



Elizabeth Weinstein  
Chair  
Report & Advisory Board Review Commission  
Mayor's Office of Operations  
253 Broadway, 10<sup>th</sup> Floor  
New York, NY 10007

Dear Chair Weinstein,

Thank you for the opportunity to comment, on behalf of the Stormwater Infrastructure Matters Coalition (S.W.I.M.), on the proposal to waive the requirements that the City update once every four-years (including by December 1 of this year), and bi-annually report progress to the City Council on, the city's Sustainable Stormwater Management Plan ("SSMP"). We urge the Commission to reject this proposal.

S.W.I.M. is a coalition of over 70 organizations dedicated to ensuring swimmable and fishable waters around New York City through natural, sustainable stormwater management practices – called Green Infrastructure – in our neighborhoods. (See [www.swimmablenyc.info](http://www.swimmablenyc.info) for more information about SWIM and green infrastructure.) S.W.I.M. was instrumental in passing Local Law 5 of 2008 ("LL5," codified at NYC Admin. Code § 24-526.1), which required development of the SSMP and established the ongoing requirements to report progress on, and update the contents of, the plan. Members of the S.W.I.M. Coalition worked with Councilman Gennaro, the lead sponsor, in drafting the language of the bill and the Coalition's wide membership advocated for the bill. (See <http://swimmablenyc.info/?p=135>.)

The Coalition is incredibly proud that LL5 and the SSMP, which was first issued in Dec. 2008, laid the essential groundwork for the Department of Environmental Protection's 2010 Green Infrastructure Plan (GI Plan), which has helped make New York City a national leader in using green infrastructure to cost-effectively reduce sewage overflows while improving community health and neighborhood livability.

While the GI Plan now provides a blueprint for much of the effort necessary to fulfill the vision of sustainable stormwater management in New York City through green infrastructure, the SSMP is broader in many important respects than the GI Plan, as detailed below. We fully support efforts to eliminate redundancy in reporting and to improve efficiency within the City agencies. However, the broader elements of LL5 and the SSMP, which are not duplicated elsewhere, would be lost if the requirements to update and report progress on the SSMP is eliminated. Instead, without the need for any action by this Commission, the City can readily adjust its reporting practices to avoid duplicative efforts and comply with all existing requirements.

According to the minutes of the Commission's February 28, 2012 meeting ([http://www.nyc.gov/html/rabrc/downloads/pdf/draft\\_public\\_meeting\\_minutes\\_and\\_presentation\\_28\\_2012\\_v2.pdf](http://www.nyc.gov/html/rabrc/downloads/pdf/draft_public_meeting_minutes_and_presentation_28_2012_v2.pdf)), the proposal to eliminate the reporting requirements associated with the SSMP was based on the premise that such reporting only involves bi-annual status reports; that such reporting is "redundant" to the GI Plan; that the SSMP "only included milestones through 2010". None of these is correct.

In fact:

- LL5 requires not only a biennial status report on implementation of the SSMP, but also a once-every-four-year update to the plan;
- The existing version of the SSMP includes initiatives on which progress is not required to be reported publicly under the GI Plan or any other plans;
- The existing version of the SSMP includes initiatives with milestone dates beyond 2010, as well as many initiatives that warrant updated milestones; and
- The SSMP overlaps with, but is broader than, the GI Plan in important ways, not the least of which is that the SSMP covers the entire city, whereas the GI Plan covers only the approximately 50% of the city that is served by a “combined sewer system.”

There is no dispute that the underlying goals of LL5 remain as valid today as they were when City Council passed the law and Mayor Bloomberg signed it. Likewise, everyone can agree that no City staff or official should spend his or her time preparing duplicative reports. Indeed, S.W.I.M. fully support this Commission’s charge to eliminate such duplication, so that taxpayer resources can be deployed efficiently to the hard work of improving the performance of City programs. Just as firmly, however, we believe it is clear that no existing requirement of LL5 needs to be “waived” to avoid such duplicative efforts and, conversely, that waiving those requirements would undermine the goals of LL5 itself.

To the extent that LL5’s requirements overlap with the content of reports and plans the City (or DEP) will be preparing independently – e.g., in connection with the GI Plan, PlaNYC, or any other relevant reporting – the requirements of LL5 can be partially satisfied by including cross-references to such other reports and plans in the LL5-mandated reports and plan updates that are submitted to City Council. Where LL5’s requirements go beyond the scope of such other reports and plans, it is essential that the City does continue to expend additional effort tracking and reporting (a laudable hallmark of the Bloomberg Administration), and updating the SSMP itself, as provided by LL5.

For all of these reasons we urge the Commission to reject the proposal to eliminate reporting requirements associated with the SSMP. Our further detailed comments follow below:

#### **Difference in the geographic coverage of the SSMP and the GI Plan**

It is true that large portions of the SSMP are now duplicative of the GI Plan and the annual reports under the GI Plan. For example, many of the initiatives in the SSMP, particularly those led by the NYC Department of Environmental Protection, are reported in the GI Plan 2011 Update. For these initiatives, we believe there is no need for a separate report under the SSMP. However the two plans do not completely overlap. The SSMP is a comprehensive citywide plan for managing stormwater. As such it covers the areas of the City that are served by separate storm sewers or that are unsewered (see [http://www.nyc.gov/html/dep/html/stormwater/sewer\\_system\\_types.shtml](http://www.nyc.gov/html/dep/html/stormwater/sewer_system_types.shtml)) as well as the areas served by the combined sewers. Apart from the SSMP, there is no other public reporting or planning process that is required to comprehensively address the non-combined sewer portions of the city. (We note that, for several years, DEP and the NYS Dept of Environmental Conservation have purportedly been discussing a new Clean Water Act permit to address the separately-sewered areas of the city. Requirements in the current permits are decades out of date. After a new permit is adopted, cross-references to the compliance and progress reports developed pursuant to that permit’s requirements

will, undoubtedly, provide an efficient means of meeting much of the City's reporting obligations to the City Council under LL5 that would not be met via the contents of reporting on the GI Plan. However, given the years of delay so far in developing the new permit, it is unknown when this will occur.)

