

**EARTH REMOVAL STORMWATER ADVISORY COMMITTEE  
TUESDAY, FEBRUARY 18, 2020, 7:00 PM  
MINUTES**

Chairman Perkins called the meeting to order at 7:00 PM at the Town Hall

Members present: Edward Perkins, Tom Delaney, Bob Hanninen, and Eileen McHugh

Member absent: George Barringer

**PUBLIC HEARING (con't) – LINDEMERE, 227 BOSTON ROAD**

Chairman Perkins called the continuation of the hearing to order. Design engineer Stan Dillis of Ducharme & Dillis Civil Design Group represented the applicant at the hearing. The application is for construction of a new house on an ANR lot on Boston Road. The Committee did a site walk on Saturday, February 15, 2020.

Mr. Dillis said the Committee wanted to wait until after the site walk and Conservation Commission hearing before acting on the permit. Plantings will be used to stabilize the slope, and the driveway was moved out of the 100-ft buffer zone. The sewage disposal system serving the existing house will be abandoned when municipal sewer is installed to serve the two lots.

The Committee voted unanimously to close the public hearing.

The motion was made by Hanninen, seconded by McHugh, to grant the permit with the following findings, waivers, and conditions:

**Finding of Significance**

The Earth Removal Stormwater Advisory Committee determined that the proposed project is significant to the interests stated in Chapter 198, Section 1 Purposes, including:

*It has been determined that proper management of construction sites and post-development stormwater runoff will prevent damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare, protect water and aquatic resources, promote groundwater recharge to protect surface and groundwater drinking supplies, and encourage the appropriate use of the land throughout the Town.*

**Waivers:**

1. **Section 352-12 Pretreatment** - The waiver is granted because the subsurface infiltration chambers will receive runoff from the proposed roof areas. MassDEP does not require pretreatment for roof runoff.
2. **Section 352-13 Peak Control** - The waiver is granted because there will be no significant difference in surface conditions post construction and MassDEP does not require stormwater management for single-family homes.
3. **Section 352-16 Pollutant Removal** – The roof runoff which will be captured by the infiltration chambers, does not require TSS removal and it is expected that the single-family driveway will not produce a significant amount of TSS since it will not receive high amounts of traffic.

4. **Section 352 Operations** – The Cul Tec Operation and Maintenance Manual was included in the application. Other Operation and Maintenance will consist of the homeowners maintaining their lawn and landscaped areas.

**Special conditions:**

1. Construction shall be done in accordance with the above-referenced plans and construction sequencing.
2. All work shall be done in compliance with the “Massachusetts Department of Environmental Protection - Stormwater Management, Volume One: Stormwater Policy Handbook, and Volume Two: Stormwater Technical Handbook,” dated February 2008.
1. It is the applicant’s responsibility to prevent the products of erosion and sedimentation from reaching Boston Road and causing a safety hazard on the public way. There shall be no net increase in runoff or erosion to the public ways, the municipal storm drain system, or abutting properties.
2. The limits of disturbance shown on the plan shall be well delineated in the field with erosion control barriers in the locations shown on the above-referenced plan. These barriers and flagging shall be maintained throughout construction to prevent any disturbance to the vegetation or topography beyond the limits of disturbance.
3. All disturbed areas and stockpiles must be properly stabilized. A supply of erosion control materials shall be kept on site to stabilize disturbed areas.
4. During construction, no slope shall be any steeper than 2:1, including any open cellar holes, to prevent any potential public safety hazard. All excavations are to be done according to the latest version of the U.S. Department of Labor, Occupational Safety and Health Administration, 29 CFR 1926, Safety and Health Regulations for Construction, Subpart P – Excavations.
5. The applicant shall take effective measures to control dust and windblown erosion at all times. All topsoil shall be stockpiled on the site. Erosion control barriers shall be installed around the base of the stockpile. The stockpiles shall be seeded to prevent dust and wind-blown erosion.
6. The applicant shall comply with the Construction Sequencing Plan detailed in the SWPPP, and the NPDES Construction General Permit. The applicant shall keep a log of spring and fall maintenance activities.
7. The applicant shall comply with the Operation and Maintenance Plan entitled, “Operation and Maintenance Guidelines for CULTEC Stormwater Management Systems.” The applicant shall keep a log of spring and fall maintenance activities. The Operation and Maintenance plan shall comply with Section 352-22.
8. After a project is issued a Certificate of Completion, the Responsible Party or Owner, as listed in the Long-Term Operation and Maintenance Plan, shall submit annual BMP Inspection and Maintenance logs to the Committee and if applicable an updated Long-Term Operation and Maintenance Plan on or before June 1<sup>st</sup> annually as required in Section 352-6D.

