

PACKET

APR 30

2018



NAN BALMER
TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN
LEA T. ANDERSON
MARY M. ANTES
LOUIS M. JURIST
CHERRY C. KARLSON
DOUGLAS A. LEVINE

BOARD OF SELECTMEN
Monday, April 30, 2018
6:30 p.m.
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road

Proposed Agenda

Note: Items may not be discussed in the order listed or at the specific time estimated. Times are approximate. The meeting likely will be broadcast and videotaped for later broadcast by WayCAM.

- 6:30 pm 1.) Open meeting and enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(3), to discuss strategy with respect to *Bernstein et al v. Wayland Planning Board et al.*, *Trustees of the Residences of Oxbow v. Town of Wayland*, and *John Moss and Amy Borner v. Gary Lingley and Annmarie Lingley as Trustees of the J.M.J. Realty Trust and the Town of Wayland* because the Chair has determined that a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the Town
- 6:45 pm 2.) Call to order by Chair
- Review agenda for the public
- 6:47 pm 3.) Announcements and public comment
- 6:55 pm 4.) 5 Concord Road Petition: Discuss status with Town Counsel
- 7:05 pm 5.) Town Organization: Meet with department heads
- 7:45 pm 6.) Police Firing Range: Meet with Police Chief regarding location
- 7:55 pm 7.) Annual Town Meeting follow-up
- 8:25 pm 8.) Town Administrator Screening Committee: Appoint members
- 8:40 pm 9.) Board Liaison Assignments: Vote to adopt
- 8:50 pm 10.) Town Administrator's Report
1. Correspondence
 2. Private Roads
 3. Staffing: IT
 4. Special Election
 5. Government guidelines draft
- 9:05 pm 11.) Minutes
- 9:10 pm 12.) Consent Calendar: Review and vote to approve
- 9:15 pm 13.) Correspondence: Review
- 9:20 pm 14.) Selectmen's reports and concerns
- 9:25 pm 15.) Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
- 9:30 pm 16.) Adjourn

5. Town Organization

TOWN ORGANIZATION

BOARD OF SELECTMEN DISCUSSION WITH TOWN DEPARTMENT HEADS

APRIL 30, 2018

The Board of Selectmen will meet with the Department Heads on Monday April 30th to discuss town organization. To guide the discussion, participants are asked to consider the questions below. Please keep in mind that the questions apply to anyone who might be in appointed or elected roles someday in the future rather than those presently occupying office.

1. **BUDGET:** Should the Town's current budget process be replaced with a budget process which assigns responsibility to the Town Administrator to develop the annual operating and capital budgets for all departments on behalf of the Board of Selectmen which would then, in turn recommend a final budget plan to Town Meeting? The Finance Committee would, under this type of organization, provide an independent review of the budget plan and report its findings to Town Meeting.
2. **REPORTING:** For what purposes should all department heads be accountable to the Town Administrator? For what purposes should a department head not be accountable to the Town Administrator?
3. **OTHER IDEAS:** Are there any changes that could be made to Town organization that would help you function better as a Department Head or, as applicable, as an elected or appointed member of a public body?

Attached please find a draft "Act Establishing the Position of Town Manager in Wayland" which would change the role and relationships of the chief executive officer, department heads, Board of Selectmen and Finance Committee.

DRAFT – AN ACT ESTABLISHING THE POSITION OF TOWN MANAGER ~~AN ACT~~
~~RELATIVE TO THE POSITION OF TOWN ADMINISTRATOR~~ IN THE TOWN OF
WAYLAND[mjw1] – DRAFT

Be it enacted, etc., as follows:

SECTION 1. DESIGNATION OF ELECTED OFFICIALS

(a) Upon the effective date of this act, the registered voters of the town of Wayland shall, in accordance with any applicable laws, bylaws, votes of the town or inter-local agreement continue to elect the following: [mjw2]

- (i) members of the ~~board of selectmen~~ select board;
- (ii) town moderator;
- (iii) town clerk;
- (iv) school committee members;
- (v) assessors;
- (vi) planning board members;
- (vii) board of health members;
- (viii) commissioners of trust funds;
- (ix) library trustees;
- (x) members of the board of public works;
- (xi) recreation commissioners; and
- (xii) housing authority members.

(b) The powers, duties and responsibilities of elected and appointed officials shall be as provided by applicable General Laws, special acts, bylaws, and votes of the town, except as otherwise expressly provided herein.

(c) Notwithstanding the election by the voters of the town of the officers named in this section, such officers shall be available at reasonable times to the ~~board of selectmen~~ select board or ~~town administrator~~ town manager for consultation, conference, and discussion on matters relating to their respective offices.

SECTION 2. POWERS AND DUTIES OF THE ~~BOARD OF SELECTMEN~~ SELECT BOARD [mjw3]

(a) The executive powers of the town shall be vested in the ~~board of selectmen~~ select board, who shall have all the powers given to boards of selectmen in the General Laws.

(b) The ~~board of selectmen~~ select board shall consist of 5 persons elected by the voters of the town. The term of each member of the ~~board of selectmen~~ select board shall be 3 years. The ~~board of selectmen~~ select board shall annually elect a chairperson from among its members.

(c) The ~~board of selectmen~~ select board shall serve as the chief goal-setting and policy-making body of the town. The ~~board of selectmen~~ select board shall set guidelines and policy directives that are to be implemented by the ~~town administrator~~ town manager and by other officers and employees appointed by or under its authority. The ~~board of selectmen~~ select board shall have the power to enact rules and regulations to implement policies and to issue interpretations of the rules and regulations.

(d) The ~~board of selectmen~~ select board shall exercise, through the ~~town administrator~~ town manager, general supervision over all matters affecting the interests or welfare of the town. The ~~board of selectmen~~ select board shall not normally administer the day-to-day affairs of the town.

(e) The ~~board of selectmen~~ select board shall appoint the ~~town administrator~~ town manager, ~~town~~

counsel, independent auditor, assistant or special counsels,^[mjw4] and all members of committees, boards, and commissions^[mjw5], except those positions that are elected by the voters or as otherwise expressly provided herein. The ~~board of selectmen~~select board may make appointments to all positions and committees the ~~board of selectmen~~select board creates for special or general purposes.

(f) The ~~board of selectmen~~select board shall have oversight of such boards, committees, positions, or commissions appointed by the ~~board of selectmen~~select board.

(g) The ~~board of selectmen~~select board shall have the responsibility and authority for licenses and other non- personnel related functions as provided by the General Laws and the bylaws of the town.

(h) The ~~board of selectmen~~select board shall be responsible for and shall approve the form and content of all town meeting warrants before such warrants are issued.

(i) The ~~board of selectmen~~select board shall be responsible for establishing and maintaining written procedures for the preparation of the budget. The selectmen shall annually issue 1 or more written budget messages, including fiscal guidelines and the timeline, at the beginning of each budget cycle or at a time established by the town bylaws.

(j) The ~~board of selectmen~~select board shall review the annual proposed budget prepared by the ~~town administrator~~town manager and make revisions the ~~board of selectmen~~select board deems advisable. The ~~town administrator~~town manager shall present the budget as approved by the ~~board of selectmen~~select board to the finance committee. The finance committee shall consider the budget proposed, shall establish the amounts which should, in its opinion, be appropriated for the ensuing fiscal year, shall add thereto such explanations and suggestions as it deems expedient, and shall report to the town meeting, in print or otherwise, such recommendations as it deems best for the interests of the town.

SECTION 3. APPOINTMENT OF THE TOWN ADMINISTRATOR

(a) The ~~board of selectmen~~select board shall appoint, by an affirmative vote of at least ~~3-4~~^[mjw6] members, a ~~town administrator~~town manager who shall be the chief administrative officer of the town. The ~~board of selectmen~~select board shall appoint the ~~town administrator~~town manager solely on that person's executive and administrative qualifications. The ~~town administrator~~town manager shall be a professionally qualified person of proven ability, especially fitted by education, training, and previous experience to perform the duties of the office. The town may from time to time, by by-law, establish such additional qualifications as seem necessary and appropriate.

(b) The ~~town administrator~~town manager shall devote full time to the duties of the office and shall not engage in any other business or occupation during the term of ~~his~~ employment by the town, unless such action is approved in advance, in writing, by the ~~board of selectmen~~select board. The ~~town administrator~~town manager shall hold no elective office in the town ~~during his tenure while serving as~~ ~~town administrator~~town manager, but the ~~board of selectmen~~select board may appoint the ~~town administrator~~town manager to any non-elective office or position consistent with the responsibilities of the ~~town administrator~~town manager.

(c) The ~~board of selectmen~~select board may enter into a formal contract with the ~~town administrator~~town manager and may set contract terms that shall have precedence over any town personnel bylaws. The ~~board of selectmen~~select board shall set the compensation for the ~~town administrator~~town manager, not to exceed an amount appropriated by the town meeting.

(d) No member or former member of the board of selectman shall be eligible to be appointed to the position of the ~~town administrator~~town manager within 15 months of termination of such member's service.

(e) Before entering upon the duties of the office, the ~~town administrator~~town manager shall be sworn, in the presence of a majority of the members of the ~~board of selectmen~~select board, to the faithful and impartial performance thereof by the town clerk or a notary public.

(f) The ~~town administrator~~town manager shall execute a bond in favor of the town for the faithful performance of the ~~town administrator~~town manager's duties in such sums and with such sureties as may be fixed and approved by the ~~board of selectmen~~select board, the cost for which will be borne by the town.

(g) The ~~board of selectmen~~select board shall provide for an annual review of the job performance of the ~~town administrator~~town manager.

SECTION 4. REMOVAL OF TOWN ADMINISTRATOR

(a) The ~~board of selectmen~~select board, by an affirmative vote of at least 4 members~~by a majority vote of its full membership~~, may remove the ~~town administrator~~town manager. At least 30 days before such removal shall be effective, the ~~board of selectmen~~select board shall file a preliminary written resolution with the town clerk setting forth reasons, if any, for the proposed removal, a copy of which shall be delivered to the ~~town administrator~~town manager.

(b) The ~~town administrator~~town manager may reply in writing to the resolution and may request, in writing, a public hearing; provided, however, that the request for a hearing shall be received by the town clerk not later than 10 days after the ~~town administrator~~town manager's receipt of the resolution. If the ~~town administrator~~town manager so requests, the ~~board of selectmen~~select board shall hold a public hearing not earlier than 10 days nor later than 20 days after the filing of such request.

(c) Following the public hearing or, if none, at the expiration of 30 days following the filing of the preliminary resolution, the ~~board of selectmen~~select board may adopt a final resolution of removal.

(d) As part of the preliminary resolution, the ~~board of selectmen~~select board may suspend the ~~town administrator~~town manager from duty.

(e) Nothing contained herein shall limit the authority of the ~~board of selectmen~~select board to suspend or remove the ~~town administrator~~town manager as provided by the laws of the commonwealth.

(f) The ~~board of selectmen~~select board shall determine if such suspension shall be with or without pay.

SECTION 5. ABSENCE OR VACANCY OF TOWN ADMINISTRATOR

(a) During a temporary absence, not to exceed 30 days, the ~~town administrator~~town manager shall designate by a letter filed with the chair of the ~~board of selectmen~~select board, a temporary ~~town administrator~~town manager to perform the duties of the office. Such delegation shall be limited to those matters not allowing for delay during the ~~town administrator~~town manager's absence.

(b) If, in the sole opinion of the ~~board of selectmen~~select board, the ~~town administrator~~town manager's designee is unable to effectively perform the duties of the office during the temporary absence of the ~~town administrator~~town manager, the ~~board of selectmen~~select board shall appoint a person to perform the duties of the office; provided, however, that those duties shall be limited to those matters not allowing for delay during the ~~town administrator~~town manager's absence.

(c) During an absence of the ~~town administrator~~town manager for 30 or more days, due to disability, illness, or other similar circumstance, the ~~board of selectmen~~select board shall appoint an acting ~~town administrator~~town manager for the duration of the extended absence. Such designation will cease upon the return of the ~~town administrator~~town manager.

(d) If the individual serving as acting ~~town administrator~~town manager is a town officer or employee, the individual shall return to the position held prior to being appointed as the acting ~~town administrator~~town manager.

(e) No member of the ~~board of selectmen~~select board shall serve as acting ~~town administrator~~town manager.

(f) If the ~~board of selectmen~~select board determines, by majority vote of the full membership, that the

~~town administrator~~town manager will be unable to resume the duties of the job for any reasons, including, but not limited to, resignation, termination, or illness, the office of ~~town administrator~~town manager shall be filled as soon as practical by the ~~board of selectmen~~select board, provided that the ~~board of selectmen~~select board may appoint an acting ~~town administrator~~town manager to serve until a ~~town administrator~~town manager is appointed. The duties of an acting ~~town administrator~~town manager shall be limited to those matters not allowing for delay and shall include the authority to make temporary, emergency appointments or designations to town office or employment, but not to make permanent appointments or designations. [mjw8]

SECTION 6A. ADMINISTRATIVE RESPONSIBILITIES AND POWERS OF THE TOWN ADMINISTRATOR [mjw9]

- (a) The ~~town administrator~~town manager shall be the chief administrative officer of the town and shall be responsible to the ~~board of selectmen~~select board for the effective management of all town affairs placed in the ~~town administrator~~town manager's charge by this act, by the ~~board of selectmen~~select board, by bylaws, or by vote of the town meeting, and for the implementation of town policies placed in the ~~town administrator~~town manager's charge by the ~~board of selectmen~~select board.
- (b) The ~~town administrator~~town manager shall supervise all town departments, with the exception of the school department, and shall direct day-to-day affairs of the town.
- (c) The ~~town administrator~~town manager shall be responsible for assuring that the budget is administered as adopted by town meeting and in accordance with the General Laws, this act, and the town bylaws.
- (d) The ~~town administrator~~town manager shall advise the ~~board of selectmen~~select board of all matters requiring action by the ~~board of selectmen~~select board or by the town.
- (e) The ~~town administrator~~town manager shall, in consultation with the personnel board, oversee the town's personnel system and staff in accordance with the town bylaws, and shall oversee personnel evaluation policies and practices, enforcement of labor contracts, labor relations, collective bargaining, and all applicable state and federal regulations relating to employment. The ~~town administrator~~town manager may appoint a human resources director to assist with these human resources duties.
- (f) The ~~town administrator~~town manager shall attend all meetings of the ~~board of selectmen~~select board, except when excused, and shall have the right to speak but not vote. The ~~town administrator~~town manager shall attend all annual and special town meetings and shall be permitted to speak when recognized by the moderator.
- (g) The ~~town administrator~~town manager shall administer, either directly or through a person appointed by the ~~town administrator~~town manager in accordance with this act, the General Laws and special acts applicable to the town, all town bylaws, and all rules and regulations established by the ~~board of selectmen~~select board.
- (h) The ~~town administrator~~town manager shall have access to all information necessary for the proper performance of the duties of ~~town administrator~~town manager in accordance with the town bylaws, except for attorney-client privileged information that is provided to or by the ~~board of selectmen~~select board, unless the ~~board of selectmen~~select board specifically authorizes such access.
- (i) The ~~town administrator~~town manager may, without notice, cause the affairs of any division or department, except the school department, or the conduct of any officer or employee thereof, to be examined.
- (j) The ~~town administrator~~town manager shall keep the ~~board of selectmen~~select board fully informed regarding all departmental operations, fiscal affairs, town priorities and concerns, and administrative actions, and shall submit periodic reports summarizing such matters to the ~~board of selectmen~~select board.
- (k) The ~~town administrator~~town manager shall coordinate the activities among boards, commissions, and committees concerned with long-range municipal planning, including physical or economic

development and environmental or resource protection of the town.

(l) The ~~town administrator~~town manager shall be responsible for the maintenance all town buildings, property, and facilities, except those under the jurisdiction of the school department, unless requested by the school committee. The ~~town administrator~~town manager shall develop, keep, and annually update a full and complete inventory of all property of the town, both real and personal.

(m) Under subsection (h) of section 2, the ~~town administrator~~town manager shall be responsible for the preparation of all town meeting warrants in accordance with the town bylaws and distribute, or cause to be distributed, copies of town meeting warrants to the residences of all registered voters of the town.

(n) Upon request, and with the approval of the ~~board of selectmen~~select board, the ~~town administrator~~town manager shall prosecute, defend, or compromise all litigation to which the town is party.

(o) The ~~town administrator~~town manager shall keep full and complete records of ~~town administrator~~town manager's office and annually submit to the ~~board of selectmen~~select board a full written report of the operations of the office.

(p) The town manager may authorize any subordinate officer or employee to exercise any power or perform any function or duty which the town manager is authorized to perform; provided, however, that all acts which are performed under any such delegation shall be deemed to be acts of the town manager.

~~(p) The town administrator shall devote full time to the duties of said office and shall not engage in any other business or occupation during the term of employment by the town, except with the written consent of the board of selectmen. The town administrator shall hold no elective office in the town during the term of employment as town administrator, but the board of selectmen may appoint the town administrator to any non-elective office or position consistent with the responsibilities of the town administrator.~~^[mjw10]

SECTION 6B. FINANCIAL RESPONSIBILITIES AND POWERS OF THE TOWN ADMINISTRATOR

(a) The town administrator shall be the chief financial officer of the town.

