



Select Board Meeting Notice AGENDA



Date
January 24, 2023

Time
12:30 PM

Location
Zoom Remote
Public Access – See Below

Note this Zoom videoconference meeting is not being televised, streamed or recorded by Bourne TV.

The Zoom chat will not be monitored. Participants who wish to speak must raise the hand icon until the Chair asks them to unmute. If anyone is audio or visual recording, please acknowledge it at this time.

Zoom Meeting ID: 869 5775 5505

Password: 529740

All items within the meeting agenda are subject to deliberation and vote(s) by the Select Board.

12:30 PM Call Public Session to Order in Open Session

1. Select Board's Business
 - a. Discussion and possible vote for any further changes to the DEP Title 5 comment letter.
 - b. Discussion and possible vote to approve the sale of Bond Anticipation Notes (BANS).
2. Adjourn

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2023 JAN 19 AM 9:29
TOWN CLERK BOURNE



TOWN OF BOURNE
HEALTH DEPARTMENT
WWW.TOWNOFBOURNE.COM/HEALTH
508-759-0600 ext. 1513



December 28, 2022 Draft

Revised 1/13/2023

By Email

MassDEP, Bureau of Water Resources – Division of Watershed Management
Attention: Title 5 & Wastewater Program
One Hundred Cambridge Street, 9th Floor
Boston, MA 02114

**Re: Proposed Amendments to Title 5: 310 CMR 15.000 and proposed 314 CMR 21.00:
Watershed Permit Regulations**

Dear Commissioner Suuberg et al.,

Thank you for the opportunity to comment on the proposed amendments to Title 5: 310 CMR 15.00 and the new draft 314 CMR 21.00: Watershed Permit Regulations. We support the purpose of these proposals to better protect and restore the environmental health of our estuaries and embayments. The Town of Bourne has been working diligently to finalize a Comprehensive Wastewater Management Plan (“CWMP”), for approval by MassDEP, and these proposed regulations will impact our future planning efforts.

Bourne is different than other Cape Cod towns because we abut and share watersheds with communities located outside of Barnstable County. Bourne also has watersheds on the 303(d) list of impaired waterbodies, but do not have TMDLs. Planning for non-TMDL watersheds include a targeted 25% reduction in nitrogen loading pursuant to MassDEP’s Wastewater Planning Guidance (1996). It is not clear how the proposed regulations will designate non-TMDL watersheds as nitrogen sensitive areas and potentially impact years of planning and implementation efforts. If the Town pursues a Watershed Permit for a non-TMDL watershed, there would be an enforceable 75% reduction requirement in 20 years which contradicts the existing MassDEP criteria.

The Town of Bourne respectfully requested that MassDEP thoughtfully consider all questions and comments raised thus far, and develop a revised draft of the proposed regulations for further review by the public.

1. MassDEP has failed to take this opportunity to address the continued existence of nonconforming systems (i.e. cesspools). In order to identify and upgrade the systems which pose the greatest risk to public health and safety, and to the waters of the Commonwealth, sections 15.301-305 should be amended during this process.

These systems should be deemed automatic failures upon inspection prior to transfer of title, or immediately upon promulgation of these amendments if located within a nitrogen sensitive area pursuant to 15.214. Existing facilities which have never upgraded to Title 5 compliant systems should be prioritized, and the proposed regulations should specifically ensure that cesspools are

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failed systems by amending 15.301. -By eliminating the exclusions for inspection at time of title transfer for certain relationships within 15.301(4)(d), -loopholes would be eliminated which are currently used to avoid reporting nonconforming or failed on-site systems to their respective municipalities.

2. 2.—Implementation of Title 5 upgrade requirements within 15.215: Nitrogen Loading Limitations, should be a phased approach. -If a Watershed Permit is not obtained, the requirement to upgrade on-site systems within 5 years of the NSA designation may not be is not feasible due to the limited supplies of materials and equipment, a shortage of personnel such as soil evaluators, system installers, designers, wastewater operators, municipal employees and Board of Health members, and the lack of funding. -The cost to the property owners could be substantial, and this unfunded mandate will only exasperate the existing housing crisis within Barnstable County.