9. The applicant must submit any proposed change in the above referenced plans to the Earth Removal-Stormwater Advisory Committee for its review and approval before the change is implemented.
10. The removal of any excess earth material from the site requires a Certificate of Exemption from the Earth Removal By-law, Chapter 134 of the Code of the Town of Groton. Chapter 134, Section 10 Exemptions.
11. The applicant is responsible for obtaining any other permits (including but not limited to) those required by the Select Board, Board of Health, Conservation Commission, Building Commissioner, DPW Director, Planning Board and Zoning Board of Appeals.
12. It is the applicant's responsibility to ensure that the contents of this permit are made known to all contractors who perform work at this site.
13. It is the applicant's responsibility to contact Dig Safe prior to the commencement of any work at the site. The applicant is responsible for obtaining a trench permit, if required by G.L. c. 82A §1 and 520 CMR 7.00 et seq (as amended).
14. The applicant or the applicant's consultant shall submit, at least every month in which construction activity occurs on site and for as long thereafter as the ground remains unstabilized, a report to the Committee's review, certifying that, to the best of his or her knowledge and belief, based on a careful site inspection, all work is being performed in compliance with the plan and these conditions.
15. If the project is not completed within three (3) years from the date the permit is issued, it is the responsibility of the applicant to request an extension. The Committee may grant extensions for additional time provided that the applicant submits a written request for renewal no later than 30 days prior to expiration of the permit.
16. The applicant is required to obtain a Certificate of Completion as required in Section 352-5A Project Completion which states:

"When the construction of a project is completed, the applicant shall request that the Committee conduct a final inspection. For full stormwater management permits, the applicant must submit a statement from a registered professional engineer certifying that the project was completed in accordance with the approved plans and construction conditions of the permit. The applicant shall also submit an on-the-ground surveyed as-built plan prepared by a professional land surveyor. The Committee shall determine whether the project complies with the approved plans, construction conditions of the permit, and Chapter 198, Stormwater Management. If completion is satisfactory, the Committee shall issue a Certificate of Completion. "
17. This permit runs with the land and applies to any successor in interest or successor in control.

The motion passed unanimously.

#### **OLIVIA WAY UPDATE**

Stormwater Inspector Michelle Collette reported that the easement on conservation land for the Olivia Way stormwater mitigation plan has still not been recorded at the Registry of Deeds. Works cannot commence until the easement is on record. The motion was made by Delaney, seconded by McHugh, to

request that the Town Manager inquire why Town Counsel has not finalized or recorded the easement. The motion passed unanimously.

## **MINUTES**

THE Committee voted unanimously to approve the minutes of January 7, 2020 and January 21, 2020.

## **PUBLIC HEARING - MS4 STORMWATER MANAGEMENT ENTERPRISE FUND**

The Earth Removal Stormwater Advisory Committee held the continuation of the public hearing to consider the following Article to be considered at the 2020 Spring Town Meeting:

ARTICLE X - ADOPT MGL CH.44, SECT. 53 F ½: STORM WATER ENTERPRISE FUND: To see if the Town will vote to accept the provisions of Chapter 44, Section 53F ½ of the Massachusetts General Laws, which would authorize establishment of an Enterprise Fund for the Groton Stormwater Utility, and further, effective in Fiscal Year 2021, beginning on July 1, 2020, by amending General Bylaw Chapter 154 – Illicit Discharges to Municipal Separate Storm Drain System as follows:

### **Add to 154-2 Definitions.:**

STORMWATER UTILITY – A special assessment set up to generate funding specifically for stormwater management. Property owners shall pay a stormwater fee and the revenue generated directly supports operation, maintenance, and upgrade or expansion of existing storm drain systems; development of drainage studies, plans, flood control measures, and water-quality programs; administrative costs; and construction of capital improvement projects, and purchase of all equipment necessary for the installation, operation and maintenance of the system.

### **Add to 154-5: Responsibility for administration.:**

STORMWATER UTILITY: The Select Board, or its designee may, upon Town Meeting approval, adopt a Stormwater Utility pursuant to M.G.L. Chapter 83 Section 16 and Chapter 40 Section 1A. The Department of Public Works, or its designee, shall administer, implement and enforce this Utility. Failure by the Select Board to promulgate such a Stormwater Utility through this Bylaw or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

Chairman Perkins opened the continuation of the hearing. Selectman John Riley and resident Judy Anderson were present.

