



FAIRHAVEN SELECT BOARD

Agenda

Monday, December 19, 2022

6:30 p.m.

Town Hall – 40 Center Street – Fairhaven

Pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted in person and via remote means, in accordance with applicable law. This means that members of the public body as well as members of the public may access this meeting in person, or via virtual means. In person attendance will be at the meeting location listed above, and it is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of the public.

The meeting can also be viewed on Channel 18 or on FairhavenTV.com

Log on or call 1-929-205-6099

Join Zoom Meeting

<https://us06web.zoom.us/j/82732885794?pwd=VkU2NVF2UEQrQmJsSVE5MINjTGRsdz09>

Meeting ID: 827 3288 5794

Passcode: 567995

A. MINUTES:

1. Approve the minutes of December 5, 2022 – Open Session
2. Approve the minutes of December 5, 2022 – Executive Session

B. TOWN ADMINISTRATOR:

1. Animal Control Office (ACO) Updates: Animal Control Officer, Terry Cripps
2. Proposed Title V changes: Board of Health (BOH) Agent Dave Flaherty
3. Committee vacancies
4. Grants awarded
 - a. Executive Office of Public Safety and Security and Department of Fire Services (DFS)
 - b. FY23 Field Demonstration Project Service Incentive Grant, Council on Aging (COA)
5. One-on-one meetings with Select Board
6. Rogers School Update

C. ACTION ITEM:

1. Gift acceptance: ACO
2. Collective Bargaining Agreements: Clerical and Highway
3. Fairhaven Homecoming, Saturday, June 24, 2023
4. Surplus cobblestone at the town yard
5. Marine Resources Committee appointment: James Moraux
6. Capital Planning Committee appointments: Paul Kitchen; Robert Furtado
7. Belonging Committee appointment: Alliea Group
8. Commission on Disability appointments: Annemarie Chagnon; Ronnie Medina
9. Broadband Study Committee appointment: Ronnie Medina
10. January Select Board meeting dates
11. Town Administrator Cost-of-Living Adjustment (COLA)
12. Town Administrator Evaluation

D. COMMITTEE LIASON REPORTS

E. PUBLIC COMMENT

F. BOARD MEMBER ITEMS

G. CORRESPONDENCE:

1. Mattapoisett River Valley Water District, Borrowing Vote revised language

H. NEWS AND ANNOUNCEMENTS

1. The next regularly scheduled meeting of the Select Board is *to be determined* at 6:30 p.m. in the Town Hall Banquet Room

ADJOURNMENT

Subject matter listed in the agenda consists of those items that are reasonably anticipated (by the Chair) to be discussed. Not all items listed may be discussed and other items not listed (such as urgent business not available at the time of posting) may also be brought up for discussion in accordance with applicable law.

MGL, Ch. 30A, § 20(f) requires anyone that intends to record any portions of a public meeting, either by audio or video, or both, to notify the Chair at the beginning of the meeting.

Commonwealth of Massachusetts
TOWN OF FAIRHAVEN
POLICE DEPARTMENT
1 Bryant Lane
Fairhaven, MA 02719
Phone 508-997-7421
Fax 508-997-3147
www.fairhavenpolice.org

Michael J. Myers
Chief of Police

Animal Control Officer Terry Cripps originally hired by former Executive Secretary Jeff Osuch and worked as the ACO from 2013 to 2015.

Re-hired under Town Administrator Mark Rees in 2017 when restructuring of the animal control division was made part of the police department and supervised by Captain Michael Botelho.

Since the restructuring, the shelter has made a vast amount of physical improvements. Monetary donations deposited into the gift account have been used to make the facility more handicapped accessible. The gift account has also funded a number of projects at the shelter that have improved the safety and sanitary conditions for both the animals and staff. Monetary donations are also used for many other important purchases which ACO Cripps can discuss further at the meeting. Recently the gift account was used to help offset the cost of a much needed new animal control vehicle.

Projects on the horizon that will be used with recent donations:

- *Make the kennel area handicap accessible
- *Turf improvements for outside play area
- *Security improvements
- *Continue with parking lot improvements



THE GENERAL COURT OF MASSACHUSETTS
STATE HOUSE, BOSTON 02133-1053

December 9, 2022

Commissioner Martin Suuberg
Massachusetts Department of Environmental Protection
100 Cambridge Street, 9th Floor
Boston, MA 02114

Dear Commissioner Suuberg:

We write to you today to voice our concerns regarding the promulgation of new Title V regulations that are set to impact our districts. While we appreciate the need to curtail pollution and minimize nitrogen in the estuaries of Buzzards Bay, the current solution proposed by the Massachusetts Department of Environmental Protection (DEP) is troubling and has exhibited many shortcomings. We are disappointed by the lack of transparency and public access to information surrounding every aspect of this process. Hopefully, this letter will raise awareness of the following issues and lead to an alternative to the current proposal.

First, we encourage that the NSA "Stakeholder" Subcommittee, that was responsible for making Title V regulatory recommendations, have their membership and affiliations made public and easily accessible. A committee that wields so much power over the lives of homeowners should be held to an acceptable level of accountability and transparency. Without this knowledge being made public how can the citizens of the Commonwealth have faith that this committee represents all stakeholders fairly and has their best interests at heart? Advising impacted residents that they must file a public records request to obtain this basic information about a public committee is not acceptable. Numerous credible constituents have expressed to our offices that they have lost trust in DEP as a result of this issue alone.

Additionally, the one size fits all approach to the application of these regulations does not account for the diversity in the topography of the different regions being impacted by these proposed changes. There is no reason why the South Coast and Cape Cod should be lumped together and treated with the same regulatory standards. These regions are separate in every aspect including vastly different populations, industries, soil composition and coastal needs. Furthermore, each municipality within these regions function under a unique style of government. They all have different executive, committee, and regulatory structures that could impact how they are able to facilitate this mandate. Instead of bludgeoning these municipalities and their citizens into arbitrary frameworks more effort should have been put into tailoring solutions that are not only impactful but manageable for each town and city. Surely, the needs of Provincetown are not the same as the needs of a town like Dartmouth. When a change is made so unilaterally proper attention must be given to each community that is impacted and how the needs of each may vary.

Furthermore, more time is needed to review the science that is being used to back these regulatory changes. We believe the resolution of this issue has been placed completely and unfairly on the backs of the residents in our communities. There is evidence to suggest that only 15% of the nitrogen being leaked

Page 2
December 9, 2022
Letter to DEP
Title V Changes

into South Coast estuaries originates from household septic systems. The nitrogen surplus is being driven by private industries such as large scale for-profit composting. Despite this, the burden continues to fall on individual homeowners. The neighborhoods that will be impacted include veterans, the elderly, and the economically marginalized. Why should they shoulder the burden of this problem when there is evidence to suggest that private industry is at fault?

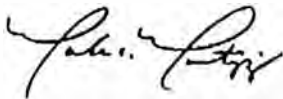
Finally, it is troubling that DEP's timeline seems to be based upon private litigation filed by the Conservation Law Foundation rather than sound scientific evidence. This litigation does not involve the Town of Dartmouth or any community within the Southcoast region. Nonetheless, our communities are being jammed into an arbitrary timeline agreed to by DEP and a private litigant on a matter that does not involve their particular city or town. This is not a fair nor acceptable process.

