

City of Newton



Setti D. Warren
Mayor

DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE COMMISSIONER

1000 Commonwealth Avenue
Newton Centre, MA 02459-1449

March 31, 2010

Ms. Thelma Murphy
EPA Region 1
Office of Ecosystem Protection
5 Post Office Square, Suite 100
Mail Code: OEP06-4
Boston, MA 02109-3912

Re: Comments on the Draft Massachusetts North Coastal Small MS4 General Permit

Dear Ms. Murphy:

The City of Newton is in receipt of the Draft Massachusetts North Coastal Small MS4 General Permit for stormwater management, applicable to 84 communities in the Commonwealth. Representatives from our community attended the March 17th public meeting and hearing and on this draft permit and provided oral comments during the hearing. We are following up with written comments on the most significant issues we will face should the Draft Permit become final in its present form.

We recognize the importance of stormwater management to the environmental health of Massachusetts waterways and the maintenance of designated uses. With the Clean Water Act long focusing on point sources alone, we applaud the efforts of the Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (MassDEP) over the last decade to incorporate non-point source pollutant reduction into the CWA regulatory program.

The regulatory agencies and the regulated communities share a common mission – to ensure the health and quality of our cities and towns and their natural resources. In order to accomplish these goals, environmental programs must be balanced with other needs and responsibilities of each community and implemented in a fashion that is both feasible and financially responsible. In this context, we offer the following comments on the Draft Permit:

Putting finances aside for the moment, our most significant concern stems from the requirement to meet phosphorus reduction goals in accordance with the waste load allocations published in the “*Final TMDL for Nutrients in the Lower Charles River Basin*”. Newton is not adverse to developing a Phosphorus Control Plan (PCP) and implementing strategies to reduce our phosphorus loading to our local streams and the Charles; however, by incorporating the 64%

phosphorus reduction goal into our Permit we feel as though we are being set up for failure. Reduction of more than half of the phosphorus loading to our waterways within 10 years is a lofty goal *when combined with all the other permit requirements*. Newton has been struggling to meet bacteria water quality standards and now with the added requirement for phosphorus reduction we will have to stretch our resources and staff even further and/or raise our stormwater utility rates significantly. Hypothetically, even if we double our stormwater utility rates, we could easily spend every dollar of the funds collected on fixing aging infrastructure needs which will reduce bacteria problems stemming from indirect pathways from sewers to our drainage infrastructure. Tackling phosphorus on top of an already daunting task (i.e., aging utility infrastructure) becomes an overwhelming objective. It would be most helpful for us to understand the benefit versus the cost of implementing strict phosphorus controls and whether EPA feels these funds are better spent on the phosphorus controls or rehabilitating and replacing sewer and drain infrastructure that has long-term significant public health, safety and environmental improvements. Most communities, including Newton, are feeling the budget crunch and the reality is that there are not enough funds to address all the needs let alone adding new goals.

We sincerely hope that EPA will reconsider inclusion of the phosphorus TMDLs into the new MS4 permit. If however, this can not be retracted or revised, we strongly urge that the following be made available to communities in the Charles River Watershed: free, technical assistance to develop an effective PCP for each community; and the development of an easy to use phosphorus reduction calculator with guidance documentation – similar to the Total Suspended Solids (TSS) Removal Calculator Worksheet developed by the MassDEP for Notice of Intent permit filings under the Wetland Protection Act.

Our second biggest concern is the added cost, administrative and planning time needed to implement the significantly ramped up requirements for Illicit Discharge Detection and Elimination (IDDE) Program. Certainly, written plans help to focus efforts to achieve the desired goals, but there are so many documents and maps to develop in the next 5-year permit term that it will be extremely challenging to both develop and implement them all in 5 years. These documents include: an updated Stormwater Management Plan; a written IDDE Program document with systematic procedures for locating illicit connections and written procedures for eliminating them within 6 months of discovery (or demonstrate enforcement action was taken); and an illicit discharge potential assessment and prioritization for every catchment area in the city. These written plans are in addition to the Phosphorus Control Plan and Stormwater Pollution Prevention Plans (SWPPP) required for each maintenance garage, public works facilities and transfer / waste-handling stations. And all of this is on top of more routine tracking requirements. For a City with 101 major drainage catchment areas (and some that have up to 12 sub-catchment areas), 143 drainage outfalls, 12,750 catch basins, 320 miles of drainage pipe and 90,000 linear feet of sewer pipe with underdrains, the planning and written documentation requirements alone are a daunting but perhaps doable task in five years. However, with the exception of the PCP, many of the plans also need to be implemented and in full compliance by the end of the next five (5) permit term. We strongly urge that progress and intermediate goals be considered in the Final Permit.

Next, we have a couple of comments on the “Good Housekeeping and Pollution Prevention for Permittee Owned Operations” requirements. The requirement to quantify how much sediment is inside each catch basin prior to DPW or a contractor cleaning out the basin would be very time-consuming and/or costly. A great deal of funds would be wasted on doing this inventory as opposed to actually cleaning catch basins. Let’s remember that the goal is to really accomplish something in the field as opposed to planning for it.

Lastly, we strongly object to the language regarding sweeping of sidewalks and ask that this be stricken from Section 2.4.7.1 IV of the Draft Permit. From an operational standpoint this is not feasible. We have approximately five hundred miles of sidewalks in the City. Many of these sidewalks are not contiguous with any other sidewalks. Due to a program adopted by the City decades ago, people have had the option to pay a betterment and the City would construct granite curbing and a sidewalk in front of their house. While this program has been a win / win for the City and our residents, it is not perfect; because not all residents have signed up for the program and there are many locations where a gap in sidewalk exists equal to the length of someone’s property frontage. The City has an extensive street sweeping program however; we do not sweep any sidewalks. We do collect trash regularly in our “squares” but we do not have the equipment or manpower to sweep all of our sidewalks City wide. On a side note, the City is currently considering a residential sidewalk shoveling ordinance because again, we do not have the resources to shovel all of our sidewalks City-wide.

Thank you for your consideration of these comments; I hope this information is useful. Should you have any questions, please contact my office at 617-796-1009 or via email at tdaley@newtonma.gov.

Sincerely,



Thomas E. Daley, PE
Commissioner of Public Works

Cc: R. Rooney / Chief Operating Officer
D. Turocy / Dep. Comm. of P.W.
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