

To: The Yarmouth Town Council
From: Nat Tupper, Yarmouth Town Manager
Date: August 25, 2021
Re: Allocation of Available Federal Funds (ARPA)

I am pleased to offer you here my thoughts and recommendations on the use of American Rescue Plan Funds that may be drawn down through the Maine Department of Administrative and Financial Services (DAFS) for the benefit of the Town of Yarmouth. There are many potential eligible and competing uses for the funds that you may wish to consider, and I recommend that the Town Council engage the public in making a determination of priority work that is eligible under the guidance offered by the US Treasury Department and other sources.

American Rescue Plan Act (ARPA) Funds:

The Town Council will need to determine the best and most appropriate use of ARPA funds available to the Town of Yarmouth.

My recommendation for the use of the funds is based on careful and thoughtful review of the guidance materials offered by the US Treasury Department, The Federal Register (Vol 86 No. 93 May 17, 2021), the National League of Cities, and Maine Municipal Association.

I understand that other jurisdictions may read and understand the guidance differently and may construe the authorized uses more broadly. I have generally taken a fairly safe and conservative view of the latitude provided by the legislation. I have attempted to apply both the specific guidance and the underlying goals and intentions as offered in the Federal Register. My analysis applies only to non-education department programs, facilities, and employees. Separate funding for school units does not flow through this office.

The American Rescue Plan Act (ARPA) is an amendment to Title IV of the Social Security Act and Section 603 establishes the Coronavirus Local Fiscal Recovery Fund, which provides for the distribution of federal funds to the States and directly to larger metropolitan areas.

Smaller jurisdictions, like Yarmouth, are “non-entitlement” communities which means that funds set aside for Yarmouth must be drawn down through Maine State government. **My expectation is that Yarmouth may draw down about \$856,000 over the next couple years.**

The funds can be drawn down for 4 different purposes:

- 1) To respond to the [COVID-19] public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or to aid impacted industries such as tourism, travel, and hospitality; (and/or)
- 2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers; (and/or)

- 3) For the provision of government services to the extent of the reduction of revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the pandemic; (and/or)
- 4) To make necessary investments in water, sewer, or broadband infrastructure.

Each of these 4 categories of authority have extensive limitations, conditions, and prohibitions. My recommendations are based on careful reading of those limitations applied to the priorities of the Town. Other allocation strategies may also be eligible in addition to or in lieu of the recommendations.

Below you will find my analysis of each of the categories of ARPA-eligible funding:

- 1- **Responding to the public health emergency or its negative economic impacts.** While the Town did (and continues to) face some direct costs, a very significant portion has been covered already by the federal (CARES) program. That included: Personal Protective Equipment (PPE), wastewater testing, business grant/loan programs, plexiglass dividers, surface and air cleaning supplies and equipment, extra voting equipment, and a substantial portion of YCS childcare programming. Some unrecovered costs may be eligible for ARPA funds, but those are relatively small. Thus, the primary benefit of ARPA funds would be to build the Town's fund balance. **With the exception of ongoing public health surveillance of wastewater viral loads (\$8,000), I am recommending no drawdown of ARPA funds under Category 1.**
- 2- **Premium Pay:** The law provides for premium pay to Public Health and Safety Workers, health care, human services, and similar employees to the extent that their services are devoted to mitigating or responding to the public health emergency. Other communities are equating town hall clerical staff as "similar" and not without good reason and a sense of fairness. However, such staff were delivering "normal" services in trying and unusual pandemic circumstances – but not devoted to mitigating or responding to COVID. Town Hall, YCS, Library, assessing and other staff (other than public safety) **ALSO** deserve a premium pay adjustment, but I don't find those expenses to be eligible under ARPA.

I recommend setting aside an allowance* of \$40,000 for a premium pay plan for first responders. And I recommend that the Town Council consider some type of premium pay or bonus from town funding sources for all other employees. I recommend against using ARPA funds for non- first responder premium pay.

*There are many details that need to be worked out as to the premium pay eligibility period (retroactive or prospective), rates or stipend amounts prerequisites for eligibility, etc. If an allowance of \$40,000 is approved, I will work with the Fire-Rescue Chief, Police Chief, and the Finance Director to work out a mutually agreeable plan that stays within

that allocation total. In the absence of an agreement, the funds would be redirected to the sewer infrastructure project described below.

