



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

STATE HOUSE, BOSTON 02133

A. JOSEPH DeNUCCI
AUDITOR

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April 5, 2006

The Honorable Michael W. Morrissey
Massachusetts Senate
State House – Room 413D
Boston, Massachusetts 02133-1053

RE: Municipal Waterways Improvement and Maintenance Funds

Dear Senator Morrissey:

In response to your request, my Division of Local Mandates undertook a review of municipal activities related to Municipal Waterways Improvement and Maintenance Funds pursuant to G. L. c. 40, s. 5G, G. L. c. 60B, s. 2, and G. L. c. 91, s. 10A. Specifically, you express concern with a lack of compliance with the statutory revenue restrictions and reporting requirements relative to boat excise tax and mooring fee collections.

Our review included the development of an electronic survey, which we discussed with your staff. It was comprised of specific quantitative and qualitative questions concerning Waterways Improvement and Maintenance Funds, boat excise tax, and mooring fee activity. (See attachment 1.) The quantitative questions sought data for fiscal years 2003 through 2005. The survey was transmitted to a sample of 24 cities and towns selected from a ranking of coastal communities with the greatest number of boat registrations according to 2004 boat registration and titling data from the Massachusetts Environmental Police. This data indicates that the sample cities and towns had a total of 49,086 boats, representing approximately 33% of the total number of vessels registered in the Commonwealth. Spreadsheets were designed to display survey data responses with summary financial data and other details calculated for analysis. (See attachments 2 and 3.) Highlights of survey results and findings appear below.

- Twenty communities responded that they had established waterways funds at least as of fiscal 2005, the majority earlier. (One of these, however, was not a c. 40, s. 5G fund, but was a fund established pursuant to G. L. c. 44, s. 53F1/2, general authority to establish enterprise funds.) This group reported deposits of

approximately \$2.9 million into these funds in fiscal 2005, and expenditures of about \$1.9 million. (See attachment 2, page A.)

- Collectively, this group of 20 reported waterways fund balances of just over \$5.5 million at the close of fiscal 2005, an increase of approximately \$2.3 million from the close of fiscal 2003. (See attachment 2, page A.)
- All 24 communities responded that they billed boat owners for excise taxes in fiscal years 2003, 2004, and 2005. Aggregate collections for the group increased by about 20% over the period, from about \$1.6 million in 2003 to almost \$2 million in 2005. The group reported that approximately \$1.6 million (24%) of amounts billed over the three years was not paid. (See attachment 2, page B.)
- Eighteen communities responded that they did collect mooring fees under c. 91, s. 10A in fiscal 2005, and most in earlier years as well. Section 10A mooring fee collections grew from about \$1.6 million in 2003 to approximately \$2.1 million in 2005. The 6 that stated that they did not collect c. 91, s. 10A fees may have collected mooring fees under other authority. (See attachment 2, page C.)
- Nine of the respondents that collected section 10A mooring fees reported that they charged the same fee for residents and nonresidents. Seven reported different fees based upon residency. One indicated that the town had not established a nonresident mooring fee structure. (See attachment 2, page C.)
- Respondents reported expenditures related to improvement and maintenance of waterways totaling over \$7.4 million in fiscal 2005. Fifty-eight percent of reported expenditures was for law enforcement and fire prevention; 23% was for maintenance, dredging, cleaning, and improvement of harbors; 14% was for breakwaters, retaining walls, piers, wharves, and moorings; and 5% was related to public access. This level of expenditure indicates that respondents allocated substantial revenues to waterways improvement from sources other than the dedicated waterways funds. (See attachment 2, page C.)
- There are at least two statutory authorizations to establish waterways funds (G. L. c. 40, s. 5G and G. L. c. 44, s. 53F1/2), and at least two authorizations to establish mooring fees (G. L. c. 40, s. 22F and G. L. c. 91, s. 10A.) Fourteen respondents indicated that they had established c. 40, s. 5G waterways funds AND collected c. 91, s. 10A mooring fees, and were thereby subject to the accounting requirements of those statutes -- to deposit 50% of boat excise tax collections plus 100% of mooring fees into the waterways fund. Under these two provisions, expected deposits to c. 40, s. 5G waterways funds would have been approximately

\$1.9 million for these 14 cities and towns in fiscal 2005. Survey data indicates that the group made deposits to these funds about \$106,000 short of expectations set by statute. Aggregate reported deposits are approximately 95% of expected amounts for the group. (See attachment 3.)

I hope this information is useful in your ongoing efforts to improve and safeguard the waterways of the Commonwealth. Please contact Emily Cousens at 617-727-0980 with comments or questions you may have on the survey data.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Joseph DeNucci". The signature is fluid and cursive, with a large initial "A" and "J".

A. JOSEPH DeNUCCI
Auditor of the Commonwealth

Attachments