(b) The town administrator may, at the town administrator's discretion and with the approval of the ~~board of selectmen~~select board, establish a consolidated department of finance responsible for the coordination and overall supervision of all fiscal and financial affairs of all agencies of town government and may appoint a director of finance; provided, however, that the terms of persons holding the position of accountant, treasurer/collector, and director of assessing on the effective date of this act shall not be reduced by reason of the consolidation.

(c) The town administrator shall be responsible for controlling all appropriated budget expenditures, which includes the power to approve or reject all warrants, including payroll, for the payment of town funds prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws.

(d) The ~~town administrator~~town manager shall be responsible for the preparation of the proposed operating budget to be included in the annual town meeting warrant. The proposed budget shall be prepared in accordance with the most current budget process by the date set pursuant to subsection (i) of section 2 as approved by the ~~board of selectmen~~select board.

(e) The ~~town administrator~~town manager shall submit to the ~~board of selectmen~~select board, by the date established pursuant to subsection (i) of section 2, a written proposed budget for the ensuing fiscal year.

(1) The proposed budget shall describe all actual or estimated revenue from all sources, and all actual or proposed expenditures, including debt service, for the previous, current, and ensuing fiscal years.

(2) The proposed budget shall detail all estimated expenditures for current operations during

the ensuing fiscal year, detailed by agency, department, committee, purpose, and position.

(3) In addition, the ~~town administrator~~town manager shall prepare ~~a written proposed capital improvements budget for the ensuing fiscal year and~~ ^[mjw11] a 5-year forecast, and include both as part of the proposed annual budget.

(4) For the purpose of preparing the budget for the ensuing fiscal year, the ~~town administrator~~town manager shall include an estimate of revenues to be collected and free cash available at the close of the current fiscal year, including estimated balances in special accounts.

(5) The ~~town administrator~~town manager shall report on the estimated funds required to be levied and raised by taxation to defray all expenses and liabilities of the proposed budget together with an estimate of the tax rate necessary to raise such amount and include the information in the proposed budget.

(f) The ~~town administrator~~town manager shall submit a preliminary budget ~~and capital plan~~ to the ~~board of selectmen~~select board and the finance committee pursuant to the budget process set forth in subsection (i) of section 2. The preliminary budget ~~and capital plan~~ shall be submitted not later than 70 days prior to the date of the annual town meeting.

(g) To assist the ~~town administrator~~town manager in preparing the proposed annual budget of revenue and expenditures, all boards, officers, and committees of the town, including the school committee, shall furnish all relevant information in their possession and submit to the ~~town administrator~~town manager, in writing, in such form as the ~~town administrator~~town manager shall establish, a detailed estimate of the appropriations required and available funds.

(h) The ~~town administrator~~town manager shall keep the ~~board of selectmen~~select board informed regarding the availability of federal and state funds and how such funds might relate to the town's current and long-range needs.

(i) The ~~town administrator~~town manager shall be responsible for filing all grant applications.

(j) After the close of each fiscal year and after the certification of free cash by the department of revenue, the ~~town administrator~~town manager, as soon as practicable, shall cause to have prepared audited financial statements. Upon completion of the audit, the ~~town administrator~~town manager shall promptly distribute the statements to the ~~board of selectmen~~select board and the finance committee.

SECTION 6C. APPOINTMENT RESPONSIBILITIES AND POWERS OF THE TOWN ADMINISTRATOR

(a) The ~~town administrator~~town manager shall appoint, based upon merit and qualifications alone, and may remove, ~~all department heads~~ ^[mjw12], officers, subordinates, and employees for whom no other method of selection is provided in the charter, except employees of the school department and employees identified in subsection (c) of this section.

(b) Appointments proposed by the ~~town administrator~~town manager, except as noted in subsection (e) of this section, shall become effective on the 15th day following the day ^[mjw13] on which notice of the proposed appointment is filed at a ~~board of selectmen~~select board meeting, unless the ~~board of selectmen~~select board shall, within such period and by a majority vote, vote to reject such proposed appointment, or has sooner voted to affirm it.

(c) The ~~town administrator~~town manager shall appoint, based upon merit and qualifications: ^[mjw14]

- i. a director of assessing, with the consent of the board of assessors;
- ii. a town planner, with the consent of the planning board;
- iii. a director of public health, with the consent of the board of health;
- iv. a library director ~~and all other library employees,~~ ^[mjw15] with the consent of the board of library trustees.
- v. a recreation director, with the consent of the recreation commission; and

vi. a director of public works, with the consent of the board of public works.

For the purposes of this section, consent shall mean that each multiple-member body cited herein shall interview job candidates and make appointment recommendations to the ~~town administrator~~town manager. The ~~town administrator~~town manager shall not make an appointment under this section without the consent of the multiple-member body cited herein. In the case of employees appointed under this section, the ~~town administrator~~town manager shall inform the chair of the appropriate multiple-member body prior to the commencement of any disciplinary action or termination process, except in cases of an emergency, and provide an opportunity to the chair to confidentially comment on the proposed action directly to the ~~town administrator~~town manager.

(d) Relative to appointments made by the ~~town administrator~~town manager under subsection (c) of section 5-5, the policies established by each multiple-member body derived directly from statutory authority shall be the non-administrative policy adhered to by the ~~town administrator~~town manager and the ~~town administrator~~town manager's staff.^[mjw16]

(e) Appointments made by the ~~town administrator~~town manager under subsection (c) of this section shall be effective immediately and shall not be subject to rejection by vote of the ~~board of selectmen~~select board.

SECTION 6D. COLLECTIVE BARGAINING RESPONSIBILITIES AND POWERS OF THE TOWN ADMINISTRATOR

(a) The ~~town administrator~~town manager shall negotiate collective bargaining contracts on behalf of the ~~board of selectmen~~select board; provided, however, that such contracts shall be subject to approval, ratification, and execution by the ~~board of selectmen~~select board.

(b) The ~~board of selectmen~~select board may authorize use of additional counsel or persons to assist the ~~town administrator~~town manager in the negotiations at its discretion.

SECTION 6E. PROCUREMENT RESPONSIBILITIES AND POWERS OF THE TOWN ADMINISTRATOR

The ~~town administrator~~town manager shall be the chief procurement officer, pursuant to chapter 30B of the General Laws and all other applicable statutes, procedures, and bylaws, shall be responsible for purchasing for all town functions and departments, and shall award all contracts needed for the operation of all town functions and departments, except for the school department, unless otherwise specifically requested by the school committee.

SECTION 7. ORGANIZATION OF AGENCIES

The ~~town administrator~~town manager may reorganize, consolidate, establish, or abolish any department or position under the ~~town administrator~~town manager's direction or supervision at the ~~town administrator~~town manager's discretion and with the ~~board of selectmen~~select board's approval. With the approval of both the ~~board of selectmen~~select board and finance committee, the ~~town administrator~~town manager may transfer all or part of any unexpended appropriation of a discontinued department, board, or office to any other town department, board, or office under the ~~board of selectmen~~select board's jurisdiction.

SECTION 8. CONTINUATION OF EXISTING LAWS, CONTRACTS, AND EMPLOYMENT

(a) All laws, bylaws, votes, rules and regulations whether enacted by authority of the Town or any other authority, which are in force in the Town of Wayland on the effective date of this act, or any portion or portions thereof, not inconsistent with the provisions of this act, shall continue in full force and effect until otherwise provided by other law, bylaws, votes, rules and regulations, respectively.

(b) No contract existing and no action at law or suit in equity, or other proceeding pending on the effective date of this act, or the time of revocation of such acceptance, shall be affected by such acceptance or revocation of this act.

(c) Any person holding a town office or employment under the Town shall retain such office or employment and shall continue to perform ~~his~~ the office or employment's duties until provisions shall have been made in accordance with this act for the performance of said duties by another person or agency. No person who continues in the permanent full-time service or employment of the Town shall forfeit ~~his~~ pay grade or time in service.

SECTION 9. DISPOSITION OF CERTAIN SPECIAL LAWS

The following special laws, and any amendment thereto, which were enacted for special purposes and were limited in time by their own provisions, are hereby recognized as obsolete and are to stand repealed, but all acts taken under the authority of the said special laws is hereby preserved: [put list here]

SECTION 10. SUBMISSION TO VOTERS [mjw17]

This act shall be submitted to the voters of the Town of Wayland for acceptance at an annual or special town election in the form of the following question:

"Shall an act passed by the General Court in the year 2018 titled 'An Act Relative To The Position Of Town Administrator In The Town Of Wayland,' be accepted?"

The Town shall include below the ballot question a fair and concise summary thereof prepared by town counsel and approved by the ~~board of selectmen~~ select board. If a majority of votes cast in answer to this question is in the affirmative, Sections 1 through 9 of this act shall take effect sixty (60) days following acceptance by the voters.

SECTION 11. TIME OF TAKING EFFECT [mjw18]

Section 10 of this act shall take effect upon its passage.

6. Police Firing Range

DATE: April 30, 2018
TO: BOARD OF SELECTMEN
FROM: CHIEF PATRICK SWANICK
RE: POLICE FIRING RANGE: UPDATE ON ALTERNATIVES

Wayland Police Department – Police Firing Range

Firearms training is some of the most important training that is conducted by law enforcement agencies. It is crucial that officers receive training and have the opportunity to practice with their firearms.

In the old police station (prior to 2003), the Wayland police had an indoor firing range where officers could conduct firearms training and semi-annual qualifications. The police department also utilized the outdoor range located near the landfill. When the town relinquished control of the proposed River's Edge site, the police department lost use of the outdoor firing range.

Consultants for the town concerning the Rivers Edge project acknowledged that losing the firing range at the Rivers Edge project would bear an additional cost to the town to cover police firearms training. I believe the associated cost to the police department was estimated to be approximately \$8000 per year. The additional expenses include range rental fee, and officers being paid travel time expenses to and from the range.

The Sudbury Police Department has allowed the Wayland Police to use their outdoor range. Their shooting area is located behind the Sudbury Transfer Station. The location is convenient, but the condition of the range adequate at best. Scheduling is also a challenge as it is only available on certain days. The Sudbury Police has advised us that once the River's Edge property is developed, they will most likely have to close their range.

We have had discussions with the Land Use Committee, and the Wayland DPW Director to come up with possible places to relocate the police firing range. Some locations discussed were the "old landfill" located on the south side of Route 20, or to create an area adjacent to the Wayland Landfill and Transfer Station. These locations are very close to the existing firing range location that has been in use for more than 30 years.

How often will the Firing Range be used? Short answer: 8-10 days per year

Wayland Police Officers – Qualifications: Every six months we will schedule 3 days to qualify all officers with department weapons.

Wayland Auxiliary Police- Qualifications: 2 days per year.

Individual practice or test firing weapons – a couple of times per year.

Alternatives:

Devens Firing Range - \$7000. Per year. Department Range Fee \$200, Travel expenses 20 officers @ \$55/hr for 3 hours = \$3500 X 2.

Pros: It is available, good range facility

Cons: Distance, travel expense – 1 hour plus travel, limited access

Weston Shooters Club – \$4800. Per Year. Rental \$600. Per 4-hour training session limited to weekday mornings

Pros: Convenient location, no maintenance expense

Cons: Range length limited to 50', unable to comply with MPTC training.

Construct at Landfill – One time build cost approximately \$5,000

Pros: location, able to conduct all firearms training

Cons: none

After discussions with The DPW Director, Town Engineer, and Conservation Director, we believe the best location to relocate the firearms training range is to an area behind the Wayland Transfer Station. This location is very close to the old Wayland Police Range and the existing Sudbury Police Range.

7. ATM follow-up

DATE: APRIL 30, 2018
TO: BOARD OF SELECTMEN
FROM: NAN BALMER, TOWN ADMINISTRATOR
RE: ANNUAL TOWN MEETING FOLLOW-UP

This agenda item is intended as a general discussion on Town Meeting to lead to future planning.

- The Town Clerk's summary of Town Meeting results is attached.
- The Fire Chief, ELVIS Chair, Town Clerk, Finance Committee Chair and Moderator were notified. Of the discussion and may attend.
- The Fire Chief convened a meeting to review logistics and a follow-up report is expected is expected at a later time.

TOWN OF WAYLAND ANNUAL TOWN MEETING - APRIL 2, 2018 - Status

Article	Article Name	Status
1	Recognize Citizens and Employees for Particular Service to the Town-Motion1, Motion2 and Motion 3	Passed
2	Pay Previous Fiscal Year Unpaid Bills	Passed Over
3	Current Year Transfers	Passed
4	OPEB Funding	Passed
5	Rescind Revolving Fund for Wayland Town Beach	Passed
6	Establish a Revolving Fund for Wayland Town Beach	Passed
7	Fiscal Year 2019 Revolving Fund for Expenditure Limits	Passed
8	Initial Year funding of Town Successor Collective Bargaining Agreements	Passed
9	FY 2019 Omnibus Budget- Motion 1 Capital- Motion 2	Passed
10	Personnel Bylaws and Wage Classification Plan	Passed
11	CPA-Set asides and Transfers	Passed
12	Compensation for Town Clerk	Passed
13	Rescind Authorized but Unissued Debt	Passed
14	Terminate the Non-Insurance Stabilization Fund and Transfer Balance to General Fund Stabilization Fund	Passed
15	Close Septage enterprise Fund	Passed
16	Resolution to Continue Electronic Voting through FY2022	Passed
17	Appropriate funds to Construct a new Library Building	Did Not Pass
18	Appropriate Funds to Design Renovation of Existing Library Building at 5 Concord Rd	Did not Pass
19	Accept Gifts of Land at Town Center	Passed
20	Appropriate Funds for a Community Center at Town Center	Passed
21	Appropriate funds for Wayland Fire Station Number two renovations	Passed
22	Resolution: Energy and Carbon Savings in Municipal Building Construction	Passed
23	Appropriate Funds for Wayland Town Building HVAC Improvements	Passed
24	Advanced Water Meter Reading Infrastructure	Did not Pass
25	High School Complex Renovation	Passed Over
26	High School Tennis Courts/Softball Field Reconstruction	Passed Over
27	CPA Uncommitted-Partial Construction of WHS Athletic Facilities	Passed Over
28	Construction of Artificial Turf Field at Loker Conservation	Passed Over
29	An Act Relative to the Prevailing Wage for Affordable Housing in the town of Wayland	Passed
30	Limit the size of Oxbow Meadows Athletic Field	Passed Over
31	Construct Access Road to Oxbow Meadows Athletic Field	Passed Over
32	Limited Site Plan Review-zoning Amendment	Passed
33	Off Street Parking zoning Amendment	Passed
34	CPA: Historic Preservation of Library Windows and Depot Exterior	Passed
35	CPA: Uncommitted-Recreation Projects Canoe and Kayak Launches; Aqueduct Crossing	Passed
36	Accept MGL Chap.41, Sec. 110A	Passed
37	Property Tax Credit	Passed Over

38	Hear Reports	Passed
39	Choose Town Officers	Passed



TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

NAN BALMER
TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

BOARD OF SELECTMEN
LEA T. ANDERSON
MARY M. ANTES
LOUIS M. JURIST
CHERRY C. KARLSON
DOUGLAS A. LEVINE

April 11, 2018

The Wayland Board of Selectmen is seeking volunteers to serve on the Town Administrator Screening Committee. Members of the Screening Committee will work with the Town's consultant, Community Paradigm Associates, in identifying finalists for the Wayland Town Administrator position. The selected finalists will be brought to the Board of Selectmen for consideration. It is anticipated that a preponderance of the Town Administrator Screening Committee's activity will transpire during mid- to late-June, during which time the interviews of semi-finalists are expected to occur.

Wayland residents interested in volunteering to serve on the Town Administrator Screening Committee are asked to submit a letter of interest by Tuesday, April 24, to:

David Porter
Executive Assistant to the Town Administrator
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778
Via email: dporter@wayland.ma.us

List of residents who expressed interest in serving on the
TOWN ADMINISTRATOR SCREENING COMMITTEE

Steven Correia

Tom Greenaway

David Gutschenritter

Frank Kennedy

Cliff Lewis

Phyllis Jean Milburn

Brian O'Herlihy

Carole Plumb

Susan Pope

Porter, David

From: steven correia <stevencorreia@comcast.net>
Sent: Friday, April 13, 2018 10:52 AM
To: Porter, David
Cc: Anderson, Lea
Subject: TA search committee

Good Morning David,

It has come to my attention that the Board of Selectmen are seeking residents to serve on the Town Administrator Screening Committee. I would appreciate being considered to serve on the committee and would welcome meeting with the Selectmen to discuss the qualifications further if requested.

I believe I could provide important insight and guidance to the process if appointed. My experience as a two term Selectmen, former and current Finance Committee member and liaison or member of many town committees could help the group across many areas in this search. There will be important qualities and experience the Town will be considering and I believe I can help communicate them to potential applicants. I have also had some experience working with the Town's consultant, Community Paradigm Associates and feel I could make a good fit to the team.

Thank you for your consideration.

Steve Correia
508-868-2264
188 Glezen Lane

Porter, David

From: vtsdmailer@vt-s.net on behalf of Contact form at Wayland MA <vtsdmailer@vt-s.net>
Sent: Friday, April 20, 2018 3:26 PM
To: Porter, David
Subject: [Wayland MA] Town Administrator Search (Sent by Tom Greenaway, thomas.greenaway@gmail.com)

Hello dporter,

Tom Greenaway (thomas.greenaway@gmail.com) has sent you a message via your contact form (<https://www.wayland.ma.us/user/174/contact>) at Wayland MA.

