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Foxboro town meeting voters reject MBTA zoning law, approves \$20M for three projects

By JEFF PETERSON For The Sun Chronicle
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MBTA Commuter rail train station at Gillette Stadium.

MARK STOCKWELL/THE SUN CHRONICLE

FOXBORO -- More than 450 voters wedged into the high school auditorium Monday night overwhelmingly rejected, at least for now, a controversial state program that would have permitted construction of 1,152 housing units by right on 50 acres off Route 1.

The sweeping rezoning initiative was defeated 246-32.

In so doing, Foxboro became the latest Bay State community to straight-arm the so-called MBTA Communities Act, which requires affected cities or towns to create high-density zoning districts, preferably within a half-mile of commuter rail or rapid transit stops.

Signed in 2021 by then-Gov. Charlie Baker to help address a housing shortage that has contributed to some of the nation's highest home prices and rents, the law specifically targets 177 communities that either host MBTA commuter rail and/or transit facilities or border towns that do.

Most of these, including Foxboro, still have until Dec. 31 to pass zoning rules that conform to state expectations, meaning that a second attempt will likely be forthcoming at a fall town meeting, according to Town Manager Paige Duncan.

Communities failing to adopt compliant zoning by the deadline stand to lose discretionary grant funding and potentially face legal sanctions.

No other communities in The Sun Chronicle coverage area have opposed MBTA law. Wrentham has questioned it but is working to comply.

That is not the case in Milton, however, which was sued by Attorney General Andrea Campbell when voters overturned a rezoning plan that would have satisfied the new state law.

The state Supreme Judicial Court is scheduled to take up the Milton case this fall and, depending on its findings, could order the town to cooperate or perhaps remand the law to the Legislature for amendments or modifications.

Partly with this in mind, Foxboro's advisory committee and planning board had both recommended that voters reject the plan presented Monday night, while monitoring future developments.

"Many communities are expressing concern about these unfunded mandates," advisory committee vice chairman Marlowe Farrar, who introduced the article, said. "We feel it's prudent for us to wait and perhaps get some guidance."

Voters didn't need much convincing, however, with most characterizing the state's approach in forcing compliance as all stick and no carrot.

"If we don't vote the way she wants us to vote we're going to get penalized," former select board member Bert Delaney said, referring to the attorney general's repeated vows to enforce the law. "That's extortion."

Longtime school and building official William Yukna, who last week was elected to a seat on the town select board, said approving the proposed zoning change would likely increase public school enrollment by some 400 students.

"You're talking about blowing out how the elementary level would work," Yukna said.

Amy Conley suggested the problem was less about the proposal's substance than its scale, and concluded that adopting the rezoning would increase the town's population by 18 percent.

"This is way too much for the state to expect of the Town of Foxboro," Conley said.

While population figures can be difficult to predict with accuracy, the 1,152 housing units under consideration would have increased the town's overall households by roughly 15 percent.

Not all were opposed to the state mandate, however.

Andrea Wong contended that expanding the town's housing stock was a priority.

"I think we just need more housing in Foxboro," she said.

Barnett Ovrut, longtime chair of the zoning board of appeals, asked townspeople to support the measure, suggesting that high-density residential development could complement existing retail and entertainment uses along Route 1.

Ovrut, who helped local officials craft the complex rezoning text, also pointed out the proposed increase in density did not necessarily mean that all, or even any, of the units would ultimately be constructed.

"There is absolutely no requirement to develop multi-family housing in this area," he said. "I do not see this proposal as being detrimental to the town."

And Linda Shea, who was instrumental in helping to develop an emerging housing production framework for the town, said she supported the rezoning measure because of its location on Route 1, which would reduce impacts on existing neighborhoods.

"We want to have housing near train stations," Shea said. "Housing belongs there. It allows people to walk rather than drive."

Over the past year, planning staff, with input from other officials, had sought to craft a proposal that would satisfy legal requirements of the MBTA Act while minimizing impacts on local residents.

This accounted for the decision to position all 1,152 proposed units in a single district carved out of the Gillette Stadium parking lots on the Walpole side of Route 1. Other communities opted for different approaches that have split the proposed district among several scattered sites.

At one point during the extended debate, Kevin Penders sought to sidestep a looming conflict with state officials by recommending a "no action" vote on the measure -- essentially postponing any final judgment until a fall town meeting while awaiting a ruling on the Milton case.

But impassioned voters who appeared determined to send a message rejected Penders' amendment, resulting in a final, lopsided tally.

Rezoning initiatives typically require a two-thirds majority vote for approval, but in this case the state had reduced that threshold to a simple majority.

The MBTA controversy came near the tail end of Monday's lengthy, sometimes fractious town meeting, at which voters also passed a \$96.6 million operating budget for the fiscal year beginning July 1, while authorizing an additional \$25.5 million in capital spending.

The overall capital number included a total of \$20 million in borrowing spread among three major projects, each of which survived a debt exclusion ballot test in last week's annual town election.

These included overhauling and upgrading the town public works complex on Elm Street, purchasing the former Latter-day Saints church on Main Street for use as a new multi-generational community center, and expanding and upgrading women's locker room facilities at the Chestnut Street public safety complex.

All three were approved by comfortable margins Monday night.

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All three debt exclusions pass in Foxboro; two of three incumbents ousted on select board and school committee