	Innovative Funding Sources
Stormwater utilities	Cost sharing programs
Grant and loan programs	Public-private partnerships
Municipal bonds	Private and non-profit sources
Taxes (General Fund)	Capital markets
Fee in-lieu-of programs	Mitigation banking programs
Developer funding (plan review and inspections)	Credit trading programs

Importance of dedicated funding. Stormwater utilities) can be used as a dedicated source to fund stormwater programs to leverage other funding methods presented in Table 1. Stormwater utility fees

reduce the pressure to raise taxes and reduce reliance on an entity's general fund. In 2019, New Jersey signed into law the Clean Stormwater and Flood Reduction Act, allowing the governing body of any county, municipality, or municipal authority to establish stormwater utilities[1].

Stormwater Utilities

A stormwater utility creates the ability to assess fees, based on a fair and equitable approximation of the contribution of stormwater runoff from a real property, which can then be used to fund stormwater programs within the governing body. A stormwater utility operates similarly to any other utility, such as a water or electric utility. This is an especially valuable tool as part of a watershed approach for flood resilience, as it facilitates implementation of stormwater management practices for new and redeveloped areas, creates incentives for retrofits on private property, and provides dedicated funding for beneficial public stormwater projects and maintenance activities.

There are different types of stormwater utilities and varying strategies to calculating stormwater fees. It is up to the governing body to select a method most suitable for their community. The majority of stormwater fees are based on the impervious footprint of a property. While property taxes are solely based on the value of a property, the Clean Stormwater and Flood Reduction Act requires stormwater fees to be based on a fair and equitable approximation of the proportionate contribution of stormwater runoff. Properties with more impervious area and thus those that contribute the most to stormwater runoff will pay higher fees than properties with minimal impervious area.

Credits can be used to provide incentives to implement best management practices and reduce a property's stormwater fee. These credits can improve equity during implementation and reward properties that manage stormwater on their own property or minimize impervious areas. The maximum credit for a property is typically capped. Stormwater utility revenue projections will account for the impact of credits to assure revenue sufficiency.

Stormwater utility fees reduce the pressure to raise taxes, provide a dedicated funding source for stormwater management, create a more equitable allocation of costs because higher property values do not necessarily contribute higher amounts of stormwater runoff. Furthermore, tax-exempt properties are responsible for paying stormwater fees based on their contributing runoff, making stormwater utilities more equitable. Stormwater fee credit policies can incentivize improved private stormwater facility maintenance as well as facility upgrades.

Table 2 presents a summary of the characteristics of this funding method.

[1] https://stormwaterutilities.njfuture.org/wp-content/uploads/2020/07/Clean-Stormwater-and-Flood-Reduction-Act.pdf

Table 1. Stormwater Utility Overview

Description	– A fair and equitable method of providing a dedicated funding source for a municipality's stormwater management/resilience program – Typically set up as an enterprise fund
Benefits	– Equity – fees are determined based on amount of impervious area of all properties – Provides a link between benefit and cost (e.g., your benefit based on contribution to runoff) – Billing could be included in the property tax bill – Reduces reliance on the General Fund or other taxes
Concerns	– May need other funding sources to meet revenue requirements (e.g., General Fund continues to fund certain operations and maintenance activities) – All properties pay since it is considered a fee (similar to water and sewer bills) and tax-exempt parcels may express concerns with a new fee – Use of funds is limited to stormwater-related services (could be a benefit)
Applicability	– All stormwater/resilience-related services – New Jersey enabling legislation provides guidance
Implementation issues	– Requires ordinance adoption and development of administrative policies – Public outreach needed to ensure buy-in

Local vs. Regional Stormwater Utilities

The state of New Jersey has over 560 jurisdictions, many which have similar stormwater challenges and a lack of dedicated funding to address all their stormwater needs. A regional approach to implementing a stormwater utility may be a logical approach to addressing resilience and stormwater problems that span beyond municipal boundaries.

A regional approach can consist of an existing regional authority or County agency providing stormwater services or consist of several communities pooling together to form a new stormwater utility. This regional approach can create economies of scale where administrative, compliance and project costs

can be shared. This regional approach also works for other utilities such as water, wastewater, or electricity. Table 3, below, presents advantages and challenges of local and regional stormwater utilities.

Table 3. Advantages and Challenges of Stormwater Utilities

	Advantages	Challenges
Local Stormwater Utility	• Local control of policies • Dedicated funding at the local level	• Stormwater problems do not follow municipal boundaries
Regional Stormwater Utility	• Address stormwater problems that span beyond municipal boundaries • Cost savings through economies of scale and shared resources • Increase access to grants and innovate funding sources • Opportunities to share technical expertise • Able to adapt rate structure to support regional goals • Streamline implementation to regulatory compliance and O&M costs • Dedicated funding for regional implementation	• Potential loss of local control of certain operational or project decisions, hiring, etc. • Project prioritization requires regional procedures agreed by participants in the regional stormwater utility

During a Regional Workshop presentation (Appendix A) on May 13, 2022, a questionnaire (Appendix B) was sent out to participants asking the following three questions about varying stormwater activities including compliance, maintenance, asset management, capital project planning, design, and construction.

1. Who performs this service?
2. Are you satisfied with the current level of service provided to your community?
3. Would you consider having this performed by a regional utility?