Before the DEP continues to steamroll these regulations into place, we are calling for a fair assessment of the problems at hand. There are important questions that need to be answered in a public and transparent forum. What are the affiliations and self-interests of the committee appointed to recommend these regulations? Do the proposed regulations apply in the most practical and impactful way for municipalities with diverse geographic and demographic identities? Do the proposed regulations address the issue at its root or are they an attempt to get homeowners to foot the bill of an ill-advised government project? To date, these questions have not been satisfactorily answered by DEP or the NSA subcommittee.

Respectfully, we request that more time be provided to properly understand and investigate the proposed Title V regulation changes. We hope with more time, greater transparency and attention to detail DEP will find the proper solutions to this issue. Our greatest concern is ensuring that the best interests of the homeowners in our districts are protected. We encourage DEP to refrain from implementing these regulatory changes moving forward.

If there are any questions, please feel free to contact our offices.

Respectfully,



Mark Montigny
State Senator
Second Bristol and Plymouth



Christopher Markey
State Representative
9th Bristol District



Department of Environmental Protection

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Bethany A. Card
Secretary

Marlin Suuberg
Commissioner

Fact Sheet

MassDEP Regulatory Strategy for Estuaries Impaired by Nitrogen June 1, 2022

1. Nitrogen Sensitive Area Designations: A primary source of nitrogen contamination of coastal estuaries in Southeastern Massachusetts and Cape Cod and the Islands are on-site septic systems. MassDEP, in conjunction with local Boards of Health, regulates these systems through “Title 5” regulations, 310 CMR 15.00.

To ensure the Title 5 regulations are protective of the environment, particularly in relation to the impact of nitrogen discharges on surface water quality, MassDEP is proposing the following revisions to Title 5:

Establish New Nitrogen Sensitive Areas (NSAs)

To more effectively address nitrogen impacting estuaries, MassDEP is proposing to establish new “Natural Resource Area” NSAs for:

- any watershed to an embayment or sub-embayment that is the subject of a Nitrogen Total Maximum Daily Load (TMDL) approved by the EPA pursuant to the federal Clean Water Act and an Area-Wide Water Quality Management Plan pursuant to Section 208 of the Clean Water Act addressing nitrogen pollution:
 - A “TMDL” is an EPA-approved calculation of the maximum amount of a pollutant allowed to enter a waterbody so that the waterbody will meet and continue to meet water quality standards for that particular pollutant. A TMDL determines a pollutant reduction target and allocates load reductions necessary to the sources of the pollutant.
 - All Cape Cod communities are subject to the “208 Plan” approved by EPA in 2015.
 - There are currently 30 watersheds across Cape Cod with EPA-approved nitrogen TMDLs.

- For these watersheds, the NSA designation is effective on the effective date of the final regulations.
- any watershed to an embayment or sub-embayment that is the subject to an EPA-approved TMDL or determined to be nitrogen sensitive by the Department based on scientific evaluation and adopted through a public process involving public notice, including the scientific and regulatory rationale for the designation, and a 60-day public comment period.
 - For these watersheds, the NSA designation is effective upon completion of the public process and MassDEP's issuance of the final designation.

New Requirements for Natural Resource Area NSAs

MassDEP is proposing new requirements for these new NSAs to more effectively address the specific problems related to septic systems contaminating coastal estuaries.

- Unless a community is the subject of a Watershed Permit described below, any system serving a new construction, or an existing facility must incorporate Best Available Nitrogen Reducing Technology within five years of the effective date of the NSA designation of the watershed in which they are located.
- Best Available Nitrogen Reducing Technology is an alternative system certified by MassDEP for general use pursuant to Title 5 which has the lowest effluent Total Nitrogen performance value. An alternative system granted provisional or pilot approval by MassDEP may also be utilized as long as such system has a Total Nitrogen performance value less than or equal to the lowest alternative system certified by the Department for general use.

Exemption from Enhanced Treatment Requirements in Watersheds with Watershed Permits

While the enhanced treatment requirements for septic systems will result in significant reductions in nitrogen pollution, they may not be the most effective and efficient way to restore the impacted estuaries and achieve established water quality goals. Therefore, MassDEP is also proposing a second, concurrent regulatory revision to formally establish a "watershed permit process." If communities take advantage of this approach, and obtain a watershed permit that covers an area that would be subject to new "Nitrogen Sensitive Area" regulations, the above Title 5 NSA requirements would not become effective for that area.

However, if a Watershed Permit is terminated by the permittee or revoked by MassDEP, new systems installed after the date of termination/revocation would have to install Best Available Nitrogen Reducing Technology and existing systems would have to install such technology within five years from the effective date of the new NSA regulations or two years of the date of termination/revocation, whichever is longer.

2. Watershed Permit Regulations: The Watershed Permitting regulations are a new, innovative approach to provide communities the opportunity to develop and implement the most effective

and efficient solutions to addressing water quality challenges. This approach provides the opportunity for communities to employ a greater range of solutions to address their water quality needs, including alternative or innovative approaches. The Watershed Permit is a 20-year permit instead of the traditional five-year permit which utilizes an adaptive management approach, requiring permittees to monitor, evaluate and report results, and adjust and modify the strategies and practices as needed to address conditions that are causing the water quality impairments.

Watershed Management Plan

The Watershed Permit is based on a "Watershed Management Plan" a long-term plan to address an existing water quality impairment to restore and protect water quality. The Watershed Management Plan must be approved by town meetings of each respective watershed permit applicant, and is based on a Comprehensive or Targeted Watershed Management Plan. The Plan provides a schedule and description of actions to restore the waterbody to applicable Water Quality Standards in accordance with any applicable TMDL and/or any other applicable scientific evaluation, such as the Massachusetts Estuaries Project (MEP) report.

For watersheds where a TMDL has been established, the Watershed Management Plan must achieve compliance with the Water Quality Standards required by the TMDL and demonstrate that at a minimum, 75% of the necessary pollutant reduction levels will be achieved within 20 years, unless MassDEP determines an alternative schedule is appropriate based on watershed-specific issues.

Watershed Permit Application

- Any Local Government Unit or Regional Local Government Unit can file for a watershed permit. Multiple local government units that share a watershed or sub-watershed may apply jointly for a Watershed Permit, provided they have entered into an enforceable agreement (e.g., Intermunicipal Agreement) that confirms each permittee's percentage share of the aggregate pollutant removal responsibility and provides a framework to coordinate resource management decision-making and arrangements relating to the receipt and expenditure of funds for implementation.
- The Watershed Permit authorizes work needed to implement the Permittee's mitigation strategy for the watershed or sub-watershed, therefore the Application must include the Watershed Management Plan for the watershed or sub-watershed including:
 - maps depicting the regulated area (watershed boundary) and a narrative describing the area proposed to be covered under a Watershed Permit;
 - a description of the current and historic water quality conditions, including short- (daily/seasonal) and long- (annual) term variability, proposed sentinel sampling locations within the watershed/stations, sampling frequency, parameters and sampling technique (e.g., grab/observation);