If you don't want to receive such e-mails, you can change your settings at <https://www.wayland.ma.us/user/174/edit>.

Message:

I am interested in participating in the town administrator search process.

Thanks,

Tom

Porter, David

From: Dave GUTSCHENRITTER <dagutsch@comcast.net>
Sent: Wednesday, April 11, 2018 6:53 PM
To: Porter, David
Subject: Town Administrator Search Committee

Hello Mr. Porter,

My name is David Gutschenritter and I am interested in serving on the Search Committee to select the next Town Administrator.

By way of background, I have lived in Wayland since 1992, served on the Town Finance Committee for 6 years, served on the OPEB Committee and Chaired the Town Administrator search committee that selected Nan Balmer.

If there is any additional information that you would like or a more formal application, please let me know.

Thank You.

David Gutschenritter

14 Clubhouse Lane, Wayland

Home phone 508-651-0589

Mobile phone 617-688-1107

Porter, David

From: Frank Kennedy <fkennedy@mindspring.com>
Sent: Tuesday, April 24, 2018 4:06 PM
To: Porter, David
Subject: Town Administrator Screening Committee

Dear Sir:

I am responding to the request by the Board of Selectmen for volunteers for the Town Administrator Screening Committee.

My wife and I are long-time residents of Wayland, residing in our home for over 50 years, raising our five children in Wayland where they were educated in the public schools, and participating in various school activities, community organizations and town affairs.

Professionally I would bring to the committee my experience as the President of Best Career Services, an outplacement firm that I founded over 40 years ago. The company has served thousands of clients over these years including both individuals and companies that contracted with us to provide our job search services.

I have a detailed understanding of the candidate evaluation process from initial screening of candidates, to reviewing the suitability of a candidate's background against the position requirements, to interviewing selected candidates, and to the selection of candidates to be presented.

If you feel that I can be of value to the committee in the search process, please let me know.

Best regards,

Frank Kennedy
84 Old Sudbury Road
fkennedy@mindspring.com
508-358-7684

33 Claypit Hill Road
Wayland, MA 01778

April 23, 2018

Mr. David Porter
Executive Assistant to the Town Administrator
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778

Subject: Wayland Town Administrator Screening Committee

Dear Dave:

The Selectmen have expressed an interest in forming a Screening Committee to work with Community Paradigm Associates to bring qualified candidates forward to the Selectmen for their consideration to fill an upcoming vacancy in the Town Administrator position. I have served on similar search committees for important positions for the Town and I would like to express an interest in serving on the Town Administrator Screening Committee.

I am a long-time resident of Wayland, moving here 41 years ago. I have an undergraduate degree in engineering, an MBA from the Tuck School of Business at Dartmouth and a CFA charter. I built a company from scratch and have run organizations. Picking people was a major factor in determining the success of those organizations.

A process similar to that for the Town Administrator was undertaken in recent years for both the School Business Manager as well as for the School Superintendent. I served on both of those committees and I am very familiar with the process. Our committees put forth Susan Bottan for the School Business Administrator as well as Arthur Unobskey for the position of School Superintendent. As with the Town Administrator, these school department positions required a considerable amount of discussion and thought. They were not easy to fill. I believe you will find that everyone who served with me on both of those committees, as well as every member of the School Board, would all agree that I made valuable and substantial contributions to both of those searches.

Wayland may well be facing a critical juncture with their choice for the new Town Administrator. The new Town Administrator will play an instrumental role in Town government for the short term as well as for the long term. The Screening Committee must be able to judge which candidates would successfully bridge the gap between our present structure and a new one that may unfold. At the same time, the new Town Administrator must be able to function comfortably within the

present structure. The Administrator must be able to define a transition plan to a new structure if that is determined to be wise and the new Town Administrator must be able to function effectively under what new structure may unfold. Some of these duties will look like the trees and some will look like the forest. The Screening Committee needs to see both.

The Screening Committee must be able to look beyond a candidate's simple recitation of past experiences. It must ascertain a candidate's history of substantial accomplishments while serving in those past positions. The Committee must, as well, determine how best to assess a candidate's demonstrated abilities to analyze the environment in Wayland; how to assess the candidate's abilities to think clearly as to how best to form an effective apportionment of duties and how to assess the candidate's abilities to overcome what are certain to be obstacles and difficulties in achieving the goals of the job description that the Selectmen, the Town and Community Paradigm will bring forward.

Over my years in Wayland I have served the public interest as the chair of Wayland's OPEB Advisory Committee that successfully turned a very controversial issue into one that now regularly is accepted at Town Meeting under the abbreviated procedure. I serve presently on Wayland's Board of Public Works.

I have navigated the waters of candidate selection many times over the course of my career and have exhibited an ability to achieve a positive result from many conflicting inputs. This is the situation that the Selectmen, and we as a Town are both facing.

I am available during the mid to Late June period to participate and look forward to helping make a positive contribution to this important journey ahead.

Best Regards,

A handwritten signature in blue ink, appearing to read "Clifford Lewis", with a stylized flourish at the end.

Clifford Lewis

Porter, David

From: Phyllis Jean Milburn <39york@gmail.com>
Sent: Saturday, April 14, 2018 9:45 AM
To: Porter, David
Subject: Screening Committee for Town Administrator

To:
David Porter
Executive Assistant to the Town Administrator
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778
Via email: dporter@wayland.ma.us

From:
P. Jean Milburn
281 Concord Road
Wayland MA 01778

Please accept this letter as my expression of interest in the proposed screening committee for Town Administrator.

Relevant information includes:

1. I will be in Wayland during June.
2. I have lived in Wayland for 20 years.
3. I have served on several Town Committees.
4. I will serve on the reconstituted COA/CCAC
5. I have studied organizational design both as an undergraduate and graduate student.
6. My children attended our public schools.

For further information I can be contacted at:
508-358-2563
39york@gmail.com

Thank you for your attention to this letter.

Brian T. O'Herlihy
93 Sears Road
Wayland, Massachusetts 01778
(508)-358-5534 (home)
(617)-854-6601 (work)

April 12, 2018

Wayland Board of Selectmen
c/o David Porter, Executive Assistant to Town Administrator
Town Building
41 Cochituate Road
Wayland, MA 01778

Re: Town Administrator Screening Committee

David:

I would be happy to serve on the screening committee for the new Town Administrator if the Board thinks my background and experience in both private sector and public sectors could be useful in reviewing and interviewing candidates for this important position.

Thanks for your consideration.

Respectfully yours,

Brian T. O'Herlihy
Brian T. O'Herlihy

Carole Plumb
17 Bald Rock Rd
Wayland MA 01778
April 24, 2018

David Porter
Executive Assistant to the Town Administrator
Wayland Town Building
41 Cochituate Rd
Wayland MA 01778

Hello David,

I am writing to express interest in volunteering for the Town Administrator Screening Committee. Over the course of the last year and a half, I started out intending to be a more informed voter in time for that next town meeting. I ended up attending many meetings at a variety of the town boards in support of different issues mostly impacting Cochituate. My interest and effort centered on following the Finance Committee through a budget cycle and learning the budget drivers.

I developed a solid appreciation for all the connected and moving pieces that keep the town running by the work of staff and volunteers. I would like to see the positive results of Nan Balmer's work to bring Wayland in-line with the Municipal Modernization Act and to upgrade the overall town administrative structure to continue.

My work background is in chemical process R&D as a senior research specialist for the Dow Chemical Company. I have held leadership positions in project development, moving products from concept to commercialization. I also was a leader in on Polyurethane and Epoxy intellectual property and competitive intelligence on global multifunctional teams. As a member of the American Chemical Society I also served as chair of the Brazosport local section and chaired a National Chemistry Week program for two thousand students of the district.

Please consider me if I can assist in finding a new Town Administrator who would be good fit for the future of Wayland.

Kind regards,
Carole Plumb

Porter, David

From: Susan Pope <swpope128@gmail.com>
Sent: Tuesday, April 17, 2018 11:33 AM
To: Porter, David
Subject: Administrator search committee

Good morning, David,

I write to apply to be member of the search committee for Wayland's next administrator. For background, I am a 48 year resident of Wayland and have previously served 9 years on the School Committee, 12 years on the BOS, 2 years on the Finance Committee, and served 10 years as Wayland's State Representative in the State House.

Needless to say, I have seen many changes in Wayland over the years...some good some bad. But Wayland seems to have a great many willing volunteers.

Please feel free to contact me should you require more information. I look forward to hearing from you.

Sincerely,
Susan Pope
28 Moore Road

swpope128@gmail.com
(508) 358-2462
Cell: (508) 410-5168

Board of Selectmen Liaison Assignments for April 2018 through April 2019

Mary Antes - term expires 2018

Conservation Commission
Community Preservation Committee
Council on Aging
Historical Commission
Historic District Commission
Housing Authority
Housing Partnership
Affordable Housing
Affordable Housing Trust
Senior Property Tax Relief Committee

Lea Anderson - term expires 2018

Finance Committee
Personnel Board

Louis Jurist - term expires 2019

Board of Health
Recreation Commission
School Committee
Youth Advisory Committee

Cherry Karlson - term expires 2020

Board of Assessors
Community Center/Council on Aging
Energy Initiatives Advisory Committee
Permanent Municipal Building Committee
River's Edge Advisory Committee
Wastewater Management District Commission

Doug Levine - term expires 2020

Audit Committee
Economic Development Committee
Library Board of Trustees
Local Emergency Planning Committee
Planning Board
Board of Public Works
Zoning Board of Appeals

**TOWN ADMINISTRATOR'S REPORT
WEEK ENDING APRIL 27, 2018**

1. CORRESPONDENCE

No comments this week.

2. PRIVATE ROADS

- The DPW Director and BOPW have offered the date of Wednesday May 16th to the Selectmen for a public meeting on private roads. The meeting would be held in the large hearing room.
- Affected abutters on the 13-14 private roads will and receive hand - delivered notices. Residents affected by prior decision in 2015 will also be individually notified. There will also be a notice on the website.
- Prior to the meeting, the TA Office will post: 1) Draft Policy on Plowing Private Ways, 2) Legal Opinion on the subject, 3) PowerPoint Presentation, 4) Comprehensive List of Private Ways including those BOPW asks the Board of Selectmen to remove from plowing services. (This list has been enhanced and complete will be made available prior to May 16th meeting)

3. STAFFING UPDATE: IT

Please see attached.

4. SPECIAL ELECTION AND TOWN MEETING VOTE: MARIJUANA

The Board of Selectmen may be asked to consider a Special Town Meeting article and ballot question on marijuana. Below is a status update from the Town Planner who is leading this initiative along with the Youth Advisory Council.

If a ballot question is proposed, the deadline for Board of Selectmen notification to the Town Clerk is July 31st for the September 4th primary (35 days before) and October 2nd for the November 6th general election. Special Town Meeting articles will likely be due at the end of August.

Attached are model materials from the Selectmen's Marijuana Study Committee in Lincoln.

STATUS UPDATE: TOWN PLANNER: 4/27/18

I have been working with the following Department Heads Julia Junghanns, Health Director, Chief Pat Swanick, Jason Verhoosky, Director Youth and Family Services, Sarah Greenaway Chair

Youth Advisory Committee, to prepare a presentation we plan to bring before the Board of Selectmen and other key officials to understand the new State law that will legalize the cultivation, personal use and retail sales of recreational marijuana throughout the Commonwealth. The presentation is still in draft format at this time. As you know the Town of Wayland voted to allow an extended moratorium which is effective through December 31, 2018, however once this date expires it will open up the potential for recreational marijuana business who may wish to locate in Wayland. Therefore, there is work to be done to determine what direction the town would like to take regarding whether the town wishes to ban/partially ban/or not ban at all, recreational marijuana business in town. We are in the process of consulting with other Towns to gather information for review and consideration, determine potential strategies, as well as understanding the final regulations that were recently approved by the Cannabis Commission. We have a meeting scheduled on Monday April 30 with key officials and board members to discuss new information and review/determine potential strategies for the town. A formal presentation will be made to the Board of Health on May 7th and the Planning Board on May 8th. I have discussed with Chairman Dan Hill on dedicating our next Planning Board meeting on May 8th for this subject. We all need to develop a critical path timeline, with key milestones regarding potential policies, bylaws and if applicable regulations that may be needed to protect the Town of Wayland.

Sarkis Sarkisian, Town Planner

5. GOVERNANCE GUIDELINES

Attached are an updated draft of the Governance Guidelines, including edits suggested by the Town Clerk and Mike Lowery (BOPW) and adding as attachments the public body checklists for meetings and minutes. An important and frequently requested context for this document would be education and public forums.

DATE: APRIL 30, 2018
TO: BOARD OF SELECTMEN
FROM: NAN BALMER, TOWN ADMINISTRATOR
RE: IT STAFFING UPDATE

The Town's Information Technology Director resigned effective February 16th after serving 20 months as the Town's first IT Director. His tenure followed a major IT planning study (the RSM Report) which provided the Town with a blue print for the IT organization and systems.

During March and April, we pursued the two options of filling the IT Director vacancy with a full time employee and filling the vacancy through a contractor. An employment search and an RFP were both issued.

I believe it is in the best interest of the Town at this time to appoint contractor Mike McCann of Advent Consulting as Interim IT director for the following reasons:

1. **QUALIFICATIONS:** Mr. McCann worked effectively with the Town in 2015-16, has established positive relationships, and expertise in the Town / School virtual desktop environment. Mr. McCann, whose proposal is attached, is also an electrical engineer which adds value.
2. **CONTINUITY:** The Town has several major IT initiatives in the works; Mr. McCann is already moving forward on projects (please see project update below)
3. **FLEXIBILITY:** Appointment of a contractor on an interim basis allows the Town to provide leadership by a contractor on a trial basis. In 2016, residents with IT expertise urged the town to consider a contractor to serve as IT Director. At that time, an RFP was issued and, the cost was too high. (over \$90,000 per quarter)

I reviewed the recommendation to contract with Mr. McCann with the Superintendent who supported the approach. I will forward any additional comments from the school department if received.

CONTRACT TERMS: 3 months, renewable up to 3 years; \$90 per hour; average of 20 hours per week (up to 24)

COST: Less expensive than full-time IT Director at \$122,710 plus benefits: If 20 hours/week, contracted Interim IT Director would be - \$46,800 for 6 months (26 weeks) at \$90/hr, or \$70,200 for 9 months, or \$93,600 for 12 months, If 25 hours /week would be \$58,500 for 6 months, \$87,750 for 9 months, and \$117,000 for 12 months

MANAGEMENT: The Assistant Town Administrator will provide direct oversight of the IT Department and has an understanding of the department operating and capital budgets, staffing, and projects. Oversight will include approving invoices, budgeting, monitoring project progress, and submission of a capital plan. The Business Systems Analyst will provide additional day to day support as point person with other staff for routine projects. She will also be exposed to the IT infrastructure to develop internal skills. Mr. McCann will continue regular meetings with the School IT Director and will meet with the Department Heads to hear user concerns. "Managed services" will be added under a separate contract for high priority routine work, such as security, to augment staffing level.

REPORT ON PROJECT STATUS:

Key Projects:

- **Upgrade of virtual desktop environment** to new hardware and software. Approx. 50% complete. Should have been complete 3-4 months ago.
- **Middle School Cabling and Network Upgrade** -- Currently in design phase -- Looking to release RFP's by 3rd week of May for Jul 1 work start and completion before start of school. Currently on track
- **Replacement of workstations at public safety** 90-95% complete. Should have been complete 5-6 months ago.
- **Retirement of old servers** -- Approximately 80% complete. Should have been completed a year ago.
- **Implement perimeter security changes** that take advantage of the features that our new firewalls offer. Targeting a September start to this project. Should have been completed over a year ago.
- **Replacement of servers at public safety.** Due to start at beginning of new fiscal year. Design and hardware selection to take place in May/June. Currently on track.



<https://goo.gl/images/n56Pqn>

MARIJUANA PANEL DISCUSSION

Hosted by: the Selectmen's Marijuana Study Committee

WEDNESDAY, APRIL 25, 2018

7:00 PM – 9:00 PM

TOWN OFFICES, 16 LINCOLN ROAD

- ~ Before November 2018, Lincoln will need to VOTE on whether or not to allow recreational marijuana cultivation, processing, and retail dispensaries.
- ~ What are the implications of the State law that legalized the personal use, cultivation, processing, lab testing, and retail sale of recreational marijuana?
- ~ The Board of Selectmen has assembled a panel of legal, public safety, agriculture, medical, and industry experts to help Lincoln explore the issues, and to help inform our thinking about our public policy options.
- ~ Come learn more about the law, ask questions, and voice your opinions.
- ~ For additional information about the Committee's activities, including a comprehensive Frequently Asked Questions (FAQ) document, visit its page at: <http://www.lincolntown.org/962/Marijuana-Study-Committee>

Selectmen's Marijuana Study Committee

April 25, 2018 Public Forum

Agenda

- I. Introductions & Meeting Background (10 minutes)
 - Selectman James Craig Moderating

 - II. Panel Presentations (45 minutes)
 - Eden Evins, MD, MPH, Professor of Psychiatry in the Field of Addiction Medicine at Harvard Medical School
 - Jean Welsh, EdD, Cannabis Industry Consultant
 - Ari Kurtz, Lincoln Agricultural Commission and member of Marijuana Study Committee
 - Kevin Kennedy, Police Chief and member of Marijuana Study Committee
 - Joel Bard, Town Counsel and advisor to the Marijuana Study Committee

 - III. Q & A (60 minutes)

 - IV. Wrap-up & Next Steps (2 minutes)
 - Selectman James Craig -- Moderating
-

The Committee's meeting agendas and other background materials, including a comprehensive FAQ document, can be found on our dedicate page on the Town's website:

<http://www.lincolntown.org/962/Marijuana-Study-Committee>

DRAFT APRIL 30, 2018

**TOWN OF WAYLAND
GOVERNANCE GUIDELINES FOR
THE BOARD OF SELECTMEN AND
APPOINTED BOARDS, COMMITTEES, COMMISSIONS
~~ADOPTED JUNE 5, 2017~~
REVISED: DATE**

1.0 Volunteer Appreciation

The Board of Selectmen thanks the members of all Boards, Committees and Commissions for giving their valuable time and effort to the improvement of the Wayland community.

