

RESOLUTION 24-0909.02

OPPOSING THE STATE OF NEW JERSEY'S PROPOSED "PROTECTING AGAINST CLIMATE THREAT (PACT)/RESILIENT ENVIRONMENTS AND LANDSCAPE (REAL)" RULES DIRECTED BY GOVERNOR MURPHY'S EXECUTIVE ORDER AND URGING A LEGISLATIVE AND INCREMENTAL APPROACH

WHEREAS, the Township of Long Beach acknowledges and is certainly acutely aware that climate change and sea level rise are serious risks to the State's coastal and barrier island communities; and

WHEREAS, indeed, the Township is located on a barrier island six (6) miles at sea at the most distant point from the mainland and has suffered the effects of sea-level rise, tidal flooding, and major coastal storms throughout its history; and

WHEREAS, the Township, therefore, has and continues to address the threats of tidal flooding and major coastal storms by practicing the highest standards of coastal resiliency and floodplain management in all infrastructure and building projects; and

WHEREAS, the Township has adopted a floodplain management ordinance and regulations that exceed compliance with the Federal Emergency Management Agency's ("FEMA") standards; and

WHEREAS, at the direction of Governor Murphy's Executive Order 100 (and not by way of actual legislation), the New Jersey Department of Environmental Protection ("NJDEP") produced a 1,057-page rule proposal policy document known as NJ PACT (Protection Against Climate Threats)/REAL (Resilient Environments and Landscape) to expand flood hazard areas ("FHAs") statewide and implement higher floodplain management regulatory standards beyond the local and existing FEMA standards; and

WHEREAS, included in the proposed rules is a requirement to increase tidal base flood elevations to five (5) feet, which would require first-floor and road elevations to be the FEMA Base Flood Elevation ("BFE"), plus an additional six (6) feet (five (5) feet, plus one (1) foot of freeboard); and

WHEREAS, according to the NJDEP's website, these rules will be posted on the NJ Register for a ninety (90) day public comment period, with a benchmark adoption range of February 2025; and

WHEREAS, historically, legislation (and not Executive Order) has directed new rules be issued by the NJDEP; and

WHEREAS, in this case, like the NJDEP's recently proposed Shore Protection Rule, there is no legislation that authorized the NJDEP to require more stringent requirements than the federal regulations that are now in place; and

WHEREAS, these rules as currently written do not consider the economic impact these new standards may have on the ratables, real-estate values, development, tourism, and redevelopment statewide; and

WHEREAS, the proposed rules also do not account for the impact the significantly higher regulatory building standards will impose on historic structures and historic districts; and

WHEREAS, the State must consider the burden these new rules will have on coastal municipalities, especially within their local construction offices, due to the additional duties and responsibilities of enforcing these higher regulatory standards that will likely result in the need to hire additional staff or enter additional public/private contracts; and

WHEREAS, these rules will also increase construction costs and impact the feasibility for public infrastructure projects with the minimum construction height requirements for new roads in excess of BFE plus five (5) feet of Freeboard, that in some cases will be infeasible and unachievable given the path and location of the project; and

WHEREAS, despite the burden these rules will inevitably play on our coastal towns, the State has not mentioned any plan for a State budget appropriation to assist coastal towns statewide with the additional duties and functions imposed through the proposed NJPACT/REAL rules; and

WHEREAS, the proposed expansion of flood hazard areas will also create additional financial burdens on property owners by imposing more restrictive building standards accompanied by engineering assessments and alternatives analyses within the newly expanded regulated areas, and may also potentially result in higher insurance premiums given the expansion of the inundation risk zone and increase of the regulated flood hazard area limits by five (5) feet vertically; and

WHEREAS, the proposed NJPACT/REAL policy document is based on Rutgers University's 2019 Study Report ("Rutgers Report"), entitled, "New Jersey Rising Seas and Changing Coastal Storms," projecting sea level rise for the year 2100 exceeding 5.1 feet, which has a probability of occurrence of less than seventeen percent (17%); and

WHEREAS, the science behind the eight (80) year projections have been questioned by many, including former NJDEP employee and New Jersey Business & Industry Association ("NJBIA") Deputy Chief of Staff, Ray Cantor, stating, "the [NJDEP] knows there is no proved science justifying their position, but they also know it is easier to scare people and force them to retreat from the shore if they tell them that much of Cape May and other areas will be underwater. It is part of their managed retreat strategy"; and

WHEREAS the Rutgers Report also sets forth a greater than eighty-three percent (83%) probability that sea level rise will exceed 2 feet and a fifty percent (50%) probability that sea level rise will exceed 3.3 feet based upon moderate emissions and 1.7 feet and 2.8 feet respectively based upon low emissions by 2100; and

