

February 6, 2014

Board of Commissioners
City of Margate

Commissioners:

As you know, Mayor Michael Becker and Solicitor Scott Abbott and I attended a meeting in Trenton on February 03, 2014 with Department of Environmental Protection Commissioner Bob Martin and members of his staff. This meeting occurred as the direct result of a December 23, 2013 letter sent to the Commissioner signed by the three Margate Commissioners acknowledging previous correspondence and again asking "that you meet with our full Commission to explore productive ways to move forward". Commissioner Martin eventually offered to set up a meeting in Trenton with only the Mayor and his chosen staff.

Those in attendance from the state were:

Bob Martin, NJDEP Commissioner

Magdalena Padilla, ESQ Chief of Staff

David Apy, Assistant Attorney General

David Rosenblatt, Office of Engineering and Construction Management

The major topics discussed may be classified as legal, physical and financial.

The legal questions posed by us centered on Margate Ordinance 2001-14 prohibiting a "dune project" without a referendum, the non-binding referendum held in November 2013 and the legal authority for the State of New Jersey to seize property and carry out a beach fill/dune project.

The result of the discussion was that the Commissioner will attempt to obtain for us from the Attorney General a legal opinion addressing the statute (*N.J.S.A.40:74-18*) which permitted Margate Ordinance (2001-14) and the Margate obligations under this ordinance. In addition, the Commissioner will attempt to obtain for us a legal opinion from the Attorney General stating the legal basis on which the State of New Jersey intends to act to seize private property and construct a beach fill/ dune project along the New Jersey coastline.

The physical questions asked by us revolved around dune height, drainage issues, Margate Fishing Pier issues and beach access. We were assured by the Commissioner that Margate would be given every opportunity to work along with and comment on drainage concerns and solutions as well as access issues. In addition the Commissioner promised to formally ask (again) the Army Corps Regional Director that consideration be given to lowering the dune height now set at 12.75 feet 1988 datum as I understand it. This height means that the actual dune height would be without modification about 5.25 feet because the beach itself would be at 7.5 feet.

The fishing pier was addressed. It was stated that the DEP is in communication with the private club representatives and that the DEP is fully aware that the viability of the pier as a "Fishing Pier" depends upon water depth.

The financial discussion centered on future Margate financial obligations pertaining to beach fill as well as costs for mitigation measures other than for beach fill and dunes. **The most important takeaway from the meeting is the clear understanding on our part that Margate will not be required to enter into a project agreement with the Army Corps of Engineers. Thus, there will be no ongoing legal obligation for local financial support for any future replenishment of the beaches.** This decision in itself justified our trip to Trenton and relieves one of the legitimate objections to a beach fill/ dune project in Margate.

We also discussed other mitigation measures and funds for getting these accomplished. Specifically we talked about bay front bulkheads, ocean beach street end bulkheads and bay dredging. We asked for funds for a planned Amherst Avenue Bulkhead Replacement Project and pointed out to the Commissioner how we have an ongoing application with his department for funding for this improvement. We asked for funds to rebuild street end bulkheads pointing out how we are adopting an ordinance to raise bulkhead heights. We pointed to a long history of Margate flood prevention measures which have contributed directly to Margate being one of only a small select group of municipalities with the highest CRS rating yet given to any municipality within the state. Finally we asked for solutions to the Back Bay dredging problems. The Commissioner offered some encouragement regarding DEP efforts to find acceptable dredge spoil sites and indicated that we and other municipalities would hear more on this topic soon.

All in all it was a cordial, professional and productive meeting. No promises were made by Margate officials and none were asked for. While it is clear that the objective of the Governor is to build beaches and dunes for the entire Atlantic, Ocean, Atlantic and Cape May coastline, we made it clear that there are legitimate issues to be addressed, not the least of which is the stated opinion of residents through the referendum process. We expect that the Commissioner and/or Deputy New Jersey State Attorney General Apy will be back in touch with the Mayor within the next few weeks.

Richard W. Deaney
Business Administrator