- 3- **Loss of Revenues:** There is complex guidance to calculate the loss of revenues due to COVID. Our two biggest areas were (a) reduced EMS service fees, and (b) reduced YCS program enrollment fees. We could calculate these individual revenue losses so that we can draw down ARPA funds to make up for those losses. However, this note in the Federal Register indicates that this is not a good idea.

In calculating revenue, recipients should sum across all revenue streams covered as general revenue. This approach [...] presents a more accurate representation of the overall impact of the COVID-19 public health emergency...

In other words, we should be looking at our revenue bottom line and not at one particular revenue line. Yarmouth's bottom line for General Fund revenues in FY 21 were 5% over budget! **Because our General Fund revenues exceeded expectations, I recommend we not request a drawdown of ARPA funds for lost revenues.**

- 4- **Necessary Infrastructure investments for Sewer, Water, or Broadband.** The law does NOT provide infrastructure funds for roads, bridges, dams, or other infrastructure needs. Those may be addressed in future federal infrastructure legislation and funding when and if it is approved by Congress, but not in the ARPA legislation. The ARPA eligible infrastructure investments must be necessary but are not required to be directly responsive to or seek to mitigate COVID issues. While it is possible to transfer Yarmouth's ARPA funds to the Yarmouth Water District or other regional governing body, no request has been submitted nor expected, and I would not anticipate that the Town Council would approve such a transfer unless there was some very significant special circumstance.

On the other hand, there may be an opportunity to transfer a small portion of Yarmouth's reserved ARPA funds to invest in regional broadband improvements. I encourage the Town Council to carefully consider holding back some funds to allow the Town to be a part of a regional broadband investment effort if one should emerge (possibly through County Government, and/or GPCOG). Affordable, reliable, accessible broadband connectivity and speed (both upload and download) is critical to business and civic life, access to markets and healthcare, equal access for education, jobs, and commerce. It can provide significant environmental benefits and reduction of vehicle miles traveled. While Yarmouth enjoys nearly universal access, there are significant impairments in speed, reliability and cost. **My recommendation is to set aside 2% of the total allocation for a broadband improvement project to be determined at a later date.** That allocation can be redesignated at any time up through 2024.

Sewer infrastructure, on the other hand, is both an urgent and eligible capital need. We have tremendous wastewater pumping, piping, and process equipment investment requirements which all relate directly to protection of the public health, the environment, and to economic activity and sustainability for the community. **I am recommending the majority of Yarmouth's available ARPA Funds be used for priority wastewater infrastructure projects- in particular the construction of a redundant/overflow/by-pass aeration tank and equipment at the wastewater treatment plant.** ARPA funds alone will probably not cover the full cost but could contribute a very substantial share of the project cost. We are preparing a capital wastewater project recommendation that could use up the Town's entire ARPA allocation. While I am recommending a few minor allocations other uses under categories 1, 2, and 4 (totaling \$63,000), I am recommending the primary allocation (\$793,000) for the sewer infrastructure investment, and that any unused portion of the other allocations be re-allocated to supplement the Sewer project.

The Wastewater Treatment Plant currently provides aeration to the biological process through a 550,000-gallon aeration tank with two (2) mechanically driven paddle type aerators, called impellers. Air is infused into the wastewater by mechanical mixing of the water surface, similar to a big electric cake mixer. The Treatment Plant has only a single aeration tank that was constructed in 1993 and has been in continuous service ever since.

In 1993 only one aeration tank was constructed due to cost. As such, there is no redundancy in this critical part of the process and it makes it impossible to perform tank maintenance, (since the tank cannot be drained), and difficult to perform scheduled maintenance or repairs to the mechanical parts of the aeration process. For example, a recent failure of one of the aerator impellers required a specialty dive team to mobilize to float the impeller out of the tank since it could not be drained. A failure of this part of the system could be catastrophic both financially and environmentally and would pose a significant public health risk when untreated waste passed pass directly to the river.

The Department is proposing that a second tank of the same size and aeration capacity be constructed to provide redundancy to this key piece of the treatment process. It is anticipated that the second tank will be sited to the northeast of the existing tank, replacing one of the original and defunct ditch aerators. Currently, the Department is working to develop a conceptual design and opinion of probable cost for the proposed new aeration tank system.

We are currently developing a concept scope in partnership with our consulting engineers to develop a scope of service and an initial concept plan and cost opinion.

Please see a more detailed technical memorandum from the Town Engineer attached.