WHEREAS, the Rutgers Report sets forth that by 2050 (twenty six (26) years from now), there is a fifty percent (50%) probability that sea level rise will be 2.2 feet based upon moderate emissions and over the more prudent twenty (20) to thirty (30) year planning horizon such should be the maximum estimate for any new rules (a copy of the Rutgers Report percentage chart is attached hereto as Exhibit A); and

WHEREAS, potentially pushing fixed income residents out of their homes and causing significant damage to the coastal communities based on the less than seventeen percent (17%) probability of an eighty (80) year sea level rise projection should be taken more gradually with a higher percentage of probability and likelihood of occurring; and

WHEREAS, municipalities are required to prepare Master Plans for a twenty (20) or thirty (30) year planning horizon, and the Township strongly recommends a similar time horizon for rules based on sea level rise projections; and

WHEREAS, FEMA is also in the process of preparing detailed updates to the flood insurance rate maps ("FIRMS") that take into account many factors of risk including sea level rise; and

WHEREAS, the State has historically used FIRMS to guide public policy, and therefore, the Township urges the State to defer to the superseding governing body, in this instance FEMA, and wait until the new FIRMS have been posted before expanding flood hazard areas through a streamlined State authorization; and

WHEREAS, while recognizing the importance of addressing climate change, as stated previously, the Township believes that a more gradual and balanced approach is necessary to target incremental adjustments over time in order to mitigate the potential negative impacts that these radically changing rules will have on the coastal towns; and

WHEREAS, it is imperative that the State consider the disproportionate burden resulting from the implementation of such stringent regulatory standards upon the people living, working, and visiting in the coastal zones; and

WHEREAS, the Township is interested in real, commonsense, and logical solutions to the problems based upon the actual science and probabilities and the particular and relevant needs of the coastal communities, and not the managed retreat from the coastline sought by the State; and

WHEREAS, the State should communicate with, listen to, and seek the real input of the political leaders, business leaders, and public located within the coastal communities, i.e., the very people who live and work with and seek to thoughtfully protect against these important issues, instead of doing so by unilateral executive fiat.

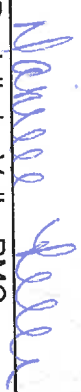
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Commissioners of the Township of Long Beach, County of Ocean, State of New Jersey, and in accordance with the foregoing Recitals, which are incorporated herein by reference, as follows.

1. The Township strongly opposes the NJDEP's 1,057-page rule proposal policy document known as NJ PACT (Protection Against Climate Threats)/REAL (Resilient Environments and Landscape) to expand flood hazard areas ("FHAs") statewide and implement higher floodplain management regulatory standards beyond the local and existing FEMA standards.
2. The Township requests a comprehensive and independent analysis of the potential economic and social impacts of the proposed regulations.
3. The Township requests that the Legislature enact rules through the typical legislative process to give the people of the State a voice, rather than through an Executive Order with limited public engagement.
4. The Township requests that these regulations be based on a twenty (20) or thirty (30) year timeframe that is adjusted over time to reflect sea level rise and resiliency measures, rather than based on an eight (80) year projection.
5. The Township requests that the State consider the inclusion of a budgetary appropriation to assist municipalities with the implementation of such rules and appropriate funding to implement a State grant program to support coastal resiliency projects that will inevitably incur greater costs due to the higher regulatory standards that includes significantly higher elevation requirements for new roads.
6. If the State decides to proceed with the expansion of flood hazard areas before FEMA releases the new FIRMS, the Township requests that the State follow the same practice as FEMA and prepare detailed flood maps, and further hold public engagement sessions across the State, so that communities and residents can clearly understand how these regulations will impact their areas and properties.
7. The Township hereby directs that copies of this Resolution be transmitted to Governor Phil Murphy; Lieutenant Governor Tahesha Way; Chief of Staff to Governor Murphy Diane Gutierrez-Scocetti; Senate President Nicholas P. Scutari; Assembly Speaker Craig J. Coughlin; Senate Environment Committee Chair Bob Smith; Assembly Environment Committee Chair James J. Kennedy; the Office of Legislative District 9's Senator Carmen Amato, Jr.; Assemblyman Gregory Myhre, and Assemblyman Brian Rumpf; NJBIA; and the New Jersey League of Municipalities to convey Township's concerns and recommendations.
8. The Township hereby directs that this Resolution be submitted as public comment on the NJ Register after the rules have been posted to serve as the County's official comments to the NJDEP's proposed NJPACT/REAL rules.

PASSED ON: September 9, 2024

CERTIFICATION

I, **Danielle La Valle**, Municipal Clerk for the Township of Long Beach do hereby certify that the foregoing Resolution 24-0909.02 was duly adopted by the Board of Commissioners at a regular meeting held on Monday, September 9, 2024.



Danielle La Valle, RMC
Municipal Clerk