2.0 Authority and Purpose of These Guidelines

The Wayland Board of Selectmen adopts these Guidelines for the governance of the Board of Selectmen and its appointed Boards, Committees and Commissions, referred to in this document as "public bodies". It is understood that elected public bodies including the Board of Assessors, Board of Health, Library Board of Trustees, Board of Public Works, Planning Board, Recreation Commission and School Committee possess independent authority to adopt these or separate Governance Guidelines consistent with law.

The purpose of these Guidelines is to promote among the Town's public bodies decision-making that is open, thoughtful, fact-based, respectful and fair, in compliance with Town bylaws and with all state and federal laws.

These Guidelines are superseded when in conflict with any federal or state law or Town by-laws.

The Board of Selectmen will review, revise and distribute the Guidelines annually.

3.0 Organization

3.1 Annual Organization Meeting: Public bodies must organize annually ~~at the first meeting scheduled~~ after Annual Town Election and Meeting no later than July 1st. Public bodies will elect a Chair and any other necessary officers such as a Vice-Chair or Co-Chair, Clerk and Assistant Clerk.

Formatted: Superscript

3.2: Assignment to Department: Each public body will be assigned to a department of the Town which will provide a secure location to maintain minutes and records.

3.3: Responsibilities under Charge and Local and State Law: Each appointed public body will conduct its business under a Town by-law, state statute or under a charge adopted by the Board of Selectmen.

3.4 Annual Reports: Under Chapter 53 of the Town Code, all boards, commissions, committees, officers and agents of the Town shall submit a report to the Selectmen, not later than September 30 after the end of each fiscal year for publication each December in the Annual Town Report. The Selectmen shall notify all officers and agents of the Town and the Chairmen of all boards, commissions and committees of the final date for submitting such reports for publication. This notice shall be given by letter mailed or emailed in May of each year. If an appointed board, commission or committee of the Town, other than those created under the General Laws of the commonwealth, does not submit its written report on or before such final date for publication in the Annual Town Report, it shall be dissolved, except in such instances where the creating vote specifically provides that it is to report at longer given intervals, or unless the Town at the next annual Town meeting, by vote naming the board, commission or committee, continues it in existence.

~~Every Annual Report shall contain a section entitled "Current Debt," which shall provide the following information for the debt funded by the Town, with debt remaining and/or with as yet unfunded grants from the commonwealth or the federal government: (1) name of the debt; (2) funds appropriated by identified Town meeting article(s); (3) cumulative funds expended at fiscal year end; (4) cumulative interest paid at fiscal year end; and (5) anticipated final cost to the Town, including principal and interest after receipt of funded grants, if any, and date when all financing will have been paid off or otherwise completed.~~

Comment [NB1]: The Treasurer provides this report.

3.5 Rules of Procedure and Voting: Public bodies must establish a quorum before any meeting is called to order. Each public body may establish rules of procedure and voting consistent with local, state and federal law. The rules of procedure should include when public comment may be allowed by the Chair.

3.6 Advisory Committees: The Board of Selectmen may appoint advisory committees for a specific purpose under a temporary charge.

4.0 Role of Members: A member of any public body will:

1. Respect the role of the Chair in setting agendas and facilitating meetings.
2. Respect decisions of the public body and recognize that members take action as part of a public body and may not conduct Town business independently of the public body except as authorized by a vote of the public body.

3. Recognize that action at an official legal meeting is binding and that an individual member cannot bind the public body outside of such meeting.
4. Not make statements or promises about how he / she will vote on matters that come before the public body until he / she has had an opportunity to hear the pros and cons of the issue during the body's public meeting.
5. Uphold the intent of Executive Sessions and respect the privileged communication that exists in Executive Session, holding it in confidence.
6. Assume a high level of integrity, striving toward fact - based and objective public statements and deliberations. Make decisions only after all facts on a question have been presented and discussed.
7. As a general rule, work with Town staff at the direction of the public body so that Town staff are not subject to conflicting direction.
8. If appointed by a majority of the public body, serve as a liaison to other public bodies.
9. Fulfill any training the Board of Selectmen may require so members can effectively fulfill their duties. Training may be provided at Town building, over the internet, or may require out of Town travel or require multiple sessions. Whenever training is required by the Town so that a volunteer can serve on a public body, the Town will pay for the costs of tuition and travel. All such costs must be approved in advance by a Department Head before the costs are incurred.
10. Be sworn in by the Town Clerk or Assistant Town Clerk after appointment or election and submit a letter of resignation to the Office of the Town Clerk when no longer willing or able to serve. New members of public bodies cannot vote until sworn in by the Town Clerk or Assistant Town Clerk. If a member wishes to resign before the end of a term he or she must submit to the Office of the Town Clerk a signed letter of resignation. The resignation is effective upon receipt by the Office of the Town Clerk unless a different date is specified. Upon expiration of a term, appointed members will continue to hold office until a successor is appointed.

5.0 Role of Chair and Vice Chair: The Chair will set meeting agendas, convene all meetings, and execute documents as authorized by the public body. The Chair will act only under authority provided by a quorum of the public body. The Chair will serve as the public body's primary contact with Town staff. As a general rule, the Chair will solicit the opinions of all members prior to stating his or her personal opinion on any agenda item before the public body. The Chair will be responsible for ensuring the proper preparation and disposition of all minutes under the Open Meeting Law. The Vice Chair will fulfill the duties of the Chair in his or her absence.

6.0 Role of Clerk: Although Town staff may record minutes for some public bodies, the public body is encouraged to elect a Clerk or individual member who takes

responsibility for ensuring minutes are recorded, created and submitted for approval and filed along with supporting documents as a permanent record in the office of the assigned Town department.

6.0 Open Meeting Law

6.1 Requirement to comply with the Open Meeting Law: Public bodies must comply with all parts of the Open Meeting Law. Public bodies subject to the Open Meeting Law include any sub-committee of two or more members assigned by the public body to conduct business. Please refer to the MA Attorney General's Open Meeting Law Guide which is available on the Town website and through the Wayland Town Clerk and includes the following information important for members to know:

1. Definition of a public body
2. Definition of a meeting / 5 exceptions to the definition
3. Definition of a meeting quorum
4. Requirements for posting meetings
5. Ten legal purposes for executive sessions
6. Requirements to allow remote participation
7. Required public participation.
8. Required records for Open and Executive Sessions
9. Open Meeting Law complaint process

The Town Clerk will provide a list of all determinations to each new board and committee member that the town violated the OML over the past 5 years, list with the name of that particular board. Copies of the complaints may be found on the Attorney General's website and the list of decisions will be posted on the Town Clerk website. It is the responsibility of each Board Chair to forward all such determinations from the Attorney General to the Town Clerk upon receipt.
<https://massago.onbaseonline.com/Massago/1700PublicAccess2/OML.htm>

The Town Administrator is available to provide or obtain assistance on Open Meeting Law questions. You may also contact the Division of Open Government at (617) 963-2540 or e-mail openmeeting@state.ma.us.

6.2 Meeting Notices: All public bodies must comply with the Open Meeting Law, including but not limited to filing meeting agendas with the Town Clerk at least 48 hours in advance of the meeting. Saturdays, Sundays and legal holidays are excluded in the calculation of the 48 hours. The agenda may be filed with the Town Clerk in person or e-mailed to the Town Clerk at Townclerk@wayland.ma.us. Agendas must be received by the Town Clerk at least 30 minutes before the end of business in order to be posted the same day. Agendas received after the close of business will not be posted until the next day. Please contact the Town Clerk's office if you have a late filing. The agenda must include a list of topics that is sufficiently specific to reasonably inform the public of the items to be discussed at the meeting.

The agenda must also include any Executive Sessions planned, citing one of the 10 legal purposes for calling an Executive Session.

6.3 Revised Agendas: If an agenda item is received by the Chair within 48 hours of a posted meeting, and the agenda item could not be reasonably anticipated by the Chair more than 48 hours before the meeting, the Chair may revise the posted agenda to include the new agenda item. It is preferred that agendas are revised only when the agenda item arises because of an emergency, which is defined as a sudden and generally unexpected occurrence or set of circumstances, demanding immediate action. All other matters should be heard at a later meeting of the public body. If you are filing a revised agenda it should be marked "REVISED" with the date and any changes or additions should be highlighted.

6.4 Requirement for Meeting Minutes: The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. The Public Records Law requires that existing minutes be made available to the public within 10 days upon request, whether these minutes have been approved or are in draft form. Materials or other exhibits used by the public body in an open meeting must also be made available to the public within 10 days of request. Minutes of all staffed public bodies will be posted to the website by departmental staff. Minutes of all other public bodies ~~will be~~ will be emailed to townclerkdporter@wayland.ma.us ~~to~~ be posted on the Town website.

6.5 Contents of Minutes: Minutes must include the name of the public body, the date, time, and place of the meeting, the names of members present and absent, the names of staff present, and the substance of all discussion including all subjects acted upon or heard. Minutes must include a full and complete record of all motions proposed for vote and will include the exact vote, the names of the mover and the seconder for each motion, and the names of those voting against each motion. A verbatim record of meetings is not required.

6.6 Draft Minutes: Once created, draft regular meeting minutes are a public record available to the public, even if the minutes have not been presented at a meeting.

6.7 Executive Session Minutes: Minutes must be created for all Executive Sessions. Executive Session Minutes must not be released to the public until the reason for calling an Executive Session has ended, after which Executive Session Minutes must be reviewed and voted for approval and release by the public body.

6.8 Recording of Meetings: Any member of the public has the right to make an audio or video recording of an open session of a public meeting, but must notify the Chair before recording. The Chair must inform attendees of any such recording at the beginning of the meeting including that that the meeting will be broadcast on the Way-Cam government access channel. The Chair may impose reasonable

requirements regarding audio or video equipment so recording does not interfere with the meeting.

6.9 Public Participation: Under the Open Meeting Law, the public is permitted to attend open meetings of public bodies. The public is excluded from an executive session that is called for a valid legal purpose cited in the agenda. The amount of time a member of the public will be allowed to speak to a public body will be determined at the discretion of the Chair. While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the Chair. An individual is not permitted to disrupt a meeting of a public body, and at the request of the Chair, all members of the public will be silent. If after clear warning, a person is disruptive, the Chair may order the person to leave the meeting, and if the person does not leave, the Chair may authorize a police officer to remove the person.

6.10 Remote Participation at Meetings: The Town of Wayland permits remote participation. Members of Town boards and committees can ~~can~~ may participate and vote by teleconference, audio-conference or other means that allows all persons present, including the audience and the member participating remotely, to hear the proceedings. Acceptable reasons for remote participation under the regulations include personal illness, personal disability, emergency, military service and geographic distance.

All votes taken at such meetings where a member participates remotely must be taken by roll call vote and a quorum of members must otherwise be present, not including the remote participant. No remote participant can chair a meeting.

6.11 Open Meeting Law Complaint Process: Individuals who allege a violation of the Open Meeting Law must first file a complaint with the public body alleged to have violated the OML within 30 days of the date of the violation or the date the complainant could have reasonably known of the violation. The full complaint process, including the required response of the public body to the complainant within 14 days of receipt of the complaint is included in the Attorney General's Open Meeting Law Guide. Please provide a copy of all Open Meeting Law complaints to the Town Administrator's Office.

Within 14 business days of the date on which the complaint was filed, the public body must review the complaint and send to the Attorney General's Office (AGO) a copy of the complaint along with a description of any action taken to resolve the issue that was raised by the complaint. Within seven business days of the date that the complaint was filed, the public body may request additional information from the person making the complaint if necessary to resolve the complaint. The person making the complaint shall provide the additional information to the public body within 10 business days, and the public body shall have 10 additional business days (total 24 business days from the date complaint was originally filed) to act on the complaint and notify the AGO.

The public body may request additional time to consider taking remedial action and must make that request in writing to the AGO, to the Attention of the Director of the Division of Open Government. The AGO may, at its discretion, grant additional time to the public body if it determines there is a showing of good cause to grant the extension.

7.0 Use of E-Mail to Conduct Business

7.1 E-Mail and Public Records Law: E-mail communication created or received by a member of a public body while acting in his or her capacity as a member of the public body, is considered a public record and is subject to a public records request under the Public Records Law even if the e-mail is received by or created on a private computer or sent to only one individual. ~~Over time, the Town will assign an e-mail address to all members of appointed and elected boards and committees. It is requested that any volunteer who does not have a Town e-mail address create a new separate e-mail account to be used for Town business only.~~

7.2 E-Mail and Open Meeting Law: Whenever one member of a public body uses e-mail to discuss the public body's business (except for administrative matters such as scheduling and the transmission of documents) with a quorum of the members, it constitutes "deliberation" and is in direct violation of the Open Meeting Law. E-mail communication between less than a quorum of a public body is also in violation of the Open Meeting Law if the e-mail between less than a quorum of members is later forwarded to or discussed with additional members outside of a public meeting, thus unintentionally creating a quorum.

7.3 Board of Selectmen Guideline on E-Mail: To avoid violations of the Open Meeting Law and the Public Records Law, it is preferred that e-mail between members of the Town's public bodies be restricted to scheduling meetings and distribution of agendas, documents and reports.

8.0 Code of Ethics and Code of Conduct

8.1 Code of Ethics: All members of public bodies are sworn in by the Town Clerk to uphold all state and local laws applicable to the public body's jurisdiction. Members must comply with the state ethics law (MGL Chapter 268A) regarding the conduct of public officials. Members must complete required ethics training and on-line tests. A member is required under the law to not vote on any matter in which the member or an immediate family member has a financial interest. Members are encouraged to recuse themselves if there is an "appearance" of a conflict of interest.

8.2 Standard of Conduct: All members will treat the public, applicants before the public body, Town employees and other members with respect and courtesy. The members and Chair of a public body should take time to listen to individuals speaking to the body. The Chair should make sure members of the public who are present also accord those speaking with respect and an opportunity to be heard uninterrupted.

Bullying by public officials (including committee, board and commission members and staff) while in the course of public business is not tolerated. Bullying is the repeated use of a written, verbal, or electronic expression, or a physical act or gesture, or any combination thereof, that:

Comment [NB2]: Mike Lowery suggest we reconsider the language in this section

1. Causes physical or emotional harm to another party or that party's property;
2. Places another party in reasonable fear of harm or of damage to his or her property;
3. Creates a hostile environment within Town Building or other Town workplace;
OR
4. Materially and substantially disrupts the work of the multi-member body, Town departments or the orderly process of government.

8.3: Absences: The absence without appropriate explanation of any member of an appointed body from a majority of meetings held over a one year period or from three consecutive meetings may serve to vacate the office. The decision to recommend that the office be vacated will be made by a majority vote of other members of the public body and then transmitted to the Board of Selectmen.

8.4 Members are Bound by Applicable Personnel Policies and Law: Members of public bodies, when acting in their official capacity, are subject to any applicable state law and Town policies including those prohibiting sexual harassment, discrimination and workplace violence. Any allegation of misconduct made by the public, Town staff or a fellow member will be reported immediately to the Town Administrator.

8.5 Litigation against Town by a Member of an Appointed Public Body: An appointed member of any appointed public body may be temporarily suspended by the Board of Selectmen during a lawsuit filed by the member against the Town in a court of competent jurisdiction in the state of MA.

8.6 Removal under this Section: The Board of Selectmen, under such procedures it may adopt, may remove a member from an appointed public body for violations of this section.

9.0 Town Meeting and Public Bodies: Upon a majority vote, public bodies may sponsor and submit to the Board of Selectmen articles for the Board's consideration for inclusion in Annual and Special Town Meeting warrants. Articles submitted by

committees that are advisory to the Selectmen shall be submitted and sponsored by the Board of Selectmen.

10.0 Policy on Legal Services

All requests for legal opinions will be made through the Town Administrator under the Board's policy on legal affairs of the Town.

SUPPLEMENTAL ~~POLICIES-DOCUMENTS~~ REFERENCED ABOVE:

~~1. Remote Participation Policy;~~ 1.2. Legal Affairs Policy 2. Checklists for Public Bodies.