MassDEP should prioritize the upgrade of failed and nonconforming systems first, followed by systems closest to resource areas, and those which do not meet nitrogen loading limitations within existing public and private water supply protection areas. -Other passing Title 5 on-site septic systems with valid certificates of compliance can be upgraded to best available nitrogen reducing technology over a longer timeframe. -Timing should be at the discretion of the local approving authorities to best implement solutions to address nitrogen pollution and impairments to their watersheds.

The language in 15.215(2) and 15.215(2)(a) is repetitive and conflicting, where subsection (a) specifies an “existing facility with a certificate of compliance” vs. just an “existing facility”. Cesspool systems and those installed prior to Article XI of the State Sanitary Code do not have certificates of compliance. -Having both the two-year vs. draft five-year upgrade requirement is confusing and needs to be clarified whether or not these systems under 15.215 are deemed to be in failure-

3. 3.—On August 25, 1995, MassDEP published Title 5 Interpretive Guidance: Consideration of Cost In Determining Maximum Feasible Compliance. This document summarizes the need for Boards of Health to also consider the economic feasibility of on-site system upgrade costs for properties relative to the environmental benefit gained.

The current I/A septic systems approved for General Use by MassDEP for nitrogen reduction do not consistently meet the expected level of total nitrogen removal of < 19mg/l in the field, according to decades worth of data maintained by the Barnstable County Database. -Difficulty tracking these systems and enforcing maintenance and monitoring conditions has negatively impacted their ability to protect environmental health. There is currently no responsible management entity (RME) to oversee their performance and ensure that these high-cost systems have a great enough environmental benefit to be justified.- Additionally, the cost of installing these I/A systems relative to property values, will create a disparity amongst the cost for homeowners in the same watershed with significantly different property values. The requirement to install nitrogen reducing technology for upgraded systems should be on a case-by-case basis so that neighborhoods are not disproportionately impacted within the same watershed. -This could also be addressed by providing state subsidies for homeowners to offset the cost. Clarifying variance provisions, local upgrade approval criteria, and “grandfathering” of systems should be included in these proposed regulatory changes as well.

4. 4.—The definition provided for **“Best Available Nitrogen Reducing Technology”** (310 CMR 15.002) is useless without a comprehensive list of said technologies being furnished by MassDEP. -The *“Summary of Innovative/Alternative Technologies Approved for Use in*

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Massachusetts and Under Review As of March 30, 2022” published on MassDEP’s webpage, presents the approved I/A Technologies with Nitrogen Reduction Credit as an afterthought.

Some technologies have approved uses and nitrogen reduction limits specific for facilities subject to the existing nitrogen loading limitations for nitrogen sensitive areas (can increase N loading limit to 550 gpd/ acre with effluent TN <25 mg/l or 660 gpd/ acre with TN <19 mg/l), whereas some technologies are listed as approved for nitrogen reduction, with a listed TN target which is not specific to being approved for increasing nitrogen loading limits in nitrogen sensitive areas, (NitROE WWTS <11mg/l).

MassDEP should clearly define “Best Available Technology” in the proposed regulations and provide more useful supplements such as an up-to-date Summary Table or a Decision Matrix. Waiving the “best available technology” requirement should be specified for approved, permitted, or installed I/A technology systems as this definition will evolve over time. –The proposed definition is vague and imprecise, and does not address the need for different solutions to address phosphorous pollution, contaminants of emerging concern, or virus attenuation, which may be more beneficial in areas that directly contribute to freshwater resources like ponds and streams.

5. 5.–The proposed amendments to “**Nitrogen Loading Limitations**” (310 CMR 15.215), should be consistent between the two designated categories of nitrogen sensitive areas. Facilities within (1) public and private water supply protection areas, and (2) natural resource areas, should be held to the same standard of 440 gpd/acre except as set forth in 310 CMR 15.216 (aggregate flows) or 15.217 (enhanced nitrogen removal) for both new construction and upgrades. This standard should be specific to upland land area only. Some of the language within this section is repetitive and it is not clear why the existing standard would not be maintained for all nitrogen sensitive areas.