SUMMARY OF RECOMMENDED ARPA FUNDS USE ALLOCATION:

TOTAL AVAILABLE (EST)	\$856,000		100%
Public Safety Premium Pay (2)	-\$40,000	(allowance, details TBD)	4.7%
Wastewater Testing (1)	-\$8,000	(forward spending)	<0.1%
Broadband initiative (4)	-\$15,000	(Reserve for now details TBD)	1.8%
Wastewater projects (4)	\$793,000	(forward)	92.6%
Remaining Available Funds:	\$0		

APPENDIX

TOWN OF YARMOUTH INTERNAL MEMORANDUM

TO: Nathaniel J. Tupper, Town Manager
FROM: Steven S. Johnson, P.E., Town Engineer
DATE: August 19, 2021
RE: Yarmouth Wastewater Department Second Aeration Tank Installation Project

As you know, the Wastewater Department is proposing to construct a second aeration tank that will provide much needed redundancy to the critical aeration process. The Department anticipates constructing a new 550,000-gallon aeration tank with a similar mechanical aeration equipment to the northeast of the existing tank on the site of an unused and defunct ditch aerator tank that was part of the original plant process. This memorandum provides the technical details of the project.

The Yarmouth Wastewater Treatment Plant (Plant) was constructed in the late sixties to provide biological treatment to the Town's wastewater prior to discharge to the receiving waters, in this case, the Royal River. Prior to that wastewater was discharged untreated to the river. In the early 1990's, as part of a Consent Decree with the Maine Department of Environmental Protection, the Town performed a major upgrade to the existing plant to provide new aeration, settling, dewatering, disinfection and pumping upgrades as well as the required new building and utility infrastructure. It should be noted that redundant aeration was not installed at that time due to cost constraints. The improvements went online in 1993

Since that time, there has been few large capital investments in the plant, with the exception of a telemetry upgrade in the late 2000's and the recent dewatering system upgrade in 2019. As far as the aeration tank, the system has been in continuous operation since 1993 and has never

been drained for inspection of the underwater condition. The aeration equipment motors, and gearboxes have been rehabilitated once, in the mid 2000's. Additionally, the motors were equipped with Variable Frequency Drives (VFD's) in the late 2000's as an energy conservation project.

From a process and licensing perspective, the biological process (bacteria) requires a certain amount of oxygen to survive and function. The aeration system provides that oxygen and as such, cannot be shut down for more than several hours. Without oxygen the system will die, and the plant will not meet the pollution removal levels required in the Town's environmental license and will be subject to enforcement action and fines under the Clean Water Act (CWA). Additionally, wholesale shellfish closures will likely happen not to mention the environmental impact to all users of the Royal River and near reaches of Casco Bay. Having redundancy to this key system is important.

From a maintenance perspective, there is no way to drain the aeration tank to perform inspection of the concrete tank or provide inspection or maintenance to the shafts and impellers of the aeration equipment. The existing tank has never been drained since its installation in 1993 and the condition of the tank walls and bottom is unknown.

The Department is proposing to install a second and parallel aeration tank system, likely of the same type and size as the existing unit. A second tank will provide the required redundancy to the system such that periodic maintenance and inspection can be performed to either tank or equipment. Additionally, having a second aeration will provide much needed protection from unexpected failures and a loss of aeration. A second tank will also provide an opportunity to halve the run time for each unit providing more life.

Another key functionality that a second tank provides is the opportunity to store peak flows generated during spring runoff or intense rain events that are seen at the plant from the resulting inflow and infiltration. During wet weather, leaky sewer pipes or illegal storm drain connections allow clean water into the system that increases the flow at the plant. This stored flow is fed back into the system during periods of low flow. To avoid the potential washing out of the plant, the Department has a High Flow Management Plan that is implemented to protect the system. Having a second aeration tank with a half million-gallon volume will be very helpful to attenuate the flowrate into the plant during wet weather.

The proposed new aeration tank is likely to be sited to the northeast of the existing aeration tank that is currently occupied by one of the original aeration ditches. The existing ditch is no longer used and defunct. It is anticipated that the existing ditch will be demolished, and the new larger tank installed in its place, along with the required piping, valving, utilities, and monitoring/control systems. Please see the sketch below.

The Department is currently working with Wright-Pierce Engineers of Topsham and Portland, Maine to develop a conceptual design and a conceptual opinion of probable cost (OPC) for the proposed new infrastructure. It is anticipated that this information will be received in the next two or three months.



Proposed Aeration Tank Location Sketch