- the earlier planning approaches taken prior to filing the application, including any related findings and recommendations;
- the types, locations, and timing of any on-going and proposed TMDL or alternative TMDL implementation activities within the watershed or sub-watershed proposed for coverage;
- a table identifying the nitrogen load that the area proposed for coverage under the watershed permit contributes to the surface waters of the watershed for the past 10 years and projected loads for the following 10 and depicting the necessary load reductions (removal requirements) within the watershed to meet the TMDL or TMDLs and a concise description of the means of achieving those specified reductions during the term of the permit;
- the Conventional Control Technologies and Alternative Control Approaches or Technologies selected for pollutant load reductions, the area covered by these approaches, and identification of the permittee who will be responsible for implementing each activity;
- the estimated load reductions needed to meet the threshold concentration(s) at the sentinel station(s) for each of the selected Conventional Control Technologies and Alternative Control Approaches or Technologies;
- the implementation schedule for each Alternative Control Approach or Technology proposed, including a timeframe for demonstration, testing, and acceptance or abandonment of such approaches or technologies;
- the Core Sewer Area and the service areas prioritized for wastewater collection and treatment after accounting for implementation of the selected Alternative Control Approaches and Technologies;
- if Alternative Control Approaches and Technologies are proposed, a contingency plan for a back-up Conventional Control Technology in the event that the Alternative Control Approaches and Technologies selected do not function as predicted;
- the proposed approach to control 100% of all future pollutant loads to ensure that loads will always stay below the applicable threshold levels cost estimates for the infrastructure and programs associated with the proposed actions, if available;
- an implementation schedule, not to exceed 20 years, currently envisioned by the applicant(s), including a designated set of activities that will occur in the first 5-year block of time, and the results of which will enable the permittee to revise the implementation plans for the next 5-year period as necessary to meet load reduction requirements as specified.

Standard Watershed Permit Provisions

- The Department shall not issue a Watershed Permit if the Watershed Management Plan does not provide for achievement of the Surface Water Quality standards applicable to the

water bodies covered by the permit or if the permit does not provide for reasonable progress in achievement of the TMDL load reductions necessary to meet water quality standards.

- Consistent with the Watershed Management Plan, the permit shall require that 75% of the necessary pollutant reduction levels will be achieved within 20 years, unless MassDEP determines an alternative schedule is appropriate based on watershed-specific issues.
- The proposed activities, implementation schedule for such activities, and facilities set forth in the applicant's Watershed Management Plan shall be enforceable requirements, incorporated in a Watershed Permit.
- Subject to Department approval, a permittee is granted pollutant reduction credit for Alternative Control Approaches and Technologies only if the permittee implements and maintains such approaches and/or technologies in accordance with the terms and conditions of the Watershed Permit.
- The permittee shall provide a Contingency Plan in its Watershed Management Plan that relies on Conventional Control Technologies to achieve the target threshold concentrations identified in the Watershed Management Plan.
- The permittee shall monitor water quality in accordance with the permittee's monitoring plan and report the results in the Annual Reports required by the Watershed Permit.
- The Permit requires annual reporting, with 5-Year Reports evaluating results of program and proposed adjustments through adaptive management.
- Any prospective changes to the Watershed Management Plan or the approved implementation schedule shall be identified in the Annual Reports required by the Watershed Permit. Any such proposed changes to the Watershed Management Plan shall be subject to the Department's review and approval.
- For a permittee(s) to terminate permit coverage, they must provide public notice and hold a public meeting.
- Any permits issued by the Department that comprise a component of the implementation activities or are applicable to the pollutant discharges in the watershed shall be incorporated by reference into the Watershed Permit.

Watershed Permit Process

- The applicant shall publish public notice of the Watershed Permit proceeding in the MEPA Environmental Monitor and in a newspaper circulated within the area that will be affected by the Watershed Permit. The Department will post the notice on the Department's webpage.
- Public notice will afford a comment period of at least 60 days.
- A public hearing will be held if requested by the applicant, or if the Department determines a public hearing to be in the public interest.

- After the conclusion of the 60-day public comment period, the Department may issue or deny a final Watershed Permit.
 - If no comments objecting to the issuance or terms of the Watershed Permit were received by the Department during the public comment period, then the Watershed Permit shall take effect upon issuance.
 - If comments objecting to the issuance or the terms and conditions of the Watershed Permit were received by the Department during the public comment period, then the final Watershed Permit shall become effective 21 days after issuance, unless a request for an adjudicatory hearing is timely filed.
 - During the 21-day period following issuance of the Watershed Permit or determination to deny, any person aggrieved by the decision may file a request for an adjudicatory hearing with the Department.

Watershed Permit Modification/Suspension/Revocation

- The Department may propose and determine to modify, suspend or revoke any Watershed Permit, in whole or in part, for cause including, but not limited to, violation of any permit, obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts or any change in or discovery of conditions that calls for reduction or discontinuance of the authorized discharge or activity.
- The Department shall process a Watershed Permit modification, suspension or revocation in the same manner as an application for a Watershed Permit; provided, however, that the Department may revise a schedule in a Watershed Permit at the request of a permittee if the Department determines that good and valid cause, for which the permittee is not at fault, exists for such revision, and in such cases the provision for public notice and hearing shall not apply.
- Any one or more of the permittees may terminate coverage under this Permit by providing written notice to the Department at least 60 days in advance of the date such termination is to take effect. Such notice will include public notice of a public hearing to be held at least 30 days prior to the termination date. Such notice will be published in the MEPA Environmental Monitor and in a newspaper circulated within the area affected by the Watershed Permit at least 30 days prior to the hearing.



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Belhany A. Card
Secretary

Marin Suuberg
Commissioner

June 1, 2022

Dear Municipal Official:

I am writing to inform you of regulatory revisions the Massachusetts Department of Environmental Protection (MassDEP) is developing to ensure that timely actions are taken to restore and protect coastal estuaries that have been impacted by excessive nitrogen pollution. The two regulatory approaches we developed and plan to publish for public comment this fall provide communities with choices on how to address the growing pollution problem affecting our waters. MassDEP is requesting your input on these proposals prior to publication.

As you are well aware, nitrogen contamination is one of the most significant environmental challenges facing coastal communities in Southeastern Massachusetts and on Cape Cod and the Islands. Excessive nitrogen pollution from septic systems, wastewater treatment plants, agriculture, lawns and stormwater leaches into groundwater and flows underground and is discharged to surface water causing eutrophication and prompting the accelerated growth of nuisance plants, weeds and algae, using up much of the oxygen in the water. This forces out finfish, shellfish, and indigenous plant species. The result - water bodies that violate state water quality standards and cannot support the natural uses that the estuaries have historically offered. While nitrogen comes from a variety of sources, a primary source is on-site septic systems.

MassDEP has been working closely with Southeastern Massachusetts and Cape and Island communities for years to assess and address this problem. First, MassDEP collaborated with these communities and the University of Massachusetts, through the Massachusetts Estuaries Project, to provide communities with the scientific studies they need to effectively address the specific water quality issues impacting each estuary. These studies, which clearly demonstrate the need to take action, were also used to form the underlying basis for Total Maximum Daily Loads (TMDLs). TMDLs are U.S. Environmental Protection Agency or EPA-approved calculations of the maximum amount of a pollutant allowed to enter a waterbody so that the waterbody will meet and continue to meet water quality standards for that particular pollutant. A TMDL determines a pollutant reduction target and allocates load reductions necessary to the sources of the pollutant.