Stormwater Inspector Michelle Collette said at the hearing on February 4, 2020 the Committee discussed recommending that the Select Board assess the fee on all developed parcels. Undeveloped parcels will be exempt as long as there is no impervious surface on the property. The fee structure will be determined by the Select Board when it adopts regulations if the article passes at Town Meeting.

Mrs. Anderson asked why a property like Shaws would pay the same fee as residential properties. Member Delaney said Shaws and other commercial sites have installed very costly treatment systems on their own properties.

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The Committee reviewed **the Frequently Asked Questions (FAQ's) updated on February 18, 2020 (See attached)**. The FAQ's will be posted on the Town's website.

The Committee voted unanimously to close the public hearing.

The motion was made by Hanninen, seconded by Perkins, to recommend that the Select Board place the article to create the Stormwater Enterprise Fund on the warrant for the 2020 Spring Town Meeting. The motion passed unanimously.

Meeting adjourned at 8:30 PM

Respectfully submitted,

Michelle Collette

Earth Removal Stormwater Inspector

## **Stormwater Utility Enterprise Fund – Frequently Asked Questions Revised February 18, 2020 Public Hearing**

Stormwater management costs have been escalating for Massachusetts municipalities due to new regulations and aging drainage systems. The Earth Removal and Stormwater Advisory Committee has compared stormwater funding alternatives across the state and is now exploring the details of creating an Enterprise Fund with a stormwater fee, with input from town departments, town committees, and the public. At the 2020 Spring Town Meeting, residents will be asked to vote on the creation of a Stormwater Utility Enterprise Fund – an accounting mechanism to ensure revenue is dedicated solely to cover stormwater management costs.

### **What is stormwater?**

Stormwater is the water that runs off the land surface when it rains or snow melts. It enters the Town's drainage system and flows directly to surface waters such as ponds, lakes, rivers, streams, and wetlands. The runoff is usually not treated and can become polluted. Stormwater runoff is also the greatest contributor to localized flooding.

### **What is polluted stormwater runoff?**

Developed areas such as parking lots, buildings, roadways and other hardened “impervious surfaces” exist throughout Town. When it rains, water runs off these impervious surfaces and picks up pet waste, oil, sand, fertilizers, trash, and other pollutants. The water then flows into gutters and storm drains which discharge into our waterways or cause flooding.

When these pollutants enter water bodies, they can contaminate drinking water supplies, hinder recreation activities, and harm aquatic and other wildlife habitats. In addition to washing pollutants into our surface waters, improperly managed stormwater runoff can result in soil erosion and flooding. The Nashua River and James Brook in particular are impaired due to bacteria and excess phosphorus, largely because of stormwater runoff.

### **What is stormwater infrastructure?**

Stormwater runoff is collected through streets and curbing, and typically captured by catch basins, manholes, drainage pipes, and eventually to outfalls or discharge points. These systems discharge into local waterways, which are themselves a critical part of Groton's stormwater system.

### **Why do we need to establish a Stormwater Enterprise Fund?**

The United States Environmental Protection Agency (EPA) requires the Town to develop a stormwater management program that reduces the discharge of pollutants to our stormwater drainage system and waterways. The Town is required to be in full compliance with the program specified in our National Pollutant Discharge Elimination System (NPDES) Phase II permit. The permit's goal is to reduce the pollutants to the maximum extent practical to protect water quality, and reduce flooding.

A Stormwater Utility Enterprise Fund will provide a dedicated and adequate source of funding for the costs of managing our stormwater (drainage) system as required by the EPA. The current level of funding is not sufficient to meet the minimum permit requirements and to keep up with needed capital programs.

### **How has Groton been Funding Stormwater Management?**

The Department of Public Works manages the Town's stormwater program. Tax revenue collected for the General Fund pays for the department's budget, including staff time, maintenance, repairs, and large projects. Funding for stormwater competes with other local priorities such as education and public safety. The more stringent requirements of the Phase II permit are beyond normal DPW functions.

### **What are the benefits of an enterprise fund?**

An enterprise fund allows the Town to collect and apply revenue specifically to stormwater management costs. Funds can accumulate for future capital projects and cannot be used for any other purpose. An enterprise fund improves transparency by tracking revenues and expenditures. Enterprise funds are growing in popularity and the state recommends them as an accounting mechanism for stormwater management.