### **Milestones and the SSMP timeframe beyond 2010**

The SSMP Progress Report 2010 lists the status of the milestones for completion by October 1, 2010. While many initiatives in the SSMP2008 were to be completed by October 1, 2010, some initiatives have a longer time horizon and are not included in the GI Plan. These include, for example:

- NYC Plaza Program is slated to create six new plazas every year.
- Various road reconstruction projects (Albert, East Houston, Aster Place, and Atlantic Avenue) have milestone dates in 2012.
- Belt Parkway Bridges are planned for completion in 2014.
- Ballfield source control pilot is planned for completion in 2014.
- Analysis of stormwater capture in separate sewer areas missed its milestone date of July 1, 2009.

Status of these projects are reported in the SSMP Progress Report 2010 but it is not clear that they would be included for future reporting under the GI Plan alone, since these are projects led (and, it appears, funded) by agencies other than the DEP.

### **LL5 requirement for review and revision**

Local Law 5 2008 specifically calls for a review and revision of the SSMP every four years. This requirement was included because Green Infrastructure was a relatively new concept at the time and allowing for revisions along the way would be most prudent. For instance, monitoring demonstration projects is an important SSMP component that provides a feedback loop to other initiatives in the plan. Moreover, in the GI Plan, the City has re-affirmed that long-term, continuous "adaptive management" must be a cornerstone of a green infrastructure approach to stormwater management. Although many of the SSMP initiatives that had October 1, 2010 milestones were met, some of these initiatives warrant revisions or updates. After all, milestones are metrics for measuring progress towards a goal, they are not, themselves, the ultimate goals of a plan or program.

Some of the SSMP milestones that need revisions/updates include:

- Sidewalk standards, road reconstruction, and explore maintenance options whose 2010 milestone was to convene an interagency working group;
- Low- and medium-density residential, whose 2010 milestone was to "collect knowledge from building industry experts and manufacturers and continue researching solutions to technical and funding challenges";
- Green sector employment, whose 2010 milestone was to "release final report."

These are initiatives that will not necessarily be integrated into the GI Plan, because they are not solely CSO related, and clearly need to move to the next phase beyond the original milestones. The activities of the interagency working group must continue with perhaps a new set of objectives that are aligned with the current state of Green Infrastructure implementation. Technical and funding challenges continue to remain challenges that require research and consultation with appropriate sectors. Finally, a

final report on the green sector employment must be followed up by an action plan or an implementation plan.

**Coordination by the Office of Long Term Planning and Sustainability**

Sustainable stormwater management is a multi-agency effort that requires participation of the private sector. The Mayor was wise in designating the Office of Long Term Planning and Sustainability (OLTPS) to develop the SSMP rather than the NYC Dept of Environmental Protection. In the SSMP there are many initiatives under the leadership of the OLTPS, which is best suited to coordinate multiple city agencies. Eliminating the SSMP may be seen as diminishing the role of the OLTPS, which may adversely impact the interagency cooperation required to implement many of the plan initiatives. We believe the OLTPS serves a critical function in coordinating a myriad of sustainability initiatives implemented by multiple agencies around the City. We are wary of proposals that potentially diminish the role of the OLTPS in such an important facet of PlaNYC as sustainable stormwater management.

Furthermore, accountability, data driven policies, and information dissemination are the hallmarks of the Bloomberg Administration. Reporting on the initiatives of the SSMP should remain a commitment until or unless every initiative in the SSMP is incorporated into other plans that require frequent reporting and updating.

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We commend the Bloomberg Administration and City Council for having taken on the important work of making our City sustainable using innovative and comprehensive approaches such as green infrastructure. We are here to assist the City in ensuring that this legacy lives on – and that long-term (*i.e.*, decades-long) programs achieve ultimate success – beyond the terms of Mayor Bloomberg and current Members of the Council. We, therefore, urge the Commission to reject the proposal to eliminate requirements concerning the SSMP.

Please feel free to contact us if you have any questions at [swimmablenyc@gmail.com](mailto:swimmablenyc@gmail.com).

Sincerely,



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cc: D. Bragdon, Director, OLTPS  
C. Strickland, Commissioner, NYCDEP  
J. Gennaro, Chair, NYC Council Committee on Environmental Protection  
Members of the NYC DEP Green Infrastructure Steering Committee<sup>1</sup>

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<sup>1</sup> Members listed at [http://www.nyc.gov/html/dep/html/stormwater/nyc\\_green\\_infrastructure\\_outreach.shtml](http://www.nyc.gov/html/dep/html/stormwater/nyc_green_infrastructure_outreach.shtml)