MassDEP has prioritized its efforts on working with communities to develop and implement comprehensive and targeted wastewater plans that will most effectively and efficiently address

these water quality challenges, and we have been pleased to see a range of progress across the impacted communities, including planning, funding, evaluating pilot approaches, and, in some cases, actual implementation of solutions. At the same time, such progress has been inconsistent and unpredictable. MassDEP ultimately has the responsibility to ensure that concrete actions are taken in a timely way to address the ongoing nitrogen contamination and ensure these critical water resources meet water quality standards.

MassDEP, therefore, is planning to propose two regulatory changes to meet this responsibility. First, a primary source of the nitrogen contamination is septic systems, and our regulatory authority for such systems is the Title 5 regulation - and MassDEP must ensure these requirements are protective of water quality. Therefore, we are proposing to revise Title 5 regulations to establish "Nitrogen Sensitive Areas" (NSAs) for watersheds draining into an estuaries subject to an EPA- approved "Total Maximum Daily Load" for nitrogen or where it has been scientifically demonstrated that the estuary is impaired by nitrogen. The revised regulations would require - unless Towns take advantage of a watershed alternative approach - that within 5 years of the effective date of the NSA designation, new on-site systems include, and existing on-site systems upgrade to, enhanced nitrogen treatment systems demonstrating the lowest nitrogen levels in their effluent.

MassDEP has prioritized our efforts for years to working with communities to develop more tailored and effective wastewater solutions and remain committed to such efforts. Therefore, we are also proposing a second regulatory revision to formally establish the "watershed permit." These permits are 20-year permits that are based on long-term wastewater plans that will achieve water quality goals and provide communities the opportunity to utilize a range of approaches, including centralized sewer treatment and innovative approaches. Importantly, if communities take advantage of this approach, and obtain a watershed permit that covers an area that would be subject to new NSA regulations, the system-by-system approach can be avoided.

MassDEP's current proposal has two provisions for the NSA designations and new requirements to become effective:

- For Cape Cod communities subject to the Section 208 Water Quality Management Plan, the designation and new requirements would become effective upon the final promulgation of the regulations.
- For other watersheds subject to an EPA-approved TMDL for nitrogen or determined to be nitrogen sensitive based on scientific evaluation, the designation and new requirements would become effective following a public process including public notice and comment.

As watersheds in your community have been subject to MEP studies and, in some case, nitrogen TMDLs, these proposed regulatory changes may impact your communities and citizens. As we seek input and comment on these regulatory approaches over the next few months, we would like to meet with appropriate officials in your community to discuss the status of these efforts and how they may comport with the proposed changes. I have attached a fact sheet that provides more details on the proposed regulatory framework. Please contact Millie Garcia-Serrano,

Director of MassDEP's Southeast Regional Office at millie.garcia-serrano@mass.gov to schedule a time where we can meet to discuss these regulatory approaches in person.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin J. Suuberg". The signature is written in a cursive style with a large, stylized "M" and "S".

Martin J. Suuberg
Commissioner



TOWN OF FALMOUTH

Office of the Town Manager & Select Board

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone: (508) 495-7320

townmanager@falmouthma.gov

December 5, 2022



RECEIVED

12/9/2022

Commissioner Martin Suuberg
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

Re: Proposed amendment to the State Environmental Code, Title 5, 310 CMR 15.000

Dear Commissioner Suuberg:

Thank you for the opportunity to provide comments to the Massachusetts Department of Environmental Protection (DEP) on the proposed amendments to 310 CMR 15.000: The State Environmental Code, Title 5: Standard requirements for the siting, construction, inspection, upgrade and expansion of on-site sewage treatment and disposal systems and for the transport and disposal of septage.

The proposed amendment to the title 5 regulation would require the installation of advanced denitrifying septic systems (also referred to as "I/As") for all septic systems located in Falmouth's fourteen watersheds for estuaries designated as impaired by the Massachusetts Estuaries Project (designated as Natural Resource Areas – NSAs - in the regulations).

This would require 15,000+ septic system upgrades in Falmouth alone, with an approved 'Best Available Technology' denitrifying system, within 5 years.

The Town of Falmouth shares the DEP's goal of enhancing protection and restoration of embayments and estuaries – particularly on Cape Cod, the Islands and Southeastern Massachusetts – by controlling nitrogen pollution originating from on-site sewage disposal systems. However, the town strongly believes that DEP's regulation as proposed would cause an enormous undue financial burden on homeowners while failing to achieve the goal of meeting the Total Maximum Daily Loads in the impaired estuaries.

These comments are provided on behalf of the Falmouth Select Board as the chief policy setting board of the Town having received input from the Water Quality Management Committee, Wastewater Superintendent, Board of Health, Health Agent, and Town Manager. The Select Board voted to authorize this letter at a meeting on December 5, 2022.

1. Cost to the property owners would be substantial. The average cost of acquiring and installing an I/A as contemplated in these proposed regulations would conservatively be \$30,000, so the total cost to property owners- in Falmouth alone- would be over \$457,000,000. And since the regulations are not accompanied by any funding source, it is clear that this cost would be placed solely on the shoulders of the property owners.
2. The six I/A systems currently approved for General Use by DEP for nitrogen removal are only certified to remove 50% of the assumed nitrogen entering a septic system (effluent of 19 mg/L or less). Even if those systems actually performed at that level, installing 15,000+ of them in Falmouth's fourteen watersheds would bring only ONE of the town's fourteen estuaries to its TMDL. The other thirteen estuaries would still not meet the TMDL's.
3. The six DEP approved I/A systems do not, in fact, perform at their anticipated level, as Falmouth has found by analyzing data collected at the Barnstable County Septic Management Program (BCSMP). The reported average effluent concentration from the two most frequently utilized I/A systems in Falmouth, with a total of 158 systems installed, was mostly well above 19 mg/l.

Only 108 installed systems were reporting any data between 2015 and 2020, and of those, only 22 were reporting performance at their anticipated level of 19 mg/l. Assuming that the non-reporting systems were also non-performing, these numbers indicate that less than 15% of the installed systems were actually performing at their anticipated level.

4. One or more I/A systems that currently only have Provisional Use approval (e.g. NitROE and Nitrex) may consistently meet a standard of less than 10 mg/l, but due to the DEP requirement of three years of data from fifty installed units for General Use approval, (a standard that none of the systems currently with General Use approval had to meet) none have obtained said approval. It is inconceivable to the town that DEP would mandate 15,000+ property owners to install I/A systems that did not meet DEP's own standard for General Use approval.

The only installations to even be contemplated under these proposed regulations should be those which routinely meet a standard of under 10 mg/l, and they should have General Use approval. The proposed regulations refer to "Best Available Technology" but do not explain how that technology will be distinguished from technology that already has General Use approval but does not average <19 mg/L of effluent nitrogen. The DEP should define a new category of approval for technologies that have demonstrated an average of <10 mg/L of effluent nitrogen, and DEP should establish a streamlined process for achieving that approval.

5. As noted, the proposed title 5 regulations would require 15,000+ I/As to be installed in Falmouth within 5 years. DEP is aware that the only systems that would meet DEP's stated goal of reducing nitrogen in the impacted estuaries to acceptable levels currently only have Provisional Use approval.

The suppliers of these systems are very small-scale entities who can only produce a few systems at a time and are incapable of producing them in quantity. Excavation companies, system designers,

engineers, surveyors are all currently in very short supply on Cape Cod even for existing non-wastewater projects.

