

Town of Franklin

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OFFICE OF THE TOWN ADMINISTRATOR

Memorandum

November 7, 2019

To: Town Council

From: Jamie Hellen, Town Administrator

Re: Stormwater Utility Introduction Presentation & Discussion

After more than two decades of policy debate, the EPA's federal MS4 Stormwater permit is upon us to implement. This is an issue that predates all of us who are in charge of implementing it, as well as an issue that will be left to future generations after us to continue implementing these requirements. Our approach in Franklin has always been to take a proactive approach to help manage the costs to taxpayers.

Over the next twenty-plus years, the Town will be required to implement a series of infrastructure and policy improvements that will cost in the neighborhood of an estimated \$40 million.

Tonight's Discussion

The goal for tonight's discussion is to:

1. Continue the public discussion and prepare for implementation. I have asked the DPW Director to give an omnibus presentation on stormwater, the Town's past and current efforts and samples of what a proposed fee structure would be. Based on the presentation, we are looking for feedback and comments on the issue before we move to the next step.
2. After receiving feedback this evening, the Town Council should consider forming the actual "utility" enterprise fund in December, much like we have in water, sewer and refuse. This will allow the Town to set up the mechanics in our financial systems, which may take up to 6-12 months. There will be no fee structure associated with this decision, just the establishment of the account so our consultants can work to prepare our systems for future consideration of a fee.

3. Additionally, in December, my recommendation to the Council would be to establish an Ad Hoc Town Council committee, which will guide the staff through a series of public education initiatives, as well as work with the Administration on deciding a fee implementation structure. We anticipate further educating the community through a public forum, Finance Committee meetings and other outreach initiatives similar to the ones we have been exercising for many years.

Historical Background

For decades the federal government has been working on a mandate to clean up the Charles River, most notably to remove phosphorus and other contaminants from the river. Origins of this project are rooted in the many attempts to clean up the Charles, Boston Harbor and their respective watersheds. Recognizing its historic, natural, scenic and economic importance to the Commonwealth of Massachusetts, cleaning up the Charles River has been a policy objective that has been important to federal, state and local governments for over 50 years. The current storm water permit initiative is just the latest in a long list of policy objectives.

The first permit was actually issued in 2003 and then issued again in 2008. A more comprehensive, extensive permit was promulgated in 2016 and 2017, respectively. Due to many lawsuits, the EPA postponed the effective date to July 1, 2018 in its final version, pending any outstanding litigation.

The Town of Franklin has been the lead plaintiff in the most recent lawsuit, which is still pending, but we believe that should be wrapped up soon. However, the litigation does not absolve the community from compliance with the MS4 permit, but may allow for some flexibility with compliance. We cannot speak any further about the litigation, but we will once the settlement is completed.

Current Status

Franklin is a well known leader on stormwater mitigation in Massachusetts and throughout the New England region. The Town has taken a very proactive approach and these efforts will result in significant cost reductions to taxpayers as a result. The Town's activities to date:

- The Town enacted a very progressive bylaw over ten years ago, which requires all new development and redevelopment to comply with strict regulations to keep storm water on site. Ultimately, many of our businesses and residences will see a reduction in costs as a result of the Town's efforts through the years;
- The Town instituted many programs, including numerous rain gardens, rain barrel purchase programs, and pollinator pastures to help get credits on our permit;
- Conducted a lot of outreach and education on stormwater through grants from DEP;
- Invested over \$1 million in annual operating budget money in the DPW toward infrastructure, stormwater programs and drainage repairs each year;
- Built a strong GIS Department;

- have won numerous awards for all of our efforts throughout the years for doing “the right thing”; and
- The Town will receive “back credit” for all of the work we have done toward compliance with the new permit. This is a very advantageous position to be in as we are well ahead of the curve in many communities without any major financial liability to taxpayers.