6. 6.–The November 2022 watershed map provided by MassDEP pursuant to 15.215(4), was not published in a timely fashion in respect to the circulation of the June 1, 2022 fact sheet and October 28, 2022 draft regulations. This map fails to allow for the public to visualize watershed boundaries or the impact of these regulations. This map does not show major roadways, ponds, or streams, and has posed a significant hurdle to public transparency during the comment period. The majority of residents of Barnstable County are ages 65 years and over (U.S. Census Bureau, 2020). –The inability of MassDEP to provide a useful tool for its residents to interpret, has already burdened the municipalities, with staff fielding numerous inquiries per day from concerned and upset residents, most of whom are seniors on fixed-incomes.

The current Nitrogen Sensitive Areas are portrayed as a data layer on MassMapper, which is critical in determining regulation applicability on a parcel by parcel basis. The same or equivalent maps should be furnished by MassDEP in order to determine an equivalent level of impact caused by these proposed regulations.¹

7. 7.–It is unclear how the proposed amendments will affect Campgrounds under 15.006-7. Campgrounds provide a substantial amount of year-round and seasonal housing in Barnstable County, and this should be clarified.

8. 8.–***The proposed 314 CMR 21.00: Massachusetts Watershed Permit Regulations should not accommodate the federal government as a permittee on a Watershed Permit.*** –Impacted communities are already subject to Cape Cod’s Area Wide Water Quality Management Plan

¹ The Town of Bourne is aware of the ArcGIS mapping tool furnished by MassDEP after this letter was drafted.

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Update (208 Plan Update), developed pursuant to Section 208 of the Clean Water Act. This plan was certified by Governor Charles Baker in June of 2015, and approved by the U.S. Environmental Protection Agency on September 15, 2015. —The most recent 208 Plan Compliance Reports (2021) outline compliance with other permits such as MS4, and GWDPs.

Municipalities also have either Department approved Comprehensive Wastewater Management Plans, or those which are in progress pursuant to Department guidance. —These communities have been successfully implementing approved methods for addressing nutrient remediation through a variety of approaches. —The unique and multijurisdictional nature of the issue on Cape Cod requires a simpler and fair approach.

We look forward to continuing as a full and engaged partner in this process.

Sincerely,

The Bourne Select Board
The Bourne Board of Health

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Town of Bourne, MA
Bond Anticipation Notes
Dated: February 1, 2023
Due: February 1, 2024

RENEWAL WORKSHEET

Tax-Exempt BAN:
Bank Qualified

				BAN	FY 2023 BAN	
	<u>Project</u>	<u>Town Meeting</u>	<u>Statute</u>	<u>Amount</u>	<u>Paydown</u>	<u>Total</u>
Exempt	Peebles School Const.	10/17/2016	70B	1,537,986.00	-480,179.84	1,057,806.16
	High School Roof	5/6/2019	70B	1,160,429.00	-177,212.00	983,217.00
	Ambulances	5/6/2019	7(1)	652,136.00	-326,068.00	326,068.00
	DPW Truck	5/7/2018	7(1)	179,925.00	-89,963.00	89,962.00
	Wastewater	10/30/2017	7(1)	1,186,606.00	-638,260.00	548,346.00
	School Wastewater	11/16/2020	7(1)	741,633.00	0.00	741,633.00
	Clean Water Mgmt Plan	11/16/2020	7(7)	593,311.00	0.00	593,311.00
	Keith Field Lights	5/7/2018	7(1)	124,841.00	-11,905.00	112,936.00
	Police Cruisers	5/7/2018	7(1)	65,492.00	-65,492.00	0.00
				6,242,359.00	-1,789,079.84	4,453,279.16

	HS Roof
	1,117,429.00
Final Project Cost - Town to Finance	<u>983,217.00</u>
Additional Paydown	134,212.00