Two responses were received and indicated that the respondents were satisfied with their current level of service and were not interested in establishing a regional utility to perform any stormwater services. However, additional conversations with Middlesex County indicate that there is a strong interest in a regional utility among certain stakeholders, specifically the southern municipalities who experience greater occurrences of localized flooding.

Other Funding Methods

As indicated in Table 1, above, there are several additional funding methods for stormwater programs that have emerged throughout the years, broadening the number of options but also adding to the

implementation challenges. The following are brief descriptions of selected methods that can complement a stormwater utility:

- **Local tax (e.g., real estate taxes, General Fund) and dedicated portions for stormwater**. Typically used to complement stormwater utility revenues and fund ongoing administrative support and maintenance activities. Some communities have dedicated a portion of real estate taxes to fund drainage districts or portions of stormwater programs.
- **Grants and loans programs**. Typically used to fund single projects and require a lengthy application process and competition at the State and Federal levels, as well as reporting requirements. Grants and loans can be a good source to complement local funding, but not recommended as the only source of funding, mainly because they are not reliable and limited amounts of funds are available. Recent grant programs such as FEMA's Building Resilient Infrastructure and Communities (BRIC) and loan funding through the Clean Water State Revolving Fund (SRF) are good examples of potential programs that can complement stormwater utility revenues.
- **Bonds and other municipal borrowing instruments**. Typically used for long-term capital projects. The procedure for the issuance of any general obligation bonds or revenue bonds needs to be in conformity with the procedure for issuance of such bonds.
- **Developer fees, fee-in-lieu-of or pro rata share contributions, or other private initiative funding.** Funds raised through these mechanisms are typically not used to fund stormwater (operating and capital project) activities with the exception of pro rata share contributions specifically developed for stormwater activities. However, these contributions are small and cannot be used to efficiently fund ongoing stormwater activities or regulatory requirements such as the MS4 permit requirements.

RECOMMENDATIONS

Given the local stormwater and resilience needs, it is recommended that Middlesex County establish a dedicated funding source by further exploring the feasibility of implementing a regional stormwater utility in coordination with municipalities within the County boundary.

The recommended process to establish a stormwater utility includes the following steps discussed during the May 13 Regional Workshop / Steering Committee Meeting (see Appendix A) and laid out by the New Jersey Department of Environmental Protection (DEP)[2]:

1. Discuss the concept: assess the advantages and disadvantages of a regional stormwater utility.
2. Conduct a preliminary feasibility study: obtain an inventory of all current stormwater facilities and define the services to be provided.
3. Engage management: gather support from local government
4. Conduct a comprehensive feasibility study: identify the project team and process, take inventory, identify needs and expenses (i.e., program revenue needs for capital, operation and maintenance, administrative, and compliance), analyze impervious and pervious surfaces,

[2] https://www.nj.gov/dep/dwq/SWU_establishing_utility.html

develop level of service options, define billing procedures and administrative policies, and establish fee and credit structures.

5. Engage stakeholders: have transparent and ongoing public education and outreach programs that will extend throughout the duration of the feasibility study and into implementation, if approved. Consider the formation of a Stormwater Advisory Committee (SAC) that includes representatives from stakeholder groups and represent a cross section of the community that uses or benefits from the County's stormwater services. This SAC allows the County and municipalities team to build a knowledge base among leaders in the community, provides a resource for understanding the stormwater requirements and problems facing community members, and provides a sounding board for developing tools and approaches that will appeal to the broader public as the stormwater utility moves toward implementation.
6. Engage the public: gather general public support to draft an ordinance to establish the stormwater utility. Consider the use of workshops, watershed tours, public meetings, social media, mailings, etc.
7. Implement the stormwater utility: establish an implementation team to set up the utility and move towards launch and implementation, including being ready to deliver the identified stormwater services.

CASE STUDY, PA
Wyoming Valley Sanitary Authority

- Existing Authority with 32 Member Communities
- Assumed stormwater services in 2019
- Regional effort to meet DEP's MS4 permitting requirements while providing greater cost efficiencies, strategic partnerships and more equitable distribution of costs for services.
- 4-tiered fee structure

Middlesex County and the participating municipalities must first ensure there is leadership and commitment to evaluate the feasibility of a regional stormwater utility among the interested member communities and then develop a regional concept or model for funding. This concept or model will describe the overall framework on how stormwater services would be provided and will refine the benefits of the regional approach to the County and interested municipalities. Community engagement will be essential for receiving buy-in and public acceptance. It is recommended that after performing initial outreach to establish a list of interested member communities that Middlesex County conduct a feasibility study with those communities to further define the services to be provided by the regional stormwater utility, develop procedures for project prioritization, analyze applicable rate structure, and estimate potential stormwater fees before developing an implementation plan.

Middlesex County can utilize the information presented in this report along with New Jersey DEP stormwater utility fee guidance to conduct the regional stormwater utility feasibility evaluation. A consultant could support the County and bring experience from the implementation of other stormwater utilities. DEP has provided guidance on establishing fees and credits, developing an asset management program for stormwater management systems, and develop guidance for stormwater management related public education and outreach[3].

[3] https://www.nj.gov/dep/dwq/SWU_stormwaterutility.html#stormwater-basics