At the end of the day, implementation of this permit will be phased in over the next twenty to thirty years. Thus, the staff suggest to continue our incremental approach and slowly build a sustainable program to meet the requirements of the federal government. Similar to the Town’s Other Post-Employment Benefits (OPEB) liability or facilities maintenance program, you need to incrementally invest over time to maintain consistency and reliability into the system, while also reducing your liability. As the Towns’ Fiscal Policies clearly state “Delaying maintenance on existing assets results in higher costs in future years. Postponing improvements to buildings/infrastructure results in higher costs.” Delaying implementation will only cost taxpayers exponentially more to comply, which is never a good financial practice. This approach pushes the eventual financial burden onto our children.

As the effective date to begin complying with the MS4 permit was July 1, 2018, the Town Council continued the proactive approach toward stormwater remediation by authorizing \$85,000 toward a study to draft our stormwater management plan (see the 393-page plan attached) and develop a model for implementation (Powerpoint Presentation attached to begin the discussion). That analyses has been finalized.

Proposed Town Utility Program

In consultation with the Town Administration and Department of Public works senior staff, a proposed fee structure has been determined by our consultants to meet federal requirements. A framework of this utility and several examples will be discussed tonight to receive feedback. I am hoping an Ad Hoc committee of the Council will have a mission to look into the fee structure and abatement process with much greater detail.

Stormwater is very dense and complicated topic, but offer five main summary points of the plan being put before the Council this evening:

1. **Infrastructure Investments.** If approved, the proposed utility will invest almost \$2 million into new roads, sidewalks, drainage, catch basins and public way infrastructure. As the Town has slowly invested in stormwater compliance for the last decade, approximately \$1 million will be moved from our annual operating budget to the utility, hence freeing up \$1 million in the operating budget for roads and sidewalks, which are always a top priority for citizens in town and affects every citizen.
2. **Incremental Compliance (“Baby steps”).** The proposal to be discussed this evening focuses on a very modest fee and credit (abatement) structure to begin implementation.

3. **Federal compliance and unfunded mandate.** This is an unfunded mandate by the federal government. While it is frustrating, the reality is the penalty and costs of doing nothing will only become more taxing and expensive on the community.
4. **Customer Service.** The proposal will focus on some value added services for the Town. In addition to roads, there will be additional money for a curbside leaf pickup program each fall. As phosphorus from leaves is the primary contaminant of the Charles River, this is a great program to help protect water quality and provide a service many people in Franklin have been asking for. Residents are jealous of Milford!
5. **Drinking water & ecosystem protection.** While the Charles River headwaters is narrow and almost forgettable that it begins in our neck of the woods, it is one of the state's most iconic natural resources. Preserving this resource is a critical objective of many at the federal and state levels for decades. The Town's drinking water supply comes completely from groundwater, so ensuring we do the best job we can to protect our drinking water supply is smart policy.

Conclusion

Anytime there is an additional proposal to take money out of the pockets of citizens is a conversation to never take lightly. That said, the Town has done everything it can to this point to be proactive and do what we can to exhaust all other options to avoid this reality. We have even sued the federal government and we expect our financial liability will be significantly stretched out over time due to our legal efforts. It is the advice of your entire staff to stay ahead of compliance. By staying proactive and having a discussion, we actually save taxpayers in the short-term and the long-term. I can assure you that by doing nothing, we are only pushing the financial liability onto future generations.

We would look to phase in the fee structure over the next few years tentatively beginning in 2020. Over the course of time, the fee would gradually increase in accordance with normal budgeting and financial practices, very similar to the water and sewer enterprise funds. We would not expect any substantial activity to begin until at least FY22; after a full year of collecting revenue was in the enterprise account. The Town would slowly phase in operational work for the federal requirements over the next 20-30 years.

Other communities have recently begun to implement the permit in a similar fashion: Braintree, Chelmsford, Chicopee, Fall River, Gloucester, Longmeadow, Millis, Milton, Newton, Northampton, Reading, Westfield, Westford, Shrewsbury.

If you have any additional questions please feel free to ask.