Furthermore, there is currently no Responsible Management Entity (RME) existing at the town or regional level to maintain and monitor any number of I/A systems. Although the BCSMP has recently received an EPA grant to develop an RME, it is years away from implementation. Quarterly monitoring of 15,000+ systems in Falmouth alone would result in over 60,000 samples per year needing to be collected and tested. This is an enormous task and no facilities in southeastern Massachusetts are capable of handling it.

6. Limiting the grandfathering of existing installed I/A systems to one year prior to the promulgation of the regulations would leave the hundreds of property owners who have been required to install I/A's in the past in an untenable position if their system is not "Best Available Technology".

To be required to install these systems in the first place was a major financial burden. To be told if their systems are less than a year old the systems would need to be replaced would be universally, and correctly, perceived as unfair.

7. The similarities between these proposed title 5 regulations, and the remedies proposed by the Conservation Law Foundation (CLF), a New England environmental advocacy group, in its 2021 lawsuit against the DEP and the towns of Mashpee and Barnstable, are impossible to ignore. CLF has three times since 2010 argued in Federal court that all of Cape Cod's septic systems should be treated as point sources of pollution and regulated as such but lost every time.

If these proposed regulations, which essentially embody CLF's demands, are part of a settlement agreement in a lawsuit in which the town of Falmouth is not a party but whose terms of settlement could cost the property owners of Falmouth nearly half a billion dollars, the town should be involved.

8. The town is aware that an EO562 "Title 5/groundwater Stakeholders Group" has been meeting and is in large part responsible for the direction DEP has chosen to take with these regulations. The town has learned that some of the stakeholders include various environmental consultants, the Buzzards Bay Coalition, the Cape Cod Commission, and the Cape and Islands Association of Realtors.

The town requests to be informed of the identity of all of the individuals who have been part of this stakeholder group, who appointed them, how they were chosen, what organization they represent, and whether any individual was appointed representing the town officials or taxpayers of the towns on Cape Cod.

9. The town's Health Agent has a valid concern that in attempting to address the nitrogen issue in the estuaries, this regulation would leave unaddressed phosphorous pollution, PFAS, and other contaminants of emerging concern. The proposed regulation will require the installation of

nitrogen-specific systems in areas that directly contribute to freshwater resources that need phosphorus reductions addressed.

This requirement will not protect those resource areas. Adoption of this regulation and the resulting installation of I/A systems may well prove a barrier to future efforts to address water quality in freshwater ponds and streams as phosphorous removal would require a different solution.

10. It is the town's understanding that DEP's intention in promulgating this regulation, knowing that it would be financially burdensome to tens of thousands of Cape Cod property owners, impossible to implement, and would not accomplish its stated purpose of improving water quality in the impacted estuaries, is not to actually implement it-- something neither the DEP nor the local boards of health are remotely capable of doing.

Rather, the intention is to force the towns to agree to enter into Watershed Permits, subject to rigid timetables and DEP enforcement orders, and cleverly bypassing the Proposition 2 ½ proscription against unfunded mandates.

Falmouth has enjoyed a good working relationship with DEP for many years, together making great progress toward our shared goal of improving the environment. We look forward to continuing in that effort, but this flawed proposed regulation is the wrong way to go.

Sincerely,



Peter Johnson-Staub
Interim Town Manager

cc: Select Board
Board of Health
Water Quality Management Committee



TOWN OF FALMOUTH

Office of the Town Manager & Select Board

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone: (508) 495-7320

townmanager@falmouthma.gov

December 5, 2022

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

Re: Proposed new regulation, 314 CMR 21.00, Massachusetts Watershed Permit Regulations

Dear Commissioner Suuberg:

Thank you for the opportunity to provide comments to the Massachusetts Department of Environmental Protection (DEP) on the proposed regulation 314 CMR 21.00: Massachusetts Watershed Permit Regulations. The Town of Falmouth supports the DEP for its efforts to restore water quality in nutrient impacted watersheds on Cape Cod.

As you know, Falmouth has fourteen nitrogen impaired estuaries within its borders – more than any other community in Massachusetts (the Cape town with the next largest number is Barnstable, with five). All thirteen other Cape towns have three or fewer. Fully 40% of Cape Cod's nitrogen impacted estuaries are in Falmouth.

Falmouth has the second largest land area and the second largest population of the Cape Cod towns, and almost all land in Falmouth is within the watershed to one of these impaired coastal estuaries (whereas a significant fraction of the land area of many towns on Cape Cod is outside the watersheds to estuaries with TMDLs).

Our town has been a leader on the Cape in addressing its impacted estuaries having expended and committed \$150M for the purpose. Our treatment plant, upgraded at a cost of \$15M, treats wastewater to under 3 mg/l – among the best performing treatment plants in Massachusetts. In the past eight years our town installed a collection system and discharge site for 1,600 connections of homes and businesses, at a cost of \$40M. The town is in final design stage for a \$25M treatment plant expansion, we have a final Great Pond TWMP under MEPA review, and we have set aside \$60M in bonding capacity in 2024 for 800+ homes and businesses in the Great Pond watershed to be connected to the sewer.

Along with these commitments, Falmouth has funded and permitted an inlet opening project, installed a permeable reactive barrier, implemented a commercial shellfish nitrogen removal program, installed a variety of innovative/alternative septic systems, and evaluated a number of other alternatives.

RECEIVED

12/9/2022

The town has done all this with the enthusiastic support of our town's voters, and with the approval of MEPA, DEP, and the Cape Cod Commission, but with no Federal funding and limited state support primarily in the form of low interest loans.

These comments are provided on behalf of the Falmouth Select Board as the chief policy setting board of the Town having received input from the Water Quality Management Committee, Wastewater Superintendent, Board of Health, Health Agent, and Town Manager. The Select Board voted to authorize this letter at a meeting on December 5, 2022.

1. While the proposed Watershed Permit regulation is presented as a voluntary option for municipalities, the alternative mandate of upgrading all title 5 septic systems in nitrogen impaired watersheds in five years is no option at all, since DEP knows Innovative/Alternative (I/A) septic systems would not remove sufficient nitrogen to meet TMDL targets and restore impaired watersheds in many instances.

The I/A septic system approach also comes with high annual maintenance costs in addition to a substantial capital cost for homeowners. The political backlash this mandate would engender runs counter to the long-term goal of motivating action to improve water quality. Furthermore, it appears that the I/A option is an attempt to skirt the unfunded mandate prohibition contained in Proposition 2 ½.

2. The most significant aspect of the proposed Watershed Permit regulations is the fact that it takes away a significant part the towns' control of their own finances. Currently the towns, through their town meetings and with the consent of their voters, decide what wastewater projects to undertake, and how and when to pay for them. Once a Watershed Permit is in place, it becomes an enforceable order, and the community is required to implement it, on a prescribed schedule, and subject to substantial fines if it fails to do so.

Falmouth has successfully funded and implemented many nitrogen reduction projects using what the town terms "windows of opportunity," –occasions when past capital borrowings are paid off and new capital borrowings can be undertaken. However, through a watershed permit enforcement order, DEP can order the town to commit to whatever multimillion dollar wastewater project DEP deems necessary, on DEP's schedule and not the town's, regardless of the town's other capital needs.

3. The proposed Watershed Permit regulations appear to be aimed at towns which have been accused of being reluctant to move ahead rapidly enough on addressing their impacted estuaries. Falmouth has never been one of those towns, as DEP knows.