DATE OF ADOPTION / AMENDMENT: JUNE 5, 2017; ~~MAY 7, 2018~~

DRAFT

Public Body Checklist for Creating and Approving Meeting Minutes

Issued by the Attorney General's Division of Open Government – September 25, 2017

- Minutes must accurately set forth the date, time, place of the meeting, and a list of the members present or absent. G.L. c. 30A, § 22(a).
- Minutes must include an accurate summary of the discussion of each subject. See G.L. c. 30A, § 22(a). The summary does not need to be a transcript, but should provide enough detail so that a member of the public who did not attend the meeting could read the minutes and understand what occurred and how the public body arrived at its decisions.
- The minutes must include a record of all the decisions made and the actions taken at each meeting, including a record of all votes. G.L. c. 30A, § 22(a).
- The minutes must include a list of all of the documents and other exhibits used by the public body during the meeting. G.L. c. 30A, § 22(a). Documents and exhibits used at the meeting are part of the official record of the session, but do not need to be physically attached to the minutes. See G.L. c. 30A, §§ 22(d), (e).
- If one or more public body members participated remotely in the meeting, the minutes must include the name(s) of the individual(s) participating remotely. 940 CMR 29.10(7)(b).
- If one or more public body members participated remotely in the meeting, the minutes must record all votes as roll call votes. 940 CMR 29.10(7)(c).
- Executive session minutes must record all votes as roll call votes. G.L. c. 30A, § 22(b).
- The minutes must be approved in a timely manner. G.L. c. 30A, § 22(c). A “timely manner” will generally be considered to be within the next **three** public body meetings or within **30 days**, whichever is later, unless the public body can show good cause for further delay. 940 CMR 29.11(2).

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. Checklists are updated periodically, so please confirm that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at openmeeting@state.ma.us. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.

Public Body Checklist for Posting a Meeting Notice

Issued by the Attorney General's Division of Open Government – September 25, 2017

Notice Contents

- The notice contains the date, time, and location of the meeting. G.L. c. 30A, § 20(b).
- If the meeting is a joint meeting of several public bodies, the names of all bodies meeting are listed at the top of the notice.
- The notice contains all of the topics that the chair reasonably anticipates will be discussed at the meeting. The topics are sufficiently specific to reasonably advise the public of the issues to be discussed at the meeting, including executive session topics. G.L. c. 30A § 20(b); 940 CMR 29.03(1)(b).
- The notice is printed in a legible, easily understandable format. G.L. c. 30A, § 20(b).
- The date and time that the notice is posted is conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d). If the notice is amended within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, then the date and time that the meeting notice is amended must also be conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d).

Notice Publication

- The notice is published at least 48 hours before the meeting, not including Saturdays, Sundays and legal holidays. G.L. c. 30A, § 20(b).
- The notice is posted with the proper authority:
 - Local public bodies – Filed with the municipal clerk, who must post it in a location conspicuously visible to the public at all hours in or on the municipal building where the clerk's office is located, or to the municipal website if adopted by the municipality as the official method of posting notices. G.L. c. 30A, § 20(c); 940 CMR 29.03.
 - State public bodies – Posted to a website, and a copy sent to the Secretary of State's Regulations Division. G.L. c. 30A, §20(c).
 - Regional public bodies – Posted in every municipality within the region, unless the public body has adopted an alternative notice posting method. G.L. c. 30A, § 20(c); 940 CMR 29.03.
 - County public bodies – Filed with the office of the county commissioners and a copy of the notice is publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose, unless the county has adopted its website as the official method for posting notices. G.L. c. 30A, § 20(c); 940 CMR 29.03.

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. These checklists are updated periodically, so please check that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at openmeeting@state.ma.us. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.

BOARD OF SELECTMEN

**Monday, April 30, 2018
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road**

CONSENT CALENDAR

1. Vote the question of approving and signing the weekly payroll and expense warrants
2. Vote to adopt revisions to update health insurance waiver policy
3. Vote to re-appoint Catherine A. Radmer to the Board of Registrars for a three (3) year term through April 1, 2021
4. Vote to authorize the Chair to sign documents related to the Massachusetts Clean Water Trust - State Revolving Fund Loan, used to partially fund the Route 20 Water Main Replacement Project

To: Board of Selectmen
From: David Porter
Date: April 30, 2018
Re: Health Insurance Waiver

Requested Action: Vote to adopt revisions to update health insurance waiver policy

The Town has an effective program that allows employees to choose to receive a payment in lieu of the Town incurring the cost of their health insurance. This has been a highly successful program and, in order to continue, the Board of Selectmen need to vote to update the policy.

Benefits Manger Donna Lemoyne has created the attached model which demonstrates this program's savings to the Town.

DRAFT

HEALTH INSURANCE INCENTIVE WAIVER PROGRAM

GUIDELINES

July 1, 2019 – June 30, 2022

- Employees participating in Town sponsored family and individual health insurance plans have the option to drop their health insurance coverage and participate in a Health Insurance Incentive Waiver program.
- To be eligible to participate in the Health Insurance Incentive Waiver program, current employees must have been enrolled as a subscriber in a Town sponsored health insurance plan within the previous 12-month period prior to applying for the waiver payment. Employees enrolling in a Town sponsored health plan as of July 1, 2019 must be enrolled for a period of 12 months before applying for the incentive waiver.
- Employees who were approved for the 2016-2019 waiver plan are required to re-enroll in the 2019-2022 waiver program. Such employees will be bound by the terms and conditions of the 2019-2022 plan.
- Employees who opt to participate in the program agree not to exercise their option to enroll in a Town sponsored health insurance plan for a 3-year period beginning July 1, 2019 and continuing through June 30, 2022 or for a designated approved period which shall expire on June 30, 2022.
- In order to participate in the HIW program, newly enrolled employees must complete the attached Health Insurance Waiver Incentive application and provide proof of health insurance from another provider within 30 days of the application date, otherwise enrollment approval and waiver payments may be delayed.
- Employees who opt-out of Town sponsored health insurance and who provide proof of coverage will be eligible to receive a waiver incentive as follows:

An employee subscriber with a Family Plan will receive an incentive of four thousand dollars (\$4,000) per year paid as follows:

- ❖ Town Employees (Bi-weekly 12 mo) – 24 installments of \$166.67
- ❖ School Employees (Bi-weekly 12 mo) – 24 installments of \$166.67
- ❖ School Employees (Bi-weekly 10 mo) – 20 installments of \$200.00

An employee subscriber with an Individual Plan will receive an incentive of eighteen hundred dollars (\$1,800) per year as follows:

- ❖ Town Employees (Bi-weekly 12 mo) – 24 installments of \$75.00
- ❖ School Employees (Bi-weekly 12 mo) – 24 installments of \$75.00
- ❖ School Employees (Bi-weekly 10 mo) – 20 installments of \$90.00

Employees applying for the waiver after July 1, 2019 will be eligible for a prorated waiver amount based upon their date of acceptance.

This waiver incentive is subject to taxes and regular withholdings as required by law.

The first waiver installment will be paid with the first pay period of Fiscal 17. Installments will continue until such time as the program concludes or until an employee re-enrolls in a Town sponsored health insurance plan due to a qualifying event (see below). Employees who re-enroll in a Town sponsored health insurance plan during this 3-year period due to a qualifying event as described below, will not receive any further incentive installments following re-enrollment in a Town sponsored health insurance plan for the remainder of the program.

- Where spouses are employed by the Town and/or the School Department and where both spouses are eligible for family health insurance coverage, only one spouse shall be eligible to participate in the incentive waiver program for the family plan incentive.
- Employees who apply for an incentive waiver after July 1, 2019 will be considered for acceptance at the discretion of the Town Administrator.
- Employee who choose to participate in the waiver program may re-enroll in a Town sponsored health insurance plan during the 3-year waiver period only if the employee has a qualifying event as recognized in the plans' underwriting rules. The qualifying events are as follows:
 - 1) Marriage or divorce
 - 2) Birth or adoption of a child
 - 3) Death of a family member
 - 4) Loss of coverage through no fault of the employee or subscriber
 - 5) Change in hours which results in a change of employment status.

In order to re-enroll in a Town sponsored health insurance plan, an employee must notify the Benefits Manager within 30 days of the qualifying event(s) and provide written documentation of the same. When an employee re-enrolls in a Town sponsored health insurance plan, all waiver incentive installments shall cease. Annual open enrollment periods are not considered to be a qualifying event.

- The Health Insurance Incentive Waiver program is intended to reduce the Town's health insurance costs. If the program does not generate sufficient cost-savings, the program may be terminated at the sole discretion of the Town. Participating employees shall be given notice of such termination in order to permit participating employees sufficient time to elect coverage through a Town sponsored plan during the Town's open enrollment period.
- The Town will make reasonable rules and regulations required to implement and administer the program. The Town reserves the right to make additional reasonable rules and regulations to maintain the program. This Health Insurance Incentive Waiver program shall comply with all applicable state and federal laws pertaining to health insurance.
- Any issues or disputes that arise regarding enrollment periods or rules and regulations relating to implementation of the program shall be reviewed by the Town Administrator. His/her determination shall be final and binding.

Potential HIIW Program Cancellation

FY19 Projections

Ind	Participants		Town Contribution	Incentive Paid	Projected Net Savings
	Fam	Total			
27	43	70	952,176	220,603	731,573

Savings if 50% of participants withdraw:

14	22	35	476,088	110,302	365,787
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If 60% of those who withdraw come back on insurance:

8	13	21	-285,653	66,181	-219,472
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Net Savings if 50% of participants withdraw and 60% come back on insurance:

			190,435	66,181	146,315
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Net increase to insurance budget:

			-285,653	66,181	-219,472
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Potential HIIW Program Cancellation

FY9 Projections

Ind	Participants		Town Contribution	Incentive Paid	Projected Net Savings
	Fam	Total			
27	43	70	952,176	220,603	731,573

Savings if 70% of participants withdraw:

19	30	49	666,523	154,422	512,101
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If 70% of those who withdraw come back on insurance:

13	21	34	-466,566	154,422	-312,144
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Net Savings if 70% of participants withdraw and 70% come back on insurance:

			199,957	154,422	199,957
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Net increase to insurance budget:

			-466,566	154,422	-312,144
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TOWN OF WAYLAND

MASSACHUSETTS

01778

TOWN CLERK

Beth R. Klein

Bklein@wayland.ma.us

ASSISTANT TOWN CLERK

Diane M. Gorham

dgorham@wayland.ma.us

TOWN BUILDING
41 COCHITUATE ROAD

TEL: 508-358-3630

508-358-3631

www.wayland.ma.us

Date: April 26, 2018
To: Board of Selectmen
From: Beth R. Klein, Town Clerk
RE: Registrar Appointment

Please be advised that the term of Catherine A. Radmer (D), member of the Board of Registrars since 2006, will expire April 1, 2018.

Ms. Radmer complies with the following requirements:

1. Be a registered voter in the Town of Wayland
2. Hold no other office by either election or appointment by the Board of Selectmen, except membership to a political town committee
3. Be familiar with the election process and its 4-year cycle
4. Be available for extra voter registration times during the day or in the evening
5. Be available in the daytime to help in answering phone calls that funnel to the Town Clerk's Office on election days and try to resolve the voter question.
6. Since the Board must maintain balanced bipartisan composition, be a member of the appropriate political party for at least 2 years prior to appointment.

The chair of the Democratic Town Committee has been notified 45 days prior to the appointment.

Ms. Radmer has indicated that she would like to be re-appointed. I am, therefore, recommending that the Board appoint Catherine A. Radmer to the Board of Registrars for a three (3) year term effective April 1, 2018 through April 1, 2021.

cc: Matthew Shear, Chair
Catherine Radmer



NAN BALMER
TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN
LEA T. ANDERSON
MARY M. ANTES
LOUIS M. JURIST
CHERRY C. KARLSON
DOUGLAS A. LEVINE

February 23, 2018

Mr. Matthew Shear
Democratic Town Committee
98 Woodridge Rd.
Wayland, MA 01778
VIA CERTIFIED MAIL

Dear Chairman Shear:

The appointment term of Democrat Catherine A. Radmer to the Board of Registrars expires on April 1, 2018. Ms. Radmer has expressed an interest in being re-appointed.

General Laws Chapter 51, §15, requires:

Every such appointment shall be made in a town by the selectmen or the appointing authority from a list to be submitted to them by the town committee of the political party from the members of which the position is to be filled, containing the names of three enrolled members of such party resident in the town, selected by a majority vote at a duly called meeting, at which a quorum is present, of such committee; and every member of a board of registrars of voters shall serve until the expiration of his term and until his successor has qualified; provided, however, if the chairman of the town committee has not submitted such list to the selectmen or the appointing authority within forty-five days after a notification to said chairman by certified mail, the selectmen or the appointing authority shall make said appointment without reference to such a list.

Would the Democratic Town Committee please submit three recommendations to the Board of Selectmen for this appointment, in accordance with the above-stated statute? If you have any questions, please call me.

Best regards,

Nan Balmer
Town Administrator

cc: Town Clerk
Board of Selectmen



TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN

MARY M. ANTES
ANTHONY V. BOSCHETTO
EDWARD J. COLLINS
CHERRY C. KARLSON
JOSEPH F. NOLAN

NAN BALMER
TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

February 17, 2015

Catherine A. Radmer
22 Woodridge Road
Wayland MA 01778

Dear Catherine:

At its regular meeting on Tuesday, February 10, 2015, the Board of Selectmen voted to appoint you to the Board of Registrars for a three-year term effective April 1, 2015, through April 1, 2018.

Please note that all appointed members of all boards, commissions, committees and every appointed Town official must be sworn to the faithful performance of the duties of the office to which they are appointed. No official is qualified to take any action until after the oath of office has been taken. Massachusetts General Laws require oath-taking for reappointed officials as well as for persons newly appointed. For your appointment to be valid, please bring this letter at your earliest convenience to the Office of the Town Clerk, Beth Klein or Diane Gorham, so that the following may be completed.

Sincerely,


Joseph F. Nolan
Chair

The above named personally appeared before me and took the following oath on Feb 24 2015:

I, Catherine A. Radmer, do solemnly swear (affirm) that I will faithfully and impartially perform all the duties of my office in accordance with the Constitution of the United States of America, the laws of the Commonwealth of Massachusetts, and the rules, regulations, policies and the bylaws of the Town of Wayland to the best of my ability.


Appointee's Signature


Town Clerk/Assistant Town Clerk

PUBLIC DOCUMENTS PROVIDED TO THE BOARD OF SELECTMEN FROM APRIL 21, 2018, THROUGH AND INCLUDING APRIL 27, 2018, OTHERWISE NOT LISTED AND INCLUDED IN THE CORRESPONDENCE PACKET FOR APRIL 30, 2018

Items distributed to the Board of Selectmen – April 21, 2018-April 27, 2018

1. None

Items distributed for information and use by the Board of Selectmen at the Meeting of April 23, 2018

1. Press release regarding aerial application of a biological larvicide by the East Middlesex Mosquito Control Project
2. Email from Tom Holder, DPW Director, re: MassDOT Bridge Inspection Report

Items included as part of Agenda Packet for discussion during the April 30, 2018 Board of Selectmen's Meeting

1. Background document for the Board's discussion with Town department heads regarding Town organization
2. Draft Act Establishing the Position of Town Manager in Wayland
3. Memorandum from Chief Patrick Swanick to the Board of Selectmen, re: Police Firing Range: Update on Alternatives
4. Memorandum from Nan Balmer to the Board, re: Annual Town Meeting follow-up
5. List of Annual Town Meeting articles with disposition of each article
6. Request for volunteers to serve on the Town Administrator Screening Committee, dated April 11, 2018
7. List of residents who expressed interest in serving on the Town Administrator Screening Committee
8. Letters received from residents interested in serving on the Town Administrator Screening Committee: Steven Correia, Tom Greenaway, David Gutschenritter, Frank Kennedy, Cliff Lewis, Phyllis Jean Milburn, Brian O'Herlihy, Carole Plumb, Susan Pope
9. Draft Board Liaison Assignments, April 2018-April 2019
10. Town Administrator's Report for the week ending April 27, 2018

**BOARD OF SELECTMEN
Monday, April 30, 2018
Wayland Town Building
Selectmen's Meeting Room**

CORRESPONDENCE

1. Letter from Deborah I. Ecker, of KP Law, to Jeffrey L. Roelofs, dated April 18, 2018, re: David Bernstein and Kathleen Bernstein v. Town of Wayland Planning Board and Others, Mass. Appeals Court Docket No. 2017-P-1567
2. Letter from Carolyn Murray, Town Counsel, to Jonathan Sclarsic, Director of the Division of Open Government, Office of the Attorney General, dated April 24, 2018, re: Town of Wayland Board of Selectmen – Response to April 4, 2018 Open Meeting Law Complaint of George Harris
3. Email from David Giannotti, Chief of the Public Education and Communications Division, State Ethics Commission, dated April 20, 2018, re: Conflict of Interest Law bi-monthly seminars
4. Letter from Nan Balmer to Matthew Shear and John Toto, Chairs of the Democratic and Republic Town Committees, dated April 25, 2018, re: Election Officers
5. Letter from Lea Anderson to Timothy Murnane, VP of Government Affairs, Comcast Corporation, dated April 27, 2018, re: Wayland MA License Renewal Process

RECEIVED

APR 23 2018

Board of Selectmen
Town of Wayland

101 Arch Street, Boston, MA 02110
Tel: 617.556.0007 | Fax: 617.654.1735
www.k-plaw.com

Deborah I. Ecker
decker@k-plaw.com

April 18, 2018

Jeffrey L. Roelofs, Esq.
Law Offices of Jeffrey L. Roelofs, P.C.
44 Merrimac Street
Newburyport, MA 01950

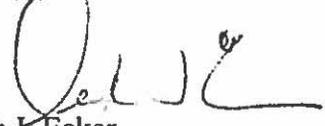
Re: David Bernstein and Kathleen Bernstein
v. Town of Wayland Planning Board and Others
Mass. Appeals Court Docket No. 2017-P-1567

Dear Mr. Roelofs:

Enclosed please find a copy of the Brief of Defendants/Appellees, which was filed electronically today with the Mass. Appeals Court.

