

OP-ED: STORMWATER UTILITIES — AN IDEA WHOSE TIME HAS COME?

BARRY CHALOFSKY | MARCH 20, 2018

Stormwater systems must be properly maintained if they are to protect groundwater from pollution and people from flooding



Barry Chalofsky

When we flush the toilet, our wastes are carried away through a system of pipes that are owned and maintained by a wastewater utility. Similarly, when you turn on the faucet, the water comes through pipes that are owned by a water utility. These services come at a price — we pay both wastewater and water utility fees — to either a municipality or a private entity. Our society relies upon various types of infrastructure to ensure that our impact on the environment, and in turn our lives, is minimized.

Stormwater systems, while not as noticeable as wastewater or water supply, are just as necessary to ensure that our environment is protected. They help reduce pollution and ensure that we don't have flooding. However, there is very little money put into the maintenance of these systems. For years, Sen. Bob Smith has been trying to change this situation, but he has had little success convincing other legislators, as well as the former governor, of the great need for this effort.

Prior to 2004, stormwater systems were unregulated, and the maintenance of these systems was often only considered when they became clogged. In 2004, the New Jersey Department of Environmental Protection (NJDEP), pursuant to federal law, developed rules that required most municipalities to maintain their stormwater systems. These requirements were similar to requirements that were in place for large cities around the country since 1992, and for smaller municipalities nationally since 1999. While these rules brought the maintenance of these systems into a legal context, they only highlighted a need that has existed for decades.

Who maintains stormwater systems?

It is important to understand that almost all stormwater systems are initially constructed as a result of new development. However, once the developer leaves the site, maintenance of these systems falls either to the municipality, or in some limited circumstances, to a homeowner's association.

Most people don't think about stormwater systems until their house or street get flooded. Few of us realize that stormwater goes directly over the ground and into stormwater pipes (or a basin and then into pipes) that discharge untreated water into our waterways. Some may ask "What's the big deal, it's only rain water." The problem is that the stormwater picks up pollutants, fertilizer, pesticides, trash, and other wastes as it makes its way to the stream. (This is known as nonpoint pollution.) More importantly, stormwater systems are designed to protect us from flooding. Yet these systems only function properly when they are maintained.

For the most part, maintenance of these systems is hidden in the budgets of the public works departments, whose staffs are overburdened by the myriad tasks that they have to perform for

the municipality. Often maintenance is only performed when there is a problem like a clogged stormwater discharge pipe or an overflowing basin. In addition, some newer technologies such as Manufactured Treatment Devices (devices that remove pollutants) and underground recharge systems require regular maintenance. Unfortunately, poor maintenance will almost always cause infrastructure to fail, streets and buildings to be flooded, and our waterways to be polluted.

Many states and municipalities have found stormwater systems require the same model as wastewater and water supply – utilities. Rather than view these entities as “another layer of government,” we have allowed the public and private sector to arrive at alternatives that work best for each municipality. For wastewater, some municipalities established authorities or formed partnerships with county government, while others contracted with private entities. Similarly, we have public water-supply agencies and private water companies providing water supply. Yet in New Jersey we have no stormwater utilities. It is estimated that there are over 1,600 stormwater utilities in over 40 states, and “more are being formed all the time” (“Stormwater Utility Survey,” Western Kentucky University, 2017). This is hardly an experiment.

Many will call this a “rain tax?” However, to argue that a fee for maintaining stormwater infrastructure is a tax is disingenuous. Whether we call it a fee or a tax, the result is the same: We need to pay for the services that society demands. In 2017, the average residential user fee was about \$5.00 per month or \$60 per year (Western Kentucky). This is a very small price to pay for these critical services. More importantly, these fees would create a group of skilled professionals whose job is solely dedicated to maintaining this infrastructure – not taking bits and pieces of time from an already overstretched public works department. It would also create badly needed jobs.

Recently, there have been increasing calls to replace and maintain our crumbling infrastructure from roads and bridges, to water supply and wastewater. We should not forget that stormwater systems play a vital role in protecting our homes, streets, and waterways. If we don’t find creative ways to fix this problem now, we will be faced with much worse problems down the road. We must work together to revitalize this legislation and take charge of our future.

Barry Chalofsky, P.P., is the former chief of the New Jersey Department of Environmental Protection’s stormwater and groundwater programs, and is presently an environmental and land use planning consultant.