But the practical effect of the regulations as currently proposed could be to slow down our town's current rapid rate of progress, if the town had to spend the next five years pursuing fourteen watershed permits instead of actually implementing projects.

Specific concern regarding elements of the proposed Watershed Permit regulations are as follows:

4. The twenty-year target to achieve three quarters of the nitrogen removal called for in the TMDLs is not realistic for Falmouth. Because of the cost, complexity, and disruption of the work, the construction projects would need to be completed in multiple phases. Securing funding, designing, permitting, bidding and then constructing the project for each phase, in our experience, can take five years from voting funds to final hookup. Trying to implement fourteen watershed permits with multiple projects involved in each, in twenty years, would only guarantee chaos and failure.
5. Reporting requirements: The regulations should allow the towns with multiple watersheds to consolidate required reporting and reduce the required reporting frequency. Keeping track of fourteen permits, filing fourteen annual reports and fourteen five-year reports would be a costly administrative burden.

The annual reporting requirement is onerous and unnecessary. It is unlikely that progress in a single year would be significant enough to warrant the extra administrative burden. A five-year reporting requirement would be sufficient to monitor progress and a better use of staff resources and tax dollars.

6. "Reasonable Progress:" The proposed regulation states: "If an application seeks a watershed permit that a plan that will not meet the TMDL during the life of the permit, provide documentation showing the financial costs and environmental impact of (1) complete compliance with those goals, and (2) a proposed alternative that makes reasonable progress toward achievement of the goals." There needs to be an explicit provision in the regulation which allows Falmouth and similarly situated towns more time to complete the permitting process and achieve nitrogen removal goals.
7. Growth control: The regulations should spell out clearly that 40B comprehensive permit projects are not exempt from any nitrogen reduction requirements imposed by the Watershed Permit.

Additional detailed comments on specific elements of the proposed Watershed Permit regulations from the town's Wastewater Superintendent are as follows:

8. The Watershed Permit regulations require that towns have completed a CWMP/TWMP or WMP for each estuary. In watersheds for which this initial plan has not yet been completed, there is not enough time to complete the plan, file for a Notice of Intent or apply for a Watershed Permit in the 18 months prior to the title 5 upgrade mandate being required.

The town assumes the state does not wish to require towns to prepare CWMP, TWMP and WMPs for each estuary. It seems that only one of the three is required if it meets the requirements of the WMP. Please clarify/simplify the planning requirements so that it is clear that only one planning document is required.

9. These regulations should “grandfather” TWMPs prepared before the regulations came into effect, so for example Falmouth does not have to go back and make a WMP from its TWMP for Little Pond and Great Pond.

10. 21.09(1) Please clarify the potential civil administrative penalties.

11. 21.09(2)(g) Says it shall be a violation to “Fail to achieve the target threshold concentrations identified in approved Watershed Management Plan.” No one knows yet if meeting the TMDLs will actually cause target threshold concentrations to be met at the sentinel locations (or how long that might take).

There should be two timing horizons – one to see implementation of reduction strategies and one to overcome the layers of legacy contamination in the estuaries. In the example of West Falmouth, the upgrade to the wastewater treatment facility discharge occurred in 2005. Initial predictions were that the legacy groundwater plume would clear approximately seven years after the upgrade. Only now in 2022 is the groundwater near the shoreline of the estuary showing the reductions that were anticipated years ago. Under the timing requirements of the regulations, additional costly reductions would be required while in fact may not be necessary.

12. 21.03 (2)(b) Please delete the requirement that the Watershed Management Plan be signed and stamped by a Professional Engineer. This is a planning document; an engineering stamp is not required for (or appropriate for) a planning document.

13. 21.03(2)(b)1. and (2)(b)5. Both sections require a map showing each *parcel* of land – it is not realistic to distinguish all parcel boundaries on a map of a large area.

14. 21.03(2)(b)4. It is confusing and redundant the way item 4.a-f. requires a table summarizing (but describing slightly differently) most of the same items that are required under 21.03(2)(b)6.-11.

15. 21.03(2)(b)4.a,b, and c. all relate to load reduction, and should be consolidated/clarified. In (a.), why request “load contributed over the past 10 years and for the next 20?” The important numbers are current and buildout load, compared to the TMDL (all provided in the MEP report and TMDL report), and the plan to meet the TMDL (load reduction by various methods).

16. 21.03(2)(2)(b)6. and 8. are redundant


17. 21.03(2)(2)(b)11. Implementation schedule will need to be > 20 years for some water bodies.

18. 21.03(2)(2)(b)12. Delete this vague/unclear requirement of a “description of how upgradient activities can potentially influence downgradient conditions?” This appears to request a basic explanation of how a watershed works, covered in the MEP report/TMDL.

19. 21.06(4)(a) "The Department may renew a Watershed Permit once." What does this mean?
What is the term of a watershed permit? What would it mean to renew a permit?

In conclusion, while the special challenge of Falmouth's fourteen estuaries makes many of the elements of the proposed Watershed Permit regulation unworkable for our town, we think we have some alternative provisions to suggest that would bring DEP and Falmouth together in our joint effort to improve the water quality of our estuaries. We look forward to the opportunity to meet with you and your staff on this important goal.

Sincerely,



Peter Johnson-Staub
Interim Town Manager

cc: Select Board
Board of Health
Water Quality Management Committee



Boards or Committees with current vacancies are:

Board or Committee	Vacancy available	Deadline to apply
Agricultural Commission	Two Full Members/ One Associate Member	open until filled
Belonging Committee	Two Members	open until filled
Bikeway Committee	Two Full Members	open until filled
Broadband Study Committee	One Associate Member	open until filled
Cable Advisory Committee	One Full Member	open until filled
Council on Aging Board of Directors	One Associate Member	open until filled
Cultural Council	Two Members	open until filled
Economic Development Committee	Two Non-Voting Alternate Members	open until filled
Finance Committee	Precincts 3 and 5	open until filled apply to clerk@fairhaven-ma.gov
Historical Commission	Two Associate Members	open until filled
Lagoa Friendship Pact Committee	Two At- Large Members, One Member of the Business Community	open until filled

[Click HERE for Volunteer Application](#)

Please contact the [Town Clerk's Office](#) for more information regarding openings on Boards and Committees.



CHARLES D. BAKER
Governor

Office of the Governor Commonwealth of Massachusetts

State House
Boston, Massachusetts 02133
Tel: (617) 725-4000

B 4a

KARYN E. POLITO
Lieutenant Governor

December 7, 2022

Chief Todd Correia
Town of Fairhaven
146 Washington Street
Fairhaven, MA 02719

Dear Chief Correia,

Congratulations! I am pleased to inform you that the Executive Office of Public Safety and Security and the Department of Fire Services (DFS) has awarded the Town of Fairhaven \$18,172.00 in State Fiscal Year 2023 funding for the Firefighter Safety Equipment Grant Program.

Through great challenges in recent years, the fire service in Massachusetts has maintained the level of dependability and excellence that the citizens of the Commonwealth have come to expect. Please know how thankful I am for this, and how grateful I am to be able to provide your department with this important equipment.

The contract, terms and conditions, and other award documents for this program will be provided to you by DFS. Please contact Tim Moore at DFS with any questions about this award at 978-567-3721 or Timothy.Moore@mass.gov.