Thank you for your attention to this matter.

Very truly yours,


Deborah I. Ecker

DIE/sml

Enc.

cc: ✓ Town Administrator
Board of Selectmen
Planning Board
Mark J. Lanza, Esq.

623148/WAYL/0040

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

No. 2017-P-1567

Middlesex, ss.

DAVID BERNSTEIN and KATHLEEN BERNSTEIN

Plaintiffs-Appellants,

v.

TOWN OF WAYLAND PLANNING BOARD and Others

Defendants-Appellees

v.

HELEN N. SKEEN and DOUGLAS SCARA

Intervenors-Appellees.

On Appeal from the Superior Court
Docket No. 0881CV00552

BRIEF OF DEFENDANTS-APPELLEES

By their attorney,

Amy E. Kwesell
KP Law, P.C.
101 Arch Street, 12th FL
Town Counsel
Boston, MA 02110
BBO# 647182
(617) 556-0007
akwesell@k-plaw.com

Dated: April 18, 2018

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STATEMENT OF ISSUES

1. Whether the Superior Court properly clarified its previous March 27, 2017 Order and its effect on turn restrictions and police patrols to enforce turn restrictions.

2. Whether the Superior Court properly denied Plaintiffs/Appellants' Motion for Attorneys' Fees and Costs.

STATEMENT OF THE CASE

On May 29, 2015, Defendants/Appellants, Wayland Planning Board, William Steinberg, Albert I. Montague, Jr., Daniel Mesnick, Kevin Murphy, and Lynne Dunbrack, as members of the Wayland Planning Board, and Annette Lewis as associate member of the Wayland Plaintiff Board ("Defendants" or "Town") filed a Motion for Temporary Relief from Judgment on Count II of Plaintiffs/Appellants David and Kathleen Bernstein and Jeffrey and Jill Porter ("Plaintiffs") Amended Complaint which was allowed by the Superior Court on August 26, 2015. The Judgment from which Defendants were seeking relief was entered by the Court in 2008 ("Consent Judgment"). On March 14, 2016, Defendants filed a Motion to Dismiss Plaintiffs' Complaint and a

Motion for Further Temporary Relief from Judgment and for Permanent Relief from Judgment ("Motion for Permanent Relief"). In their Motion for Permanent Relief, Defendants sought relief from Section I.G.4. of the Consent Judgment that required the implementation of final traffic mitigation measures. After an evidentiary hearing which included testimony from the Plaintiff David Bernstein, Plaintiffs' traffic engineer, Town of Wayland Police Chief, Town of Wayland Fire Chief and the Defendants' traffic engineer, the Superior Court, by Memorandum of Decision dated March 27, 2017, granted the Defendants' Motion for Permanent Relief as to Section I.G.4. ("Court March 27th Order"). Plaintiffs did not appeal the Superior Court's March 27th Order.

Plaintiffs did subsequently file a Motion for Award of Attorneys' Fees and Costs despite the fact that Plaintiffs never brought a claim against the Defendants for breach of the Consent Judgment and despite the fact that the Superior Court in its March 27, 2017 Order did not find that Defendants had breached the Consent Judgment. Plaintiffs' Motion for Award of Attorneys' Fees and Costs was denied by the Superior Court on May 24, 2017. Plaintiffs filed a

Motion for Reconsideration which was also denied by the Superior Court. Plaintiffs appealed the Superior Court's denial of Plaintiffs' Motion for Award of Attorneys' Fees and Costs.

After the Superior Court's Order on March 27, 2017, Plaintiffs sent a purported Notice of Default to the Town dated May 19, 2017. In Plaintiffs' Notice of Default, they once again alleged that the Town had breached the Consent Judgment by serving and filing with the Superior Court in 2016, a motion to dismiss the action in which the Consent Judgment was issued and an accompanying motion for permanent relief from Consent Judgment seeking an order vacating the Consent Judgment in its entirety. In addition, Plaintiffs alleged that the Town had breached the Judgment, "by failing to promptly implement the traffic mitigation measures that the Court upheld in its November 9, 2016 decision - being all of the measures required by the Consent Judgment except the permanent turn prohibitions and physical restrictions set forth in Section I.G.4." The only allegations contained in Plaintiffs' May 19, 2017 Notice of Default that had not been previously raised by Plaintiff and resolved by the Court's March 27th Order were the Town's alleged

failure to re-install and enforce sign restrictions as set forth in sections I.F.5., I.F.6., I.F.7. and I.G.2. of the Consent Judgment. The removal of the signs was authorized by the Court's August 26, 2015 decision allowing the Town's Motion for Temporary Relief from Judgment. In addition to Plaintiffs' insistence that the signs be re-installed, Plaintiffs sought to have the Town resume police patrols to enforce turn restrictions set forth in Section I.F.8. of the Consent Judgment.

In response to the Notice of Default, the Town agreed to re-install the signs identified in sections I.F.5. and I.F.6. of the Consent Judgment. The Traffic Mitigation Measures identified in Sections I.F.7., I.F.8. and I.G.2., however, were not consistent with the Court's March 27th Order granting the Town's Motion for Permanent Relief from Judgment as to Section I.G.4., because they sought to enforce the same turn restrictions from which the Town sought, and from which the Court granted, relief. The Town proposed that the parties meet to discuss potential resolution of the dispute. The parties held a meeting on July 11, 2017. While the parties did not resolve their disputes at the meeting, it was the Town's

understanding that discussions would continue. Town Counsel was tasked with contacting the traffic engineer retained by the Town as part of the above referenced litigation. If the issues could not be resolved between parties, Defendants intended to file a motion with the Court seeking clarification of the Court's March 27th Order and its application to the turn restrictions that the Plaintiffs were insisting be implemented. To Defendants surprise, Plaintiffs, without first conferring with them, chose to file a Motion to Enforce regurgitating their past arguments and their repeated attempts to have Defendants pay their attorneys' fees (fees which the Plaintiffs incurred by filing such repetitive motions).

In response to Plaintiffs' Motion to Enforce, Defendants' filed an Opposition to Plaintiffs' Motion to Enforce Judgment on Count II and for Attorneys' Fees and Costs and filed Defendants' Cross Motion for Clarification. On September 6, 2017, the Superior Court denied Plaintiffs' Motion to Enforce Judgment and for Attorneys' Fees and Costs and Allowed Defendants' Cross Motion for Clarification finding that "[c]learly the Section I.G.4. was intended to supersede Sections I.F.7. and I.G.2. by making the

turn prohibitions at the intersection of Glezen Lane and Route 27 permanent. Thus while there is no question but that the Court could have been more explicit in its ruling, Plaintiff's position makes no sense." R.A.V., 143. Plaintiffs filed a Motion for Reconsideration or, Alternatively to Reopen the Evidentiary Hearing. R.A.V., 144-175. Defendants filed Defendants' Opposition to Plaintiff's Motion for Reconsideration or Alternatively to Re-Open the Evidentiary Hearing and in its Opposition, sought attorneys' fees for Plaintiffs filing of frivolous motions and appeals. R.A.V, 176-181. The Superior Court denied Plaintiff's Motion for Reconsideration or Alternatively to Reopen the Evidentiary Hearing and awarded Defendants attorneys' fees and costs associated with opposing the motion. R.A.V., 184. Plaintiffs filed a Notice of Appeal, appealing the Superior Court's Order denying Plaintiffs' Motion to Enforce Judgment on Count II and for Attorney's Fees and Costs and granting the Town's Cross Motion for Clarification. R.A.V., 174.

STATEMENT OF FACTS

A. Relevant Sections of Consent Judgment

In Plaintiffs' Motion to Enforce, they sought to have the Town implement the Traffic Mitigation Measures contained in Sections I.F.7., I.F.8. and I.G.2. of the Consent Judgment. Those sections state as follows:

I.F.7. Weekend 11-6 turn Prohibitions, Glezen Lane - Route 27: Wayland shall prohibit left-turns from Glezen Lane westbound onto Route 27 southbound and prohibit right-turn lanes from Route 27 northbound onto Glezen Lane westbound onto Route 27 southbound and prohibit right-turns from Route 27 northbound onto Glezen Lane eastbound on Saturdays and Sundays 11:00 a.m. to 8:00 p.m.

I.F.8. Police Patrols: Wayland shall provide directed police patrols to target speed enforcement and compliance with turn - restrictions implemented pursuant to this Judgment at least four (4) times per calendar month during any of the following periods:

- a. weekends 11:00 a.m. - 6:00 pm. (to be expanded to 9:00 a.m. - 6:00 p.m. if additional mitigation measure 3, below is triggered)
- b. weekdays 6:00 a.m. - 7:00 p.m.

The Plaintiffs acknowledge that extraordinary emergency circumstances could prevent Wayland from complying with the provisions of this paragraph. In the event such circumstances occur, Wayland shall not be in breach of this Judgment.

I.G.2. Weekday and Extended Weekend Turn Prohibitions, Glezen Lane - Route 27: If any weekday Maximum specified in Section 1(B) is

exceeded during a 13-week Reporting Period, prohibit left-turns from Glezen Lane westbound onto Route 27 south bound and prohibit right-turns from Glezen Lane westbound.

The Court's March 27, 2017 Order granted the Town's request for relief from section I.G.4 which states as follows:

I.G.4. Permanent Turn Prohibitions and Physical Restrictions, Glezen Lane - Route 27: Prohibit left-turns from Glezen Lane westbound onto Route 27 southbound and prohibit right-turns from Route 27 northbound onto Glezen Lane eastbound at all times (24 hours, 7 days, year-round) and install and maintain physical restrictions effectively prohibiting such turns, as described in Exhibit 4 hereto-if after implementation of measure 3 above, traffic volumes during the weekday 9:00 a.m. - 4:00 p.m. period or Saturdays or Sundays exceed forty (40%) percent of the Baseline Traffic Volume (specified in Section I(B) as adjusted pursuant to Section I(C)), or if traffic volumes during the weekday 6:00 a.m. - 9:00 a.m. period or 4:00 p.m. - 7:00 p.m. period exceed fifteen (15%) percent of the Baseline Traffic Volume (specified in Section I(B) as adjusted pursuant to Section I(C)). R.A.V., 182-185.

II. B. Defaults and Remedies

In any action for breach of this Judgment, the party who prevails or substantially prevails shall be entitled to recover from the other party(ies) their reasonable attorneys' fees, interest, expert fees and costs, in addition to any other legal and equitable relief to which they are entitled, provided the Court finds that the non-prevailing party breached the Judgment without a reasonable basis for believing that its actions or inactions would not constitute a breach. R.A.V., 187.

ARGUMENT

I. The Court Properly Clarified the Court's March 27, 2017 Order.

Plaintiffs did not appeal the Superior Court's March 27th Order in which the Superior Court granted Defendants relief from the Consent Judgment as to Section I.G.4 after an evidentiary hearing. In its March 27th Order, the Superior Court determined that such relief was warranted under Rule 60(b)(5) of the Massachusetts Rules of Civil Procedure because of significant safety concerns raised that were not fully considered at the time that the parties entered into the Consent Judgment. R.A.V., 009. Plaintiffs did not appeal the Superior Court's grant of partial relief from the Consent Judgment. Instead, Plaintiffs sought to challenge the Superior Court's Order, not by appealing it, but by seeking enforcement of duplicative provisions in the Consent Judgment. Specifically, Plaintiffs filed a Motion to Enforce Judgment and For Attorneys' Fees and Costs seeking to have Defendants enforce the Traffic Mitigation Measures identified in Sections I.F.7., I.F.8., and I.G.2., of the Consent judgment which contain the same turn restrictions from which the Town sought, and from

which the Court granted, relief. R.A.V., 106-110. In response to Plaintiffs Motion to Enforce Judgment, Defendants filed an Opposition, but also filed a Cross-Motion for Clarification seeking to have the Superior Court clarify the March 27th Order. R.A.V.128-136. The Defendants did not seek additional substantive relief from the Consent Judgment, simply a common sense application of the Superior Court's March 27th Order. The Superior Court properly denied Plaintiff's Motion to Enforce Judgment and in clarifying her March 27th Order, expanded the relief granted in the March 27th Order to include those provisions that were duplicative to or necessarily tied to the relief the Superior Court previously granted to the Town from Section I.G.4. of the Consent Judgment. R.A.V., 140-143. In clarifying her Order, the Court noted that, "[c]learly the Section I.G.4. was intended to supersede Sections I.F.7. and I.G.2. by making the turn prohibitions at the intersection of Glezen Lane and Route 27 permanent." R.A.V., 143. The Court correctly noted that, "Plaintiffs' position makes no sense. Having found that the permanent turn prohibitions were unsafe and should not be implemented, clearly the Court did not intend for the

identical temporary turn prohibitions to go back in place. It also makes no sense that the Court intended for the police to enforce a provision that the Court found should not be implemented." R.A.V. 143.

In making her finding, the Court did not grant Defendants' any additional relief that they otherwise had not received by the Court's March 27th Order. Rather, the Superior Court clarified the March 27th Order due to Plaintiffs' spurious Motion to Enforce temporary turn prohibitions that the Court had already found should not be implemented on a permanent basis due to safety concerns.

Plaintiffs' suggestion that it would have proceeded any differently at the evidentiary hearing and would have presented additional evidence if they had known that Sections I.F.7., I.G.2., I.F.8. were also being challenged is disingenuous at best. As set forth above, and in the Superior Court's March 27th Order, those sections of the Consent Judgment, are duplicative of the turn restrictions contained in Section I.G.4. and/or wholly related to enforcement of the permanent turn prohibitions to and from Glezen Lane contained in Section I.G.4 of the Consent Judgment from which the Superior Court granted relief.

Section I.F. of the Consent Judgment is entitled "Initial Traffic Mitigation Measures." R.A.I., 182. Section I.G.4 seeks to make the turn prohibitions set forth in Section I.F.7 permanent. Section I.F.7. seeks to have the Town prohibit "left-turns from Glezen Lane westbound onto Route 27 southbound and prohibit right-turns from Route 27 northbound onto Glezen Lane eastbound." R.A.I., 183-18. Section I.G.4. seeks to have the Town permanently prohibit those same "left-turns from Glezen Lane westbound onto Route 27 southbound and prohibit right-turns from Route 27 northbound onto Glezen Lane eastbound." R.A.I., 185. It would be consistent with the Court's March 27th Order based on the safety concerns raised by the Town during the evidentiary hearing for the "Initial Traffic Mitigation Measures" seeking the same turn prohibitions from which the Superior Court granted relief to be implemented.

Likewise, the turn prohibitions set forth in Section I.G.2. are the same as restrictions from which the Superior Court granted the Town relief after the evidentiary hearing. R.A.I., 184. Specifically, the Superior Court granted the Town relief from the prohibition of left-turns from Glezen Lane westbound

onto Route 27 southbound and right-turns from Route 27 northbound onto Glezen Lane eastbound, the same turns Section I.G.2. seeks to prohibit. R.A.IV., 181-187. The prohibitions contained in Section I.G.2. which prohibits those turns for certain days and hours are encompassed in the permanent turn restrictions contained in Section I.G.4. R.A.I., 185. The Plaintiffs' demand that the Town implement the turn prohibitions contained in Section I.G.2. is inconsistent with the Court's March 27th Order.

Finally, because the Superior Court granted the Town relief from implementing the traffic measures set forth in Section I.G.4., the police patrols set forth in Section I.F.8, to enforce compliance with those measures, the turn restrictions are redundant. R.A.I., 184. Common sense dictates that if there are no turn prohibitions there can be no police enforcement of the same.

As Plaintiffs properly note in their Brief, Where one party to a consent decree seeks relief without the consent of the other party, the objecting party is "entitled to litigate the need for expanded relief." See Pearson v. Fair, 808 F.2d 163, 166 (1st Circ. 1986). Here, Plaintiffs, the objecting party, did have

the opportunity to litigate the Defendant's request for relief from the Consent Judgment on duplicative provisions contained in the Consent Judgment that the Plaintiffs now seek to have enforced. At the evidentiary hearing, Plaintiffs introduced testimony of Plaintiff David Bernstein, Plaintiffs' traffic engineer, and had the opportunity to cross-examine the Town of Wayland Police Chief, Town of Wayland Fire Chief and the Defendants' traffic engineer. Following the evidentiary hearing, the Superior Court as allowed, properly determined that such relief was warranted under Rule 60(b)(5) of the Massachusetts Rules of Civil Procedure because of significant safety concerns raised that were not fully considered at the time that the parties entered into the Consent Judgment. R.A.V., 009. Plaintiffs did not appeal the Superior Court's grant of partial relief from the Consent Judgment. See Thibbits v. Crowley, 405 Mass. 222 (1989); see also, Pearson, 808 F. 2d 163, 166. Given duplicative nature of the restrictions that Plaintiffs sought to have enforced in their Motion to Enforce Judgment on Count II, it is disingenuous to suggest that they would have introduced any additional evidence at the evidentiary hearing than was presented

by them in support of their position that the Town was not entitled to relief from Section I.G.4. of the Consent Judgment. The Superior Court did not err in granting Defendants' Cross Motion for Clarification in clarifying her March 27th Order by including the duplicative provisions as part of the relief granted to the Town from the Consent Order because common sense dictated that such relief should have been apparent to Plaintiffs without the need for redundant and frivolous motion practice by Plaintiffs.

