



TOWN OF GROTON

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Select Board

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Town Manager

Mark W. Haddad

To: *Select Board*

From: *Mark W. Haddad – Town Manager*

Subject: *History of Stormwater Fee*

Date: *October 26, 2020*

As the Board is aware, there have been many questions about the recent Stormwater Utility Fee that was mailed out to all residents/businesses last week. I would like to provide the Board with the history of how this fee was established. Please note that this Bill is sent to all properties in Town that have impervious surfaces, including businesses, residents and non-profits.

Please consider the following history:

The Town began discussing this issue last fall/winter (2019). The regulations have changed in the last several years relative to Stormwater Management and the Town needed to address the way we were handling it. At the 2019 Fall Town Meeting, Town Meeting approved funding to start to develop a strategy to address Stormwater management. The following article was approved:

“ARTICLE 11: FUNDING FOR STORMWATER STRATEGY

To see if the Town will vote to raise and appropriate, transfer from available funds, and/or borrow pursuant to any applicable statute, a sum or sums of money, to be expended by the Town Manager, for the purpose of retaining consultants and engineers to assist the Town in developing a Stormwater funding strategy, and all costs associated and related thereto, to comply with Massachusetts Small Municipal Separate Storm Water Sewer System General Permit (MS4), or to take any other action relative thereto.

Summary: The Municipal Separate Stormwater Sewer System Permit (MS4) was created to address Stormwater sewer systems in Municipalities. Stormwater typically contains a number of pollutants, such as oil and grease from roadways and parking lots, pesticides and fertilizers from lawns, sediment from construction sites, sand and dirt from roadway maintenance practices, and carelessly discarded trash such as cigarette butts, wrappers, and plastic bottles. 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 storm water runoff can result in soil erosion and flooding. The purpose of the MS4 Permit is to ensure Municipalities are addressing this issue. To that end, the Town of Groton needs to develop a strategy to address the expense of stormwater runoff. The purpose of this article is to provide funding to hire consultants to help the Town develop a funding strategy.

MOTION: I move that the sum of \$15,000 be transferred from the Excess and Deficiency Fund (Free Cash), to be expended by the Town Manager, for the purpose of retaining consultants and engineers to assist the Town in developing a Stormwater funding strategy, and all costs associated and related thereto, to comply with Massachusetts Small Municipal Separate Storm Water Sewer System General Permit (MS4).

Moved and Seconded Quantum of Town Meeting Vote: Majority

Discussion: · The stormwater strategy development is a state requirement. Vote on Article 11 – Main Motion: Passed by Unanimous Vote.”

**Select Board
History of Stormwater Fee
October 26, 2020
page two**

Once this Article was passed, I informed the Select Board that I would be asking the Stormwater Committee to hire a consultant and hold public hearings to make a recommendation to the Select Board on how to fund complying with MS4 Permit requirements. At the request of the Stormwater Committee, I hired Environmental Partners as a consultant to assist them in coming up with a strategy. The Committee then held two public hearings in February/March to receive public input on how to move this issue forward. During this process, it was determined that compliance would cost the Town in the neighborhood of \$200,000 annually. After the public hearings, the Stormwater Committee recommended to the Select Board that the Town adopt a bylaw that would allow the Select Board to adopt a user fee in which all properties that have impervious surfaces (homes, driveways, buildings, etc.) pay for this service as they did not believe we could find this amount of money in the operating budget. In developing a fee, the Committee recommended that each parcel be charged the same fee. While some may consider this unfair as some properties have larger coverage than others, the Committee felt that would be overly complicated and difficult to come up with a different fee for every property.

At the 2020 Spring Town Meeting, the following Article was approved by Town Meeting:

"ARTICLE 7: ADOPT M.G.L., C.44, §53 F½ CREATING A STORMWATER ENTERPRISE FUND

To see if the Town will vote to establish a Stormwater Facilities Utility Enterprise Fund and to accept the provisions of Chapter 44, Section 53F½ of the Massachusetts General Laws, in order to authorize establishment of an Enterprise Fund known as the "Stormwater Facilities Utility Enterprise Fund" for the Groton Stormwater Facilities Utility, effective in Fiscal Year 2021, as follows:

1. Amend Groton Bylaws to add to §154-2 Definitions the following:

STORMWATER FACILITIES UTILITY – *A Utility operation of the Town's Stormwater drainage facilities within the Town's Department of Public Works together with a related special user fee assessment, Town wide, as described in Groton Bylaw §154-5.*