Sincerely,

Governor Charles D. Baker

Lt. Governor Karyn E. Polito

Wed, Dec 7, 2022 at 4:07 PM Martha Reed <mreed@fairhaven-ma.gov> wrote:

B 4b

Hi Angie

I hope you are doing well today. I'm so excited to share this good news with you. I applied for \$8,000 in scholarships for elders to be able to attend the social day program. These funds will allow the COA to provide 150 "free" days of social day to Fairhaven seniors between January and June of 2023. I'll follow up with you on the contracts when they arrive.

Thanks,
Martha

From: **Shari Cox** <shari@mcoaonline.com>
Date: Wed, Dec 7, 2022 at 3:26 PM
Subject: Caregiver respite
To: Martha Reed <mreed@fairhaven-ma.gov>

Dear Martha,

Congratulations!

Thank you for taking the time and effort to submit your FY23 Field Demonstration Project Service Incentive Grant (SIG) Proposal Caregiver respite services or scholarships. We had substantial interest this year, and are pleased to inform you, your proposal has been selected for Funding in the amount of \$8000.

MCOA will be following up to issue your contract this week.

Thank you again for your interest and for your commitment and dedication to the older adults you serve in your community.

MCOA Review Committee Team

#pulltogether

Because councils on aging are the communities on aging

Shari Cox
Fiscal Manager
116 Pleasant Street, Suite 306
Easthampton, MA 01027
413-527-6425

Commonwealth of Massachusetts
TOWN OF FAIRHAVEN

POLICE DEPARTMENT

1 Bryant Lane
Fairhaven, MA 02719
Phone 508-997-7421
Fax 508-997-3147
www.fairhavenpolice.org



December 14, 2022

Town of Fairhaven
Select Board
40 Center Street
Fairhaven, MA 02719

Dear Select Board Members,

I would like to request permission from the board to accept two donations for the Animal Shelter to the gift account.

The first donation is in the amount of \$ 5,000 from the Van Sloun Foundation, they have given very generous donations over the last few years. The second donation is in the amount of \$2566 from the efforts of dog trainer, Eric Letendre, who hosts an annual event where people can have their animals take a photo with Santa. Eric does a tremendous amount of work for the shelter in training dogs to help them become adoptable.

Respectfully,

Captain Michael Botelho

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

TOWN OF FAIRHAVEN

and

COUNCIL 93, AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL
EMPLOYEES AFL-CIO

covering

CLERICAL EMPLOYEES

July 1, 2022 - June 30, 2025

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

TOWN OF FAIRHAVEN BOARD
OF PUBLIC WORKS

And

COUNCIL 93, AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL
EMPLOYEES AFL/CIO

Covering

HIGHWAY DIVISION EMPLOYEES

JULY 1, 2022 - JUNE 30, 2025



FAIRHAVEN IMPROVEMENT ASSOCIATION, INC.

P.O. BOX 404

FAIRHAVEN, MASSACHUSETTS 02719

"Preserve Yesterday - Improve Today - Plan Tomorrow"

November 28, 2022

Fairhaven Board of Selectmen
Ms. Stasia Powers, Chair
Fairhaven Town Hall
40 Center Street
Fairhaven, MA 02719

Dear Ms. Powers:

We are writing to request approval to hold the 2023 Fairhaven Homecoming Day Fair on Saturday, June 24, 2023.

This will include use of the Town Hall lawn and restrooms. We will coordinate with Fairhaven Police Department to block off Center Street, Walnut Street, William Street, and Union Street in the area of the Fair.

We will also need assistance from the Department of Public Works (or Highway Department) to set up the Art Contest area, trash collection during the day of the Fair and with general street cleaning prior to the Fair. They have been very helpful in the past with this process.

Please let me know if there is anything further you need from our organization regarding this event.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara Acksen".

Barbara Acksen

Chairperson

2023 Fairhaven Homecoming Day Fair Committee

508-993-0317

backsen@comcast.net

cc: Ms. Angie Lopes Ellison, Town Administrator

GovDeals[®]

A Liquidity Services Marketplace

Search

C4



Committee Liaison Report – Bob Espindola – December 19th, 2022

Broadband Study Committee.

I met with Ms. Ellison, consultant EntryPoint and Committee Chair Sean Power to discuss the list of open issues that have been on hold awaiting completion of Town Meeting.

We reviewed and Ms. Ellison signed a proposal from Entry Point to provide consulting services associated with Project Management, Coordination and Oversight of the project, all provided remotely with coordination through Town contacts. The contract was signed for an amount not to exceed \$9,800 and this will help advance the project now.

Entry Point representative Ben Miller, Ms. Ellison and I met with representatives of the Fairhaven Housing Authority and DPW on Friday last week to review the site logistics and to discuss possible “In-Kind Services” that may be provided by the FHA and DPW to match funds provided by the \$250K Compact Community Cabinet Broadband Grant, as outlined in the Grant Application. Things like drilling through sidewalls and trenching for contractor to lay conduit were examples of in-kind donations that may be possible.

Fairhaven Bikeway Committee

Fairhaven Bikeway Committee met on Thursday night last week to discuss the condition of the Bike Path and the fact that the funding to resurface the path has been on hold for five (5) years.

Several people from the community attended the meeting in addition to the Bikeway Committee members and all parties expressed an interest in advancing the resurfacing forward to this upcoming FY24 Capital Plan.

The committee voted unanimously to send a letter to Ms. Ellison and Ms. Graves (to ask that it be shared with the Capital Planning Committee) detailing concerns about the path deterioration, safety concerns and the benefits of moving forward with resurfacing sooner rather than later. Photos showing the significant deterioration of the path, a traffic study showing the typical annual use level and letters of support will be included as references in the letter.

One resident, Ken Rogers, actually took the time to count over one hundred cracks in the pavement from end to end within Fairhaven.

The committee is asking specifically for the Capital Planning Committee to make the resurfacing project a priority for this upcoming year (FY24) year and to fund the resurfacing, per the recommendation of DPW Superintendent Vinnie Furtado, all in one year.

SRPEDD met last Wednesday night. Much of the meeting centered on Multi-Family Zoning Requirements for MBTA communities so not applicable to Fairhaven. SRPEDD continues to promote that Municipalities should look to take advantage of funds available through the Division of Local Technical Services (DLTS). SRPEDD also

announced they are expanding to handle all the new opportunities available through Federal and State Grant Programs.

As a reminder, these are the key areas that SRPEDD covers



Comprehensive Planning

Assisting communities to evolve in ways that reflect local priorities and needs in land use, housing, and urban form.

[LEARN MORE](#)



Environmental Planning

Enhancing nature's inherent resilience in creating thriving, sustainable communities.

[LEARN MORE](#)



Transportation

Helping to implement regional transportation networks to effectively serve users of public transit, roadways, bike paths, and pedestrian spaces.



Economic Development

Bringing resources to our region to create new economic opportunities.



Homeland Security

Preparing to keep persons in our region safe and secure; ready for the unexpected.

SMMPO will be meeting tomorrow afternoon.

Sustainability

Two members of the Sustainability Committee, Ann Richard and Laura Gardner, approached me recently and asked me if I thought the Select Board might support an Electric Bus program that would, over time, replace the existing buses with electric powered vehicles.

Coincidentally, I had previously signed up for the Mass Municipal Association webinar on Electric Vehicles and Charging Stations. When I attended the seminar, did pay particular attention to the Electric Bus program. There is a federal program and a state program.