Substantively, the relief afforded the Town by the Superior Court from traffic mitigation measures contained in the Consent Judgment did not change. Plaintiffs had the opportunity to challenge the same traffic mitigation measures at the evidentiary hearing that resulted in the Superior Court's March 27th Order. After hearing the evidence presented, the Superior Court agreed with the town that exceptional circumstances existed to relieve the Town from having to implement the very traffic mitigation measures that Plaintiffs sought to have enforced, albeit on a permanent versus temporary basis. It is also important to note that Plaintiffs did not appeal the Superior Court's determination.

Wherefore, Defendants respectfully request that the Superior Court's Order on Plaintiffs Motion to Enforce and Defendants' Cross-Motion for Clarification be affirmed, including the Superior Court's award of attorneys' fees and costs to Defendants.

II. The Court Properly Denied Plaintiffs' Motion for Attorneys' Fees and Costs Because the Court Did Not Find That Defendants Breached the Consent Judgment.

Plaintiffs did not appeal the Court's March 27, 2017 Order granting Defendants' Motion for Permanent Relief as to Section I.G.4 of the Consent Judgment.

Remarkably, Plaintiffs did appeal the Court's denial of Plaintiffs' Motion for Award of Attorneys' Fees and Costs despite the fact that Plaintiffs never brought a claim against Defendants for breach of the Consent Judgment and despite the fact that the Court did not find that Defendants did in fact breach the Consent Judgment. R.A.V., 100. In their Brief, Plaintiffs appear to recognize that they are only entitled to attorneys' fees and costs under Section II.B of the Consent Judgment if the Defendants are found to have actually breached the Consent Judgment. Plaintiffs admit that the Court stated in its denial of Plaintiffs' Motion for Award of Attorneys' Fees and

Costs that, "this Court has not found the Defendant in Breach of the Agreement." R.A.V., 8. Plaintiffs argue that the Court erred in not making an affirmative finding that the Defendants breached the Judgment, entitling them to attorneys' fees. Plaintiffs however never brought a claim against Defendants for breach of the Consent Judgment. Accordingly, the Court did not have to make an affirmative finding of whether or not Defendants breached the Consent Judgment in its March 27, 2017 Order, which Order was not appealed by the Plaintiffs.

Regardless, the Court properly noted when denying Plaintiff's Motion for Award of Attorneys' Fees and Costs that, "[t]he posture of this case does not trigger the provision of the consent judgment allowing for attorneys' fees and costs." In addition to stating that the Court did not find Defendant in Breach of the Agreement, the Court noted, that "Plaintiff did not prevail on the remaining issue of the validity and enforceability of Section I.G.4. of the Judgment." R.A.V., 088. Simply put, Plaintiff did not prevail and the Court did not find Defendants in breach of the Consent Judgment. Accordingly, as the Court noted, the provision of the Consent Judgment

allowing attorneys' fees and costs was not triggered by the Court's March 27, 2017 Order. Plaintiffs could have, but did not file a claim against Defendants for breach of the Consent Judgment and regardless, the Court did not find Defendants in breach of the agreement that would have triggered the attorneys' fees provision contained in the Consent Judgment.

Wherefore, Defendants respectfully request that the Superior Court's denial of Plaintiffs' Motion for Attorneys' Fees and Costs be affirmed.

CONCLUSION

For all of the reasons set forth above, Defendants respectfully request that this honorable Court affirm the Superior Court's Order denying Plaintiffs' Motion to Enforce and Order on Defendants' Cross-Motion for Clarification and affirm the Superior Court's Order denying Plaintiffs' Motion for Attorneys' Fees and Costs.

DEFENDANT TOWN OF WAYLAND
By their attorney,

/S/Amy E. Kwesell
Amy E. Kwesell (BBO# 647182)
KP Law, P.C.
Town Counsel
101 Arch Street, 12th Floor
Boston, MA 02110-1109
617) 556-0007
akwesell@k-plaw.com

Certification Pursuant to Rule 16(k)

I certify that the foregoing Defendant-Appellee's brief complies with the Massachusetts Rules of Appellate Procedure pertaining to the filing of Appellate briefs, including but not limited to Mass.R.A.P. 16(b), (16)(e), 16(f), 16(h), and 20. /s/Amy E. Kwesell (BBO#647182)

607306/WAYL/0040

MASSACHUSETTS APPEALS COURT

**John Adams Courthouse
One Pemberton Square, Suite 1200
Boston, MA 02108
(617) 725-8106
<http://www.mass.gov/courts/appealscourt/>**

Docket Number 2017-P-1567

David Bernstein and Kathleen Bernstein

Appellant(s)

v.

Town of Wayland Planning Board and Others

Appellee(s)

CERTIFICATE OF SERVICE

Pursuant to Mass.R.A.P. 13(d), I hereby certify, under the penalties of perjury, that on this date of April 18, 2018
I have made service of a copy of the following document(s):

Brief of Defendants-Appellees

upon the attorney of record for each party, or if the party has no attorney then I made service directly to the self-represented party, by

hand delivery first class mail

to the following person(s) and address(es). *Attach a separate page if more space is necessary.*

Mark J. Lanza, Esq.
9 Damonmill Square, Suite 4A4
Concord, MA 01742

Jeffrey L. Roelofs, Esq.
Law Offices of Jeffrey L. Roelofs, P.C.
44 Merrimac Street
Newburyport, MA 01950

/s/ Amy E. Kwesell
Signature

Amy E. Kwesell, BBO# 647182
Printed Name and BBO# (if applicable)

KP Law, P. C.
101 Arch Street, 12th Floor
Boston, MA 02110

(617)556-0007
Telephone

Address

April 24, 2018

Carolyn M. Murray
cmurray@k-plaw.com

Jonathan Sclarsic, Esq.
Director, Division of Open Government
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Re: Town of Wayland Board of Selectmen –
Response to April 4, 2018 Open Meeting Law Complaint of George Harris

Dear Mr. Sclarsic:

Please be advised that this office serves as Town Counsel to the Town of Wayland. On or about April 4, 2018, the Wayland Board of Selectmen (“Board”) received an Open Meeting Law complaint from Mr. George Harris (“Complaint”) involving an executive session held by the Board on March 6, 2018. A copy of the Complaint is attached as Exhibit A. The Board listed the Complaint on the meeting notice for its April 23, 2018 meeting, discussed the substance of the Complaint and voted to authorize this response following its deliberation.

As set forth in detail below, the Board denies that it failed to follow the proper procedure before entering executive session on March 6, 2018. In the Complaint, Mr. Harris alleges that the Board’s executive session meeting notice “failed to inform the public that the subject of the executive session concerned a grievance hearing.” As outlined herein, the Board submits that the Chair did not anticipate any discussion of litigation filed by a former police officer at the executive session on March 6, 2018. Further, based upon the Board’s review of the executive session meeting minutes for the March 6, 2018, there was no substantive discussion or deliberation regarding a MCAD Complaint during the meeting. The Board further maintains that it did not include the name of the employee involved in order to protect the identity of the employee at issue and protect the employee’s privacy interests, since the grievance was filed on the employee’s behalf by the collective bargaining unit.

March 6, 2018 Meeting

In compliance with the Open Meeting Law, the Board scheduled an executive session for March 6, 2018 pursuant to G.L. c. 30A, §21(a)(3) to discuss strategy with respect to collective bargaining and review a grievance filed pursuant to the terms of a Collective Bargaining Agreement between the Town and the Wayland Police Officers Union. Under the Open Meeting Law, the Board is authorized to enter into executive session pursuant to purpose 3 not only for purposes of collective bargaining, but also to conduct grievance hearings that are required by a collective bargaining agreement. As such, in its meeting notice, the Board specifically included the name of the collective bargaining unit as the party who filed the grievance against the Town under the terms of the Collective Bargaining Agreement. The Board provided as much information in the meeting

KP | LAW

Jonathan Sclarsic, Esq.
Director, Division of Open Government
April 24, 2018
Page 2

notice as possible without compromising the purpose of the executive session, including to protect the privacy interests of the employee involved in the grievance hearing process. Thereafter, the Board properly entered into executive session to deliberate regarding the grievance hearing.

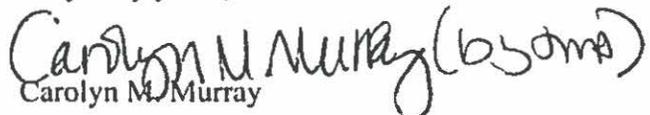
Based upon the Board's review of its March 6, 2018 executive session at its meeting on April 23, 2018, please be advised that the Board chair did not anticipate that the former employee's MCAD complaint would be reviewed at the March 6, 2018 meeting nor was there any substantive discussion or deliberation regarding a personal complaint filed by a police officer against the Town. A public body need only list topics in the meeting notice that were reasonably anticipated by the chair. G.L. c. 30A, § 20(b). Indeed, the purpose of the executive session was to deliberate on the grievance filed by the Wayland Police Officers Union, as stated on the meeting notice, with Labor Counsel Wendy Chu. Based on the Board's review of the March 6, 2018 meeting, including a review of its draft executive session meeting minutes, please be advised that there was no deliberation regarding litigation filed by the former police officer separate and apart from the Board's review of the pending union grievance hearing, which was the subject of the executive session, as noted on the March 6, 2018 executive session meeting notice.

Conclusion

As set forth above, it is the Board's position that it did not violate the Open Meeting Law with respect to the executive session held on March 6, 2018 to deliberate on the police union grievance. The Board strives at all times to ensure compliance with the Open Meeting Law and submits that the Board Chair did not anticipate that a MCAD Complaint would be discussed in executive session since the purpose of the executive session was to deliberate on the pending grievance filed by the Wayland Police Officers Union. Lastly, the Board submits that the MCAD Complaint was not discussed in any substantive way, as outlined in detail above. As such, no violation of the Open Meeting Law occurred with respect to the Board's March 6, 2018 executive session.

Please do not hesitate to contact me to discuss in further detail.

Very truly yours,


Carolyn M. Murray

CMM/JMA/ckh

Enc.

cc: Board of Selectmen
Mr. George Harris

622297/WAYL/0001

EXHIBIT A



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: George Last Name: Harris

Address: 8 Holiday Road

City: Wayland State: MA Zip Code: 01778

Phone Number: 5083582379 Ext. _____

Email: geoharris2@gmail.com

Organization or Media Affiliation (if any): None

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): Wayland Board of Selectmen

Specific person(s), if any, you allege committed the violation: _____

Date of alleged violation: March 6, 2018

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

Please see attached statement (with 3 exhibits) for a full explanation.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Please see attached statement.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

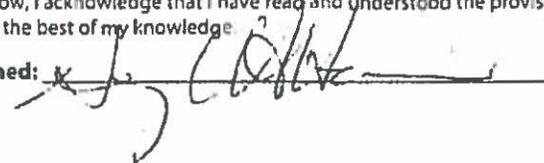
II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: April 4, 2018

For Use By Public Body
Date Received by Public Body:

For Use By AGO
Date Received by AGO:

OPEN MEETING LAW COMPLAINT

Wayland Board of Selectmen

This is a complaint that the Wayland Board of Selectmen (the "Board") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25, by failing to follow proper procedure before entering executive session on March 6, 2018. This complaint is related to one filed against the Board on March 22, 2018.

FACTS

The Board's meeting notice for its March 6, 2018 meeting states the following:

Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(3) to discuss strategy with respect to collective bargaining with the Wayland Police Officers Union [the "Union"] in affiliation with the New England Police Benevolent Association, as an open meeting would have a detrimental effect on the Town's bargaining position.

See Exhibit 1 (meeting notice) attached hereto.

After the Board convened in open session, chair Lea Anderson made the following statement:

I move that the Board of Selectmen enter into executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a), Purpose 3, to discuss strategy with respect to collective bargaining, specifically the grievance hearing with the Wayland Police Officers Union in affiliation with the New England Police Benevolent Association, as an open meeting would have a detrimental effect on the litigating, negotiating, or bargaining position of the Town.

See Exhibit 2 (meeting minutes, p.1) attached hereto.

DISCUSSION

Executive session topics must be described, both in the meeting notice and in an announcement during the preceding open session, in as much detail as possible without compromising the purpose for which the executive session was called. See G.L. c. 30A, § 21(b)(3); see also District Attorney for the N. Dist. v. School Comm. of Wayland, 455 Mass. 561, 567 (2009) ("A precise statement of the reason for convening in executive session is necessary under the open meeting law because that is the only notification given to the public that the [public body] would conduct business in private, and the only way the public would know if the reason for doing so was proper or improper").

The meeting notice failed to inform the public that the subject of the executive session concerned a grievance hearing. The reason given for the executive session in the meeting notice—to discuss strategy with respect to collective bargaining with the Wayland Police Officers Union—was particularly vague and imprecise.

Both the meeting notice and Ms. Anderson's announcement (motion) were deficient because the public was not informed that the true purpose of the executive session was to resolve a personal grievance (that is, one affecting an individual employee as opposed to some or all employees in the Union, such as Safety and Health).¹ Nor was the public informed that the actual grievant was a (former) Wayland police officer, Jennifer Ordway, who disputed her unfair or unjustified termination of employment. For these reasons the public was not provided with as much detail as possible without compromising the purpose for which the executive session was held. This additional information would have helped the public judge whether the reason given for the executive session was proper or improper.

CONCLUSION

For the above reasons, the above executive session was held in violation of the Open Meeting Law. Because the executive session was not held in compliance with section 21 of the Law, the Board shall release the minutes and all documents and exhibits used at the session pertaining to this matter. See G.L. c. 30A, § 22(f).

ACTIONS REQUESTED

1. The Board shall acknowledge in writing that it violated the Open Meeting Law as alleged above.
2. The Board shall release the minutes of the executive session and all related materials used during the session.

¹ More specifically, the Board was engaged in Step 3 of the grievance procedure specified in the Collective Bargaining Agreement between the Town and the Union. See Exhibit 3 attached hereto. Step 3 commenced at a hearing held in executive session on February 26, 2018.



NAN BALMER
TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

EXHIBIT 1

BOARD OF SELECTMEN
LEA T. ANDERSON
MARY M. ANTES
LOUIS M. JURIST
CHERRY C. KARLSON
DOUGLAS A. LEVINE

BOARD OF SELECTMEN
Tuesday, March 6, 2018
6:30 p.m.
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road Wayland

Proposed Agenda

Note: Items may not be discussed in the order listed or at the specific time estimated. Times are approximate. The meeting likely will be broadcast and videotaped for later broadcast by WayCAM.

- 6:30 pm 1.) Call to order by Chair
 - Review agenda for the public
- 6:32 pm 2.) Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(3) to discuss strategy with respect to collective bargaining with the Wayland Police Officers Union in affiliation with the New England Police Benevolent Association, as an open meeting would have a detrimental effect on the Town's bargaining position.
- 7:00 pm 3.) Announcements and public comment
- 7:10 pm 4.) Collins Center Report on Financial Management Structure and Policy: Meet with Michael Ward, Director of Municipal Services for discussion and next steps
- 8:55 pm 5.) Town Administrator's Report
- 9:10 pm 6.) Minutes
- 9:15 pm 7.) Consent Calendar: Review and vote to approve
- 9:20 pm 8.) Correspondence: Review
- 9:25 pm 9.) Selectmen's reports and concerns
- 9:30 pm 10.) Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
- 9:35 pm 11.) Adjourn



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BOARD OF SELECTMEN
LEA T. ANDERSON
MARY M. ANTES
LOUIS M. JURIST
CHERRY C. KARLSON
DOUGLAS A. LEVINE

**Board of Selectmen
Meeting Minutes
March 6, 2018
6:30pm
Selectmen's Meeting Room
41 Cochituate Road, Wayland**

Attendance: Lea T. Anderson, Cherry C. Karlson, Mary M. Antes, Louis M. Jurist, Douglas A. Levine (7:02)
Also Present: Town Administrator Nan Balmer

A1. Call to Order by Chair Chair L. Anderson called the meeting of the Board of Selectmen to order at 6:30 p.m. in the Selectmen's Meeting Room of the Wayland Town Building and noted that the meeting will likely be broadcast and videotaped for later broadcast by WayCAM.

A2. Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(3) to discuss strategy with respect to collective bargaining with the Wayland Police Officers Union in affiliation with the New England Police Benevolent Association, as an open meeting would have a detrimental effect on the Town's bargaining position. At 6:30pm, L. Anderson stated that on February 26, 2018, the Board of Selectmen convened in Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a), Purpose 2 to conduct collective bargaining sessions, including grievance hearings, specifically to conduct a grievance hearing with the Wayland Police Officers Union in affiliation with the New England Police Benevolent Association. L. Anderson declared that a public discussion of these matters would have a detrimental effect on the litigating, negotiating, or bargaining position of the Town.