2. Amend Groton Bylaw to add §154-5 as follows:

§154-5 *There is hereby established a Stormwater Facilities Utility as follows.*

- (a) The Stormwater Facilities Utility shall provide for the operation, maintenance, and upgrade or expansion of existing storm drain systems throughout the town; 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; and the town's compliance with requirements now or hereafter contained in permits issued by the Commonwealth of Massachusetts and The United States of America.*
- (b) The Stormwater Facilities Utility shall be managed and operated by the Town Manager in consultation with the Groton Department of Public Works and shall be within the Town's Department of Public Works.*
- (c) To generate funding specifically for stormwater management, a stormwater facility user utility fee is hereby imposed upon all Users of the Town's stormwater facilities throughout the town and the Select Board is hereby authorized to establish such user fee sufficient to meet the costs incurred by the Stormwater Facilities Utility and to amend such fee from time to time as warranted by the circumstances of costs and legal requirements.*
- (d) The revenue received by the Town from the payment of Stormwater facilities user fees shall be deposited in the Stormwater Facilities Utility Enterprise Fund and the revenue generated shall be used by the Town Manager, in consultation with the Director of Public Works, to directly support the 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; and the town's compliance with requirements contained in permits issued by the Commonwealth of Massachusetts and The United States of America .*

3. To accept M.G.L., Chapter 44, Section 53F1/2 "Enterprise Funds") for the Stormwater Facilities Utility Enterprise Fund, which statute provides as follows:

"Notwithstanding the provisions of section fifty-three or any other provision of law to the contrary, a city or town which accepts the provisions of this section may establish a separate account classified as an "Enterprise Fund", for a utility, cable television public access, health care, recreational or transportation facility, and its operation, as the city or town may designate, hereinafter referred to as the enterprise. Such account shall be maintained by the treasurer, and all receipts, revenues and funds from any source derived from all activities of the enterprise shall be deposited in such separate account. The treasurer may invest the funds in such separate account in the manner authorized by sections fifty-five and fifty-five A of chapter forty-four. Any interest earned thereon shall be credited to and become part of such separate account. The books and records of the enterprise shall be maintained in accordance with generally accepted accounting principles and in accordance with the requirements of section thirty-eight. No later than one hundred and twenty days prior to the beginning of each fiscal year, an estimate of the income for the ensuing fiscal year and a proposed line item budget of the enterprise shall be submitted to the mayor, board of selectmen or other executive authority of the city or town by the appropriate local entity responsible for operations of the enterprise."

"Said board, mayor or other executive authority shall submit its recommendation to the town meeting, town council or city council, as the case may be, which shall act upon the budget in the same manner as all other budgets. The city or town shall include in its tax levy for the fiscal year the amount appropriated for the total expenses of the enterprise and an estimate of the income to be derived by the operations of the enterprise. If the estimated income is less than the total appropriation, the difference shall be added to the tax levy and raised by taxation. If the estimated income is more than the total appropriation, the excess shall be appropriated to a separate reserve fund and used for capital expenditures of the enterprise, subject to appropriation, or to reduce user charges if authorized by the appropriate entity responsible for operations of the enterprise. If during a fiscal year the enterprise incurs a loss, such loss shall be included in the succeeding fiscal year's budget. If during a fiscal year the enterprise produces a surplus, such surplus shall be kept in such separate reserve fund and used for the purposes provided therefor in this section. For the purposes of this section, acceptance in a city shall be by vote of the city council and approval of the mayor, in a town, by vote of a special or annual town meeting and in any other municipality by vote of the legislative body. A city or town which has accepted the provisions of this section with respect to a designated enterprise may, in like manner, revoke its acceptance."

or to take any other action relative thereto.