Wastewater
1,182,319.00
<u>548,346.00</u>
633,973.00

Peebles
1,537,986.00
<u>1,057,806.16</u>
480,179.84
425,439.84



MUNICIPAL NOTE SALE INFORMATION

Sale Information

Day: Wednesday
Date: January 18, 2023
Time: 11:00 AM

Issuer: Town of Bourne, MA
Amount: \$4,453,279.00
Dated: 2/1/2023
Due: 2/1/2024
Contact Name: Lynne A. Foster-Welsh
Title: Vice President
Email or I-Deal: lynne.welsh@unibank.com

Type:
BAN

Bank Qualified:
Yes 2019, 2020, 2021

New/Renewal:
Renewal

Tax Status:
TAX-EXEMPT

Paying Agent:
U.S. Bank Trust Company, National Associ

Disclosure:
Yes 1/11/2023

Project Description:
Various Capital

Certification:
None

Award Basis:
Lowest NIC

Legal Opinion:
Yes
Locke Lord LLP

Right to Prepay:
No

Interest Basis:
30/360
No. Of Days: 360

CUSIP:
Optional

Rating:
Note: SP1+
Current Bond: AA+

Bid Basis:
Par/Premium X
Minimum Premium: \$24,000.00

Bid Limits:
All or none Split X
Minimum Amount: \$1,000,000.00

Additional Info:

Bid Specifics:
DTC Book-Entry Only

RESULTS

BIDDER	AMOUNT	RATE	DATE/TIME	PREMIUM	NIC	AWARD	REOFFER
Jefferies LLC*	ALL	4.000%	1/18/2023 10:38 AM	\$51,969.76	2.833000	\$4,453,279.00	2.750%
Fidelity Capital Markets*	ALL	4.000%	1/18/2023 10:42 AM	\$51,791.63	2.837000		
Oppenheimer & Co.*	ALL	5.000%	1/18/2023 09:38 AM	\$94,810.31	2.871000		
Piper Sandler & Co.*	ALL	3.750%	1/18/2023 09:35 AM	\$36,427.82	2.932000		
TD Securities LLC*	ALL	5.000%	1/18/2023	\$90,846.89	2.960000		

*=Underwriter

UniBank Fiscal Advisory Services, Inc. (UFASI) is a subsidiary of UniBank for Savings (UniBank) and any bid submitted by UniBank is in keeping with its own investment goals and is not submitted by or on behalf of UFASI.

For further information, please refer to the Preliminary Official Statement and Notice of Sale dated 1/11/2023

VOTE OF THE BOARD OF SELECTMEN

I, the Clerk of the Board of Selectmen of the Town of Bourne, Massachusetts, certify that at a meeting of the board held January 24, 2023, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the board in my custody:

Voted: to approve the sale of \$4,453,279 4.00 percent General Obligation Bond Anticipation Notes (the “Notes”) of the Town dated February 1, 2023, and payable February 1, 2024, to Jefferies LLC at par and accrued interest, if any, plus a premium of \$51,969.76.

Further Voted: that in connection with the marketing and sale of the Notes, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated January 11, 2023, and a final Official Statement dated January 18, 2023, each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a significant events disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Notes for the benefit of the holders of the Notes from time to time.

Further Voted: that we authorize and direct the Town Treasurer to establish post issuance federal tax compliance procedures and continuing disclosure procedures in such forms as the Town Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax-exempt status of the Notes and to comply with relevant securities laws.

Further Voted: that any certificates or documents relating to the Notes (collectively, the “Documents”), may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document; delivery of an executed counterpart of a signature page to a Document by electronic mail in a “.pdf” file or by other electronic transmission shall be as effective as delivery of a manually executed counterpart signature page to such Document; and electronic signatures on any of the Documents shall be deemed original signatures for the purposes of the Documents and all matters relating thereto, having the same legal effect as original signatures.

Further Voted: that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the sale of the Notes were taken in executive session, all in accordance with G.L. c.30A, §§18-25, as amended.

Dated: January 24, 2023

Clerk of the Board of Selectmen

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