L. Anderson moved, seconded by M. Antes, that the Board of Selectmen enter into executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a), Purpose 3, to discuss strategy with respect to collective bargaining, specifically the grievance hearing with the Wayland Police Officers Union in affiliation with the New England Police Benevolent Association, as an open meeting would have a detrimental effect on the litigating, negotiating, or bargaining position of the Town. Roll call vote: YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson. NAY: none. ABSENT: D. Levine. ABSTAIN: none. Adopted 4-0. The Chair invites attendance by: Nan Balmer, Town Administrator; David Porter, Executive Assistant; Patrick Swanick, Chief of Police; Sean Gibbons, Police Lieutenant; and Wendy Chu, Labor Counsel for the Town. The Board will reconvene in open session in approximately 30 minutes to address the issues listed on the public meeting agenda.

L. Anderson reconvened the open session of the Board of Selectmen at 7:02 p.m. in the Selectmen's Meeting Room of the Wayland Town Building and noted the meeting was being taped.

A3. Announcements and Public Comment L. Anderson announced a procedural correction because when the Board went into Executive Session on February 26, it failed to identify one of the attendees. Attorney Adam Simms was present on February 26, 2018 in executive session for the matter of *Cass v. Wayland*. The minutes of March 6, 2018 will state he attended the Executive Session on February 26, 2018.

COLLECTIVE BARGAINING AGREEMENT
BETWEEN
TOWN OF WAYLAND
AND
THE WAYLAND POLICE OFFICERS UNION
IN AFFILIATION WITH
THE NEW ENGLAND POLICE BENEVOLENT ASSOCIATION, INC.

July 1, 2014 - June 30, 2017

ARTICLE 21

GRIEVANCE PROCEDURE

21-1 For the purpose of this Agreement, a grievance shall be defined as a dispute regarding the interpretation or application of the language of this agreement.

Step One: The Union or an employee covered by this agreement, may file a grievance with the Chief of Police no later than fifteen (15) calendar days from the date on which the incident giving rise to the grievance occurred or when he/she had reasonable knowledge of the incident. The Chief of Police shall meet with the employee/union with fifteen (15) calendar days thereafter, and shall give a written decision within fifteen (15) calendar days of that meeting.

Step Two: If the Union or employee is not satisfied with the disposition of the grievance at Step One, or if no decision has been rendered within seven (7) calendar days after presentation of the grievance, the Union or said grievant may appeal to the Personnel Board, or its designee within ten (10) calendar days of said decision or lack of decision. Such appeal shall be in writing setting forth the details of the grievance, the applicable provisions of the agreement, and the decision, if any, rendered at Step One. Within ten (10) calendar days after receipt of the written grievance by the Personnel Board, or its designee, a hearing shall be scheduled or a decision rendered. If a hearing is scheduled, it shall be held no later than thirty (30) calendar days following receipt of the appeal. A written decision shall be rendered within seven (7) calendar days from the close of the hearing.

Step Three: If the Union or employee is not satisfied with the disposition of the grievance at Step Two, or if no decision has been rendered in a timely fashion, the Union or said grievant may appeal to the Board of Selectmen, or its designee within ten (10) calendar days of said decision or lack of decision. The Board of Selectmen, or its designee, shall convene a hearing with the Union and/or the grievant(s) within fifteen (15) calendar days. A decision shall be rendered within fifteen (15) calendar days of the close of said hearing.

Step Four: If the Union or employee is not satisfied with the decision of the Board of Selectmen or its designee, or if no decision has been rendered within fifteen (15) calendar days of the close of the hearing, the Union may submit the grievance to arbitration within thirty (30) calendar days of said decision or lack of decision. Any step or steps in the grievance procedure, as well as the time limits prescribed at each step of this grievance procedure, may be waived by mutual agreement of the parties in writing.

If a decision satisfactory to the Union at any level of the grievance procedure other than arbitration is not implemented within a reasonable time, the Union may reinstitute the original grievance at the next step of the grievance procedure. If the employer exceeds any time limit prescribed at any step in the grievance procedure, the Union and/or the

grievant may assume that the grievance is denied and invoke the next step of the procedure, except, however, that only the Union may request impartial arbitration under this agreement. However, no deadline shall be binding on the grievant and/or the Union until a required response is given.

At each step of the grievance procedure where a decision is required, the decision shall be in writing.

The Union shall be notified by the employer of grievances filed by an employee on his/her behalf and shall be given the opportunity to be present at any grievance meeting between the employee and the employer held in accordance with this grievance procedure.

Union officials shall be permitted to have reasonable time off without loss of pay for the investigation and processing of grievances and arbitrations. Requests for time off shall be made in advance and shall not be unreasonably denied.

ARTICLE 22

ARBITRATION

22-1 Grievances unresolved at Step three of the Grievance Procedure (Article 21) may be brought to arbitration solely by the Union. The arbitrator will be selected pursuant to the rules of the American Arbitration Association for Voluntary Labor Arbitration.

The arbitrator shall have no power to add to, subtract from, or modify any provision of this agreement, or to issue any decision or award inconsistent with applicable law. The decision or award of the arbitrator shall be final and binding in accordance with M.G.L. Chapter 150E.

All fees and expenses of the arbitrator, if any, which may be involved in the arbitration proceeding, shall be divided equally between the Town and the Union. Each party shall bear the cost of preparing and presenting its own case. In the case of an untimely cancellation by either party then such expense shall be borne solely by the party requesting the cancellation.

22-2 Election of Remedies - No employee shall be suspended or discharged without just cause. The filing of an appeal with the Civil Service Commission under the provisions of Massachusetts General Laws chapter 31 shall constitute an election of remedies and shall automatically bar the filing of or continuation of any grievance or arbitration pursuant to this Agreement.

Porter, David

To: Balmer, Nan
Subject: RE: Conflict of Interest Law bi-monthly seminars- State Ethics Commission

From: Giannotti, David (ETH) [<mailto:david.giannotti@state.ma.us>]
Sent: Friday, April 20, 2018 1:00 PM
To: Balmer, Nan
Subject: Conflict of Interest Law bi-monthly seminars- State Ethics Commission

To: Municipal Executives and Municipal Counsel:

The State Ethics Commission conducts bi-monthly seminars on the conflict of interest law at the Commission office. These seminars present an opportunity for agencies to have new hires, or public employees who were not able to attend seminars conducted at agency offices, to receive important conflict of interest law training on the restrictions imposed under General Laws chapter 268A.

Seminars are normally held every other month on the 4th Thursday of the month at 10:00 a.m. at the Commission office, unless otherwise indicated. The Commission is located on the sixth floor of the McCormack State Office Building at One Ashburton Place, room 619, Boston. Seminars have been scheduled for the following dates:

Friday, June 1, 2018
Thursday, July 26, 2018
Thursday, September 27, 2018
Thursday, November 29, 2018

Space is limited. To attend a seminar at the Commission office, please call 617-371-9500 to register.

For agencies and employees located outside the Boston area, **the Commission offers the opportunity to attend a bi-monthly seminar via webinar.** To attend a seminar via webinar, please contact the Commission at 617-371-9500 to register and receive sign-in information.

If your agency hasn't hosted a seminar in a while, please consider scheduling one at your agency offices. Contact me at 617-371-9505 or David.Giannotti@state.ma.us for more information or to schedule a seminar. Additional information can be found on the Commission's website, www.mass.gov/orgs/state-ethics-commission.

If someone has a disability and requires an accommodation in order to fully participate in the seminar, please contact me at 617-371-9505 or David.Giannotti@state.ma.us. Please provide as much notice as possible when requesting a disability accommodation. If the person no longer requires the accommodation after it has been arranged, contact me to cancel the request as soon as possible, since the Commission will incur expenses for failure to cancel the accommodation in a timely manner.

Thank you,



David Giannotti
Public Education and Communications Division Chief
State Ethics Commission
One Ashburton Place, Room 619
Boston, MA 02108
617-371-9505
email: David.Giannotti@state.ma.us
www.mass.gov/orgs/state-ethics-commission

You are currently subscribed to eth-municipal-heads-general-counsels as:
nbalmer@wayland.ma.us.
To unsubscribe send a blank email to [leave-764023-
11908890.ae8d653d68c15b3712d01272a27f8e92@listserv.state.ma.us](mailto:leave-764023-11908890.ae8d653d68c15b3712d01272a27f8e92@listserv.state.ma.us)



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www.wayland.ma.us

TOWN OF WAYLAND

41 COCHITUATE ROAD
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BOARD OF SELECTMEN

LEA T. ANDERSON
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CHERRY C. KARLSON
DOUGLAS A. LEVINE

April 25, 2018

To: Matthew Shear, Chairman, Democratic Town Committee
John Toto, Chairman, Republican Town Committee

RE: Election Officers

As you know, the Board of Selectmen is required by State statute to appoint Election Officers each year. In accordance with G.L. Ch. 54, s 12, "the chairman of the town committee of each political party may, not later than June first each year, file with the selectmen a list of enrolled members of such party who desire appointments as election officers and a duplicate of such list with the board of registrars of voters".

Please submit a recommended list of election officers for the Board of Selectmen's review and consideration prior to June 1, 2018, with a copy to the Board of Registrars. Attached is a list of election workers, most of who attended the March 2018 training session held by the Town Clerk.

Thank you for your attention to this matter.

Nan Balmer
Town Administrator

cc: town clerk
attached election list

Election Officials

APPOINTED ELECTION OFFICIALS REV. 4/26/1						
NAME	ADDRESS	PHONE	POSITION	VEN#	PREC.	PARTY
Abel, Susie	35 Sedgmeadow Rd	358-4996	Inspector	8104	1	U
Armstrong, Christine	3 Morse Rd.	380-4125	night teller	15469	4	U
Baston, Margery	11 Cochituate Rd	358-7155	Inspector	4459	1	U
Blumenfeld, Susan	96 Main st	650-3552	Inspector		3	D
Bryant, Pamela	86 West Plain St	651-8874	Warden	6914	2	D
Burke, Markey	18 Squirrel Hill Rd	358-7607	Inspector	10011	4	U
Brown, Louise	30 Campbell Rd	358-4220	Inspector	1042	1	U
Capasso, Jane	10 Rolling Ln	508-397-3877			2	D
Cartwright, Sally	221 Commonwealth Rd. E.		Inspector		3	U
Cavanaugh, Lynne	136 Plain Rd.,	358-7556	Inspector	15544	4	U
Cornell, Peter	20 Red Barn Rd.	358-4155	Inspector	14041	1	U
Chase, Andrea	203 Stonebridge Rd	788-1081	Night Teller	11759	1	U
Coy, Sandra	14 Hawthorne Rd	653-6014	Inspector	5639	2	D
DePasquale, Lillian	8 Willow Ln.	395-2942	Night Teller		2	U
Delorey, Jayne	52 Pemberton Rd	TM ONLY	check-in	13142	2	D
Deveaux, Esther	41 Peck Ave	653-6952	Inspector	8107	3	U
Dunn, Jan	51 Knollwood Ln	655-9149	Inspector	6637	2	U
Ferguson, Joan	14 Hill St	655-2788	Inspector	9718	3	D
Finch, Katherine	8 Hearthstone Circle	655-8150	Inspector	5199-2	3	D
Foster, Susan P	23 Old Connecticut Path	774-270-0443	Inspector	10552	4	U
Franklin, Carol	200 Willow brook Dr	651-2683	Inspector	8003	3	U
Gagnebin, Betsy	31 High Rock Rd	358-2432	Inspector	3790	3	R
Gardner-Westcott, Katherin	5 Richard Rd.,	655-6324	Inspector	15545	2	U
Gennis, Aida	22 Wayland Hills Rd	650-3869	Inspector	7954	3	U
Gentiliotti, Marilyn	25 Castlegate Rd.		night teller		2	U
Glick, Terry	4 Caulfield Rd	655-2633	Ballot Box	10013	3	U
Green, Susan	3 Priscilla Path	655-9904	Night Teller	4820	2	D
Henry, Shelley	12 Winthrop Terrace	358-7143	Inspector	2768	4	R
Hill, David	54 Orchard Ln	358-1636	Inspector	8366	1	R
Hill, Cynthia C	54 Orchard Ln	358-1636	Inspector	10016	1	R
Ide, Judith	135 Old Connecticut Path	358-2981	Town Meeting	3831	TM	R

Election Officials

Jahnke, Nan	36 Pequot Rd	358-0297	Inspector	14510	2	D
Jenney, Kathleen (Kate)	10 Glen Rd	358-7829	Inspector	8035	4	D
Kennedy, Regina	84 Old Sudbury Rd	358-7684	Inspector	4771	1	U
Koffman, Susan	66 Shermans Bridge Rd	358-4751	Inspector	5832	1	D
Kwarta, Joanne	11 Edgewood Rd	596-6423	Ballot Box	7671	2	D
Lang, Kathleen	38 East Plain St	653-1028	Inspector	8635-2	3	U
Leone, Madeline	1064 Grove St., Framingha	358-1028	Inspector	4168		U
Lewis, Anette	33 Claypit Hill Rd	358-4973	Inspector	4474	4	U
Ludwig, Glenn	28 Aquaduct Rd	774-2170430	new	16207	3	U
Ludwig, Anna	28 Aquaduct Rd	650-4078	Night Teller	15486	3	D
MacDonald, Marian	9 Melville Place	655-4710	Inspector	2465-1	3	U
Maxted, Deirdre	228 Lakeshore Drive	653-8710	Inspector	8109	2	U
McCabe, Antonia	3 Coolidge Rd	358-7062	Ballot Box	6917	4	R
Melnicove, Margo	245 Lakeshore Rd.	651-1309	Inspector	12167	2	D
Miller, Michael	6 Cross St.		Inspector	7301	2	R
Morss, Mary	53 Moore Rd	358-2779	Inspector	4480	1	D
Nawawi, Anne M	7 Lakeview Rd	655-5629	Inspector	10015	2	D
Newberg, Marlene	112 Willow Brook	655-1919	Inspector	15468	3	D
Nolin, Janet	21 Brooks Rd.	651-0634	Night Teller	14362	3	U
Norwood, Margaret	58 Three Ponds Rd	358-7524	Inspector	4481	4	U
Patterson, Elizabeth (Becky)	116 West Plain St	653-1202	Ballot Box	4483	2	U
Patterson, Kay	12 Claypit Hill Rd	358-4259	Inspector	6284	4	U
Patton, Margaret	43 Plain Rd	358-7209	Inspector		4	U
Pope, Susan	28 Moore Rd	358-2462	Inspector	5794	1	R
Ramesh, Vijaya	17 Dean Rd	647-4017	Night Teller	8641	3	U
Riley, Jennifer	133 Peham Is. Rd	774-893-3090	Inspector	9196	1	U
Schofield, Patricia	13 Oak St	653-2634	Inspector	5795	3	U
Schneider, Philip	135 School St.	655-4159	new	12243	3	U
Schuler, Gretchen	126 Old Connecticut Path	358-7980	Warden	4072	4	R
Scola, Marilyn J	7 Carpenter Rd	653-7074	Inspector	5640	3	U
Scola, Elisa	184 Glezen Ln		new		1	D
Segal, Linda	9 Aqueduct Rd	655-0724	Inspector	4493	3	D
Streeter, Joyce	7 Decoloras Dr.	978-578-3402	new		3	R
Steele, Eileen	221 Lakeshore Dr	655-4403	Inspector	10010	2	U
St. Croix, Judy	36 Andrew Ave, APT. 205		Inspector	14510	1	U

Election Officials

Stanley, Sandy	39 Andrew Ave. Apt. 204	508-545-0344	new	15984		U
Stimpson, Suzanne	72 Maiden Lane	655-6632	Inspector	14746	2	D
Stubeda, Deborah	17 White Rd	358-5581	Inspector	9158	4	U
Toombs Lois	78 Oxbow Rd., Framingham		Inspector			
Toombs, Peter	78 Oxbow Rd, Framingham	617-281-2290	Ballot Box	13767		U
Torres, Julia	33 Highgate rd.	508-276-3190	Inspector	8100	1	U
T=Received Training						



TOWN OF WAYLAND

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BOARD OF SELECTMEN
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April 27, 2018

Mr. Timothy Murnane
Vice President, Government & Regulatory Affairs, Comcast
676 Island Pond Rd.
Manchester, NH 03109

Re: Wayland Mass. License Renewal Process

Dear Mr. Murnane:

In reply to your letter of February 20, 2018, the Town of Wayland is commencing its license renewal process, and the ascertainment part of that process. As the license expiration date is still over two years away, we have not yet selected a date for a public hearing, but when we have done so, we will advise you at once.

I note in your letter that you state that the "formal" process "generally includes the following steps: 1. Within six (6) months of the submission of this letter, the Town conducts an ascertainment proceeding which affords residents an opportunity to a) identify the future cable-related needs, and b) review Comcast's performance under the current agreement."

By our reading of 47 USC sec. 546 (a) (1), the Town of Wayland is not obligated to conduct the entire ascertainment process within 6 months of the receipt of your letter, but only to "commence" the proceeding within 6 months. ["The franchising authority shall commence such a proceeding not later than 6 months after the date such notice is submitted."]

Please accept this letter as our notice to Comcast that we are commencing the ascertainment process as of the date of this letter. But, because the license does not expire until September 16, 2020, we do not expect to conclude ascertainment within 6 months of your February 20 letter, nor do we believe we are obligated to do so.

The Town of Wayland looks forward to working closely with Comcast in the course of our upcoming ascertainment and renewal process, and we will, of course, keep you and your local representative closely informed of our progress.

Sincerely,

Lea T. Anderson
Chair, Board of Selectmen