Summary: *The Town of Groton is under the jurisdiction of the NPDES MS4 stormwater permit program operated by US Environmental Protection Agency. The permit program requires the Town to proactively manage its storm drainage system and ensure the protection of its waterways from stormwater pollution. Compliance with the requirements of this program is mandatory. The establishment of an enterprise fund would create the most consistent and transparent funding mechanism to achieve compliance with this program to reduce the likelihood of flooding and protect its waterways from stormwater pollution. Should this Article not be approved, the Town will need to amend the Operating Budget in the Fall, 2020 to address these needs. This would require a reduction in other parts of the Budget to fund this compliance.*

Mover: John Giger

MOTION: I move that Groton Bylaws be hereby amended to add Section 154-2, and Section 154-5 to establish a Stormwater Facilities Utility Enterprise Fund as printed in Warrant for the 2020 Spring Town Meeting and that the provisions of Chapter 44, Section 53F½ of the Massachusetts General Laws be accepted for this Enterprise Fund, in order to authorize establishment of an Enterprise Fund known as the "Stormwater Facilities Utility Enterprise Fund" for the Groton Stormwater Facilities Utility, effective in Fiscal Year 2021.

**Select Board
History of Stormwater Fee
October 26, 2020
page four**

Moved and Seconded Quantum of Town Meeting Vote: Majority

Discussion: • Mr. Delaney- DPW Director: o Groton is part of the MS4 stormwater permit program, which requires the town to protect and manage its stormwater system and discharge. o Until the newest guidelines had been issued, the Town's DPW had been meeting MS4 requirements by doing the work in-house for the past 8 years. The new requirements will not be possible to be met in-house. This article is asking to establish the fund. Costs and funding requirements will be detailed at the Fall Town Meeting.

Vote on Article 7 – Main Motion: Passed by Unanimous Vote”

This bylaw was approved by the Attorney General and became effective in August, 2020. On August 10, 2020, the Select Board held a public hearing to establish the Fee based on a budget of \$220,000. The original fee was set at \$47.25 to be billed once a year to 4106 parcels that were considered to have impervious surfaces. Prior to Town Meeting, the DPW Director and I reviewed the budget and reduced it to \$188,800 based on the fact that we would not hire an employee to administer the program until December, 2020. The Select Board voted to set the fee at \$42.27. The 2020 Fall Town Meeting voted to approve the budget as follows:

“ARTICLE 12: STORM WATER UTILITY ENTERPRISE BUDGET

To see if the Town will vote to raise and appropriate pursuant to M.G.L. c.83, §16 and/or transfer from Stormwater Facilities User Fees, a sum or sums of money, to be expended by the Town Manager, to operate the Fiscal Year 2021 Stormwater Facilities Utility Enterprise as follows:

<i>Salaries/Benefits</i>	<i>\$ 75,000</i>
<i>Equipment</i>	<i>\$ 30,000</i>
<i>Capital Outlay</i>	<i>\$ 25,000</i>
<i>Compliance Costs</i>	<i>\$ 80,000</i>
<i>Disposal/Expenses</i>	<i><u>\$ 10,000</u></i>
<i>Total:</i>	<i>\$220,000</i>

or take any other action relative thereto.

Summary: *The Spring Town Meeting created the Stormwater Enterprise Fund to provide the Town with a funding source to comply with the requirements of the NPDES MS4 Stormwater Permit Program operated by the US Environmental Protection Agency. The permit program requires the Town to proactively manage its storm drainage system and ensure the protection of its waterways from stormwater pollution. Compliance with the requirements of this program is mandatory. The Select Board has established a Stormwater User Fee to be paid by all properties with impervious surfaces within the Town to cover this expense. The purpose of this Article is to appropriate the necessary funding from the Stormwater Enterprise Utility Fee to cover the Fiscal Year 2021 Expenses.*

Mover: John Giger

MOTION: *I move that the sum of Two Hundred Twenty Thousand Dollars (\$188,800), be transferred from Stormwater Facilities User Fees Receipts to be expended by the Town Manager, to operate the Fiscal Year 2021 Stormwater Facilities Utility Enterprise as follows:*

Select Board
History of Stormwater Fee
October 26, 2020
page five

Salaries/Benefits	\$ 43,800
Equipment	\$ 5,000
Capital Outlay	\$ 50,000
Compliance Costs	\$ 80,000
Disposal/Expenses	<u>\$ 10,000</u>
Total:	\$188,800

Moved and Seconded Quantum of Town Meeting Vote: Majority VOTE on Article 12- Main Motion: Passed by Unanimous Vote”

The first annual stormwater fee bill was sent out on October 21, 2020.

I hope this information is helpful to you. Please let me know if I can provide you with any additional information or answer any additional questions you have.

MWH/rjb

cc: Tom Delaney – DPW Director
Michelle Collette – Stormwater Inspector