The following excerpt from the MMA website sums up the key points in the webinar and the MMA website contains the full webinar recording as well as the full slide presentation. I've attached some notes from select slides of the presentation for your convenience.

Given the School Bus contracts are under the purview of the School Department and there are other Town Departments that may benefit from Electrification of some of their vehicles over time, this may represent an opportunity for intergovernmental collaboration (i.e. to study this opportunity collectively and determine if it

makes sense for the Town of Fairhaven to pursue). There may also be some opportunity for regionalization in this area as well (say through SRPEDD).

The Massachusetts Clean Energy and Climate Plan calls for EVs to account for a majority of new cars sold in the state by 2030 as a primary strategy to reduce emissions. Various pieces of state legislation codify many of the components of the Clean Energy and Climate Plan, establish incentives for the implementation of these components, and create funding sources to promote implementation.

Carrie Lavallee, deputy administrator and chief engineer at the Massachusetts Department of Transportation, discussed the state's Electric Vehicle Infrastructure Deployment Plan, known as its NEVI plan, which was approved by the Federal Highway Administration in September. She said the National Electric Vehicle Infrastructure program will provide Massachusetts with significant formula funding over five years to support the construction and operation of charging stations along major highway corridors.

The session concluded with a review of existing municipal programs in Massachusetts meant to leverage funding and incentivize the use of EVs. Additional grant funding opportunities are anticipated to be available upon establishment and approval by the EV Intergovernmental Coordinating Council.



Electric Vehicle (EV) Policy Landscape and Municipal Opportunities

Commonwealth of Massachusetts

Daniel Gatti, Director of Clean Transportation Policy, EEA
Carrie Lavallee, Deputy Administrator and Chief Engineer, MassDOT

December 14, 2022



Significant EV Policy Developments

- November 2021: Congress passes the Infrastructure Investment and Jobs Act (IIJA), which provides billions in funding for EV-related initiatives
- June 2022: EEA releases Clean Energy and Climate Plan for 2025/2030 calling for 200,000 EVs on the road by 2025 and over 900,000 EVs by 2030
- August 2022: Gov. Baker signs *An Act Driving Clean Energy and Offshore Wind* and *An Act Relative to Massachusetts's Transportation Resources and Climate* which make a number of changes to EV incentive programs and provided funding authorization for EV infrastructure
- August 2022: Congress passes Inflation Reduction Act, extending federal EV tax credit and making a number of changes to encourage point of sale incentives and domestic manufacturing
- August-September 2022: MassDOT submits National EV Infrastructure Plan (NEVI) to USDOT, opening up \$63M in federal funds for EV infrastructure along highway corridors in Massachusetts
- November 2022: Governor Baker signs Economic Development bill, providing \$50M in funding for electric vehicle charging and \$50M for electric vehicle incentives



Municipal Opportunities: **New and Forthcoming**

- **IRA:** Municipalities, via dealerships, can now benefit from the federal tax credit under Section 30D or new commercial vehicle tax credit under Section 45W
- **IJA:** Provides a total of \$5B in funding for electric school buses over a five year period. MassCEC's ACT School Bus provides additional technical support and grant funding for installation of infrastructure to support electric school buses
- **Congestion Mitigation and Air Quality (CMAQ):** Grant funding available for micromobility and e-bikes; Req for MassDOT to fill this in/update, add detail about timeline, if possible
- **MassDOT's NEVI Plan:** Req for MassDOT to fill this in or eliminate
- Future additional grant funding opportunities are anticipated to be available upon establishment and approval by the electric vehicle intergovernmental coordinating council. EEA will stay in communication through the spring as progress gets underway



November 9, 2022

Town of Fairhaven
Select Board
40 Center Street
Fairhaven, MA 02719

Re: Mattapoissett River Valley Water District
Borrowing Vote

Dear Chairman Powers:

Back on May 6, 2022, the Mattapoissett River Valley Water District Commission (MRVWDC) voted to borrow the sum of \$7,200,000 for the purpose of financing the construction of water treatment facility upgrades including, but not limited to, ultrafiltration system and related appurtenances replacement, ultraviolet disinfection system, supervisory control and data acquisition (SCADA) system upgrades, engineering and all other related professional fees.

This vote was undertaken pursuant to the authority of the MRVWDC in Chapter 367 of the Acts of 2004 and M.G.L. Ch. 40N.

Per the referenced enabling act, with any borrowing, a vote is required, and communication of said vote to the Select Boards of all three District Towns is also required. The Select Boards then have a 45-day period in which they can hold a Town Meeting to object the vote. The

enabling act also states that the Select Boards are not required to hold a Town meeting within the 45 days to make determination on the vote, and therefore, the vote would be valid.

Following the above, on May 6, 2022, the MRVDWC forwarded correspondence to your attention advising you of the above. This borrowing was subsequently, commutatively approved at the Town Meetings of Fairhaven, Mattapoisett and Marion.

Due to the current interest rates, the MRVWDC may seek said borrowing from the State of Massachusetts Clean Water Trust. As a result, the original language contained in the vote of May 6, 2022, had to be modified to reflect the required verbiage of the State.

As such, please find the updated, approved, borrowing verbiage as an attachment.

Please note that the vote of November 8 does not change the scope nor cost of the project, but, again, only includes the revised language to satisfy the State's borrowing requirements should this funding mechanism be made available to the MRVWDC.

Should you have any questions in this matter, please feel free to contact me at 508-979-4031.

Regards



Vincent D. Furtado,
Chairman


Attachment (1)



On this the 8th day of November, 2022, the Mattapoisett River Valley Water District Commission hereby takes the following action:

Voted: that \$7,200,000 is appropriated for the purpose of financing the construction of water treatment facility upgrades including, but not limited to, ultrafiltration system and related appurtenances replacement, ultraviolet disinfection system, supervisory control and data acquisition (SCADA) system upgrades, engineering and all other related professional fees, and including without limitation all costs thereof; and that this appropriation shall be raised by borrowing under Chapter 367 of the Acts of 2004 and further that with this vote the Commission is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to Chapter 29C, as most recently amended by St. 2014, c259 and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Commission is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available to the project and to take any other action necessary to carry out the project.

Town of Fairhaven

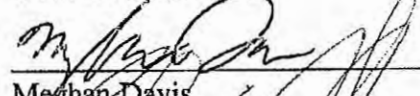


 Jeffrey Furtado

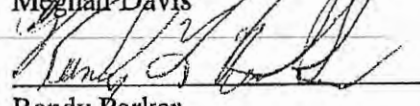


 Vincent Furtado, Chairman

Town of Marion



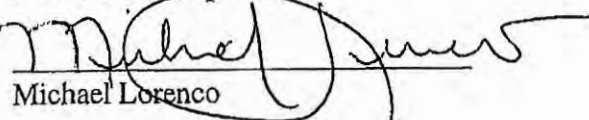
 Meghan Davis



 Randy Parker

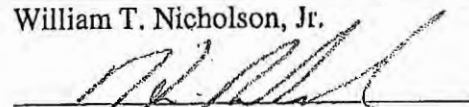
 Wendy Graves, Treasurer

Town of Mattapoisett



 Michael Lorenzo

 William T. Nicholson, Jr.



 Henri Renauld, Vice Chairman