### **For what purposes will the Stormwater Utility Enterprise Fund revenue be used?**

By state law, all Enterprise Fund revenue may be appropriated only for expenditures relating to the Enterprise Fund, and cannot be transferred to the General Fund. To maintain its permit coverage, the Town must undertake additional responsibilities to control pollution in stormwater. Some of these responsibilities include:

- Creation of a detailed drainage system map showing the area draining to each outfall
- Increased street sweeping and cleaning of catch basins
- Detection and removal of illicit discharges of pollutants to the drainage system
- Planning, construction, and maintenance of stormwater management structures
- Sampling and testing of stormwater
- Purchase and maintenance of specialty equipment
- Development of good housekeeping practices and pollution prevention plans for Town properties and infrastructure
- Permit administration and reporting including annual reports to the EPA

### **What does the Town Meeting article do and what happens if it is adopted?**

Approval at Town Meeting is required to adopt the Stormwater Utility Enterprise Fund. If voters approve the Article, the Select Board will create the enterprise fund. The funding mechanism for the enterprise fund will be developed as part of the Utility's rules and regulations, supported by a detailed accounting of stormwater management costs and revenue projections with public input.

### **What are the benefits?**

- ✓ The Town will meet all the requirements of the EPA's revised permit
- ✓ The program will protect the quality of our waterways
- ✓ We will develop long-range planning
- ✓ The Town will enhance its regular drainage maintenance to instill a proactive approach, rather than a reactive approach

- ✓ Long range planning of drainage projects will be more cost-effective by prioritizing

## **Funding FAQs**

### **Which method is being considered to support the Stormwater Utility Enterprise Fund?**

The funding mechanism is proposed to be a simple fee on developed privately owned properties. This would include residential and commercial properties, as well as private educational, nonprofit, utility, and other tax-exempt properties. Developed property indicate that users of the property also use municipal properties, which include streets, sidewalks, and parking lots.

Municipal and state/federal properties are exempt because the fee will be distributed to all property owners to manage stormwater on these properties, which include streets, sidewalks, and parking lots.

Undeveloped property and conservation land (without impervious surfaces), as listed in the land use codes, are the only categories of privately owned properties that will not be assessed a stormwater fee.

### **Are taxes already paying the Department of Public Works to do these tasks?**

Much of the permit compliance will involve work normally outsourced, such as water quality testing and sampling. The DPW performs system maintenance including sweeping streets, cleaning catch basins, and rebuilding drainage infrastructure, but the new permit increases the frequency of much of this routine work. The DPW has proposed means and methods to continue with these tasks and keep up with the new requirements without needing additional staff.

### **How will the Enterprise Fund budget be determined?**

Initial estimates of the cost to comply with the new stormwater management regulations for the first 5 years is approximately \$250,000 to \$300,000 per year. This does not include all of the day-to-day activities already performed by the Town to maintain our stormwater systems.

To minimize the additional costs to Groton property owners, the Town is evaluating the feasibility of self-performing many of the required tasks with existing staff and equipment, and funding the work under the DPW's annual budget. Minimizing outsourcing of the permit compliance tasks may reduce the annual burden to approximately \$100,000 to \$150,000 per year.

### **What is the cost to residents and business owners?**

The approximate cost per property could be from \$5 to \$10 per quarter, pending a detailed assessment of costs to comply with the new permit and a count of properties.

**Will property owners be assessed a fee if their developed property is located on a private way, is mostly forested or wetlands, has a stormwater treatment system, or is on a town-accepted street that does not have catch basins or storm drains?**

Yes, the property owners will be assessed a storm water fee because impervious surfaces still produce runoff, and developed property owners use municipal properties, which include streets, sidewalks, and parking lots.

**Is this a tax?**

No, this is a utility fee for services provided, not unlike the water and sewer utilities. Certain parcels also have the opportunity to opt out of the fee by fulfilling the following criteria:

1. The parcel is a 501(c)(3) designated property for the purpose of protecting open space for conservation, or
2. The parcel is returned to an undeveloped state.

**Do I have to pay this fee?**

Yes, failure to pay the Stormwater fee may result in a lien on your property.

**Why is a tax increase not being considered?**

Not all parcels in town are taxed. Some parcels/properties, such as private schools and churches, are tax exempt yet significantly affect stormwater. Additionally, a tax-based method would put mandatory stormwater tasks in competition with other General Fund needs (police, fire, schools) that could jeopardize permit compliance.

**How are other Towns complying with this mandate?**

Many Massachusetts communities have instituted or authorized a utility including Reading, Newton, Gloucester, Fall River, Yarmouth, Westfield, Chicopee, Northampton, Milton, and Pepperell. Additional details regarding the MS4 Permit can be found at this location:

<https://www.epa.gov/npdes-permits/massachusetts-small-ms4-general-permit>