



LOUISE L. E. MILLER
TOWN ADMINISTRATOR
TEL. (508) 358-3620
www.wayland.ma.us

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN
LEA T. ANDERSON
MARY M. ANTES
THOMAS J. FAY
CHERRY C. KARLSON
DOUGLAS A. LEVINE

**Meeting Minutes
BOARD OF SELECTMEN
Friday, April 24, 2020
11:00 a.m.
Wayland Town Building
Council on Aging Room
41 Cochituate Road, Wayland, MA**

Note: In compliance with the March 12, 2020 Massachusetts Office of the Governors' Order Suspending Certain Provisions of the Open Meeting Law M.G.L. Chapter 30A, Section 20, this meeting of the Board of Selectmen was livestreamed on local broadcast on WayCAM. Public Comment was received by telephone during the time designated for Public Comment.

Attendance: Lea T. Anderson, Mary M. Antes, Thomas J. Fay, Cherry C. Karlson, Douglas A. Levine (L. Anderson, M. Antes, T. Fay, and D. Levine participated remotely by tele-videoconferencing; and C. Karlson participated by tele-videoconferencing and was also present at Town Building.)

Also Present: Town Administrator, Louise Miller; Business Analyst, Jason Adams; IT Director, Mike McCann

A1. Call to Order by Chair, Review the Agenda for the Public. C. Karlson called the meeting of the Board of Selectmen to order at 11:02 a.m. when a quorum was available, and noted that the meeting would be broadcast live and recorded for later broadcast by WayCAM. C. Karlson announced that members of the Board would participate remotely to maintain social distance, and gave a phone number (508-358-6812) for the public to call to offer comments during the Public Comment agenda item. C. Karlson reviewed the agenda for the public.

A2. Announcements. M. Antes reminded residents to respond to the 2020 US Census, and reviewed the current response rates.

A3. COVID-19: Town Administrator update and review of Response Plan; vote as necessary actions, including but not limited to: 1. Board of Health Update; 2. Update on Governor's actions; 3. Continuity of Operations Plan; 4. General Financial Update; 5. Facilities: prioritization of projects; 6. MOA with Firefighters (International Association of Firefighters, AFL-CIO, Local 188 re: carryover of unused vacation, compensatory and personal days; 7. Extension of Annual Town Meeting; 8. Election update.

A3.2. Update on Governor's actions L. Miller reported that the Governor extended the closure of school and childcare programs through June 29; the extension will affect the School Department, Council on Aging and the Recreation Department. The programs impacted by the closure will issue refunds and/or credits to participants. Council on Aging programs would not schedule new programs through June 29. The Town was working with the Treasurer to avoid fees associated with refunds.

A3.1. Board of Health Update L. Miller reported that the Board of Health (BOH) had a discussion on the enforcement of the Town's advisory recommendation to wear masks in public. L. Miller noted Business Analyst Jason Adams would share information regarding the authority given by the Attorney General's Office (AGO) with the Board later in the meeting.

L. Miller reported that the BOH had confirmed 48 total cases in Wayland as of Apr. 24, while the state is reporting 50 cases. L. Miller reminded the Board of the reasons why there is a discrepancy in the case counts.

A3.3. Continuity of Operations Plan L. Miller reported that the date for non-essential employees to return to work according to the state's stay-at-home advisory is still May 4; unless the advisory is extended the Town would prepare to have employees return to work on that date. The Town was consulting with Human Resources for guidance on the logistics. L. Miller noted that the Town would likely prioritize the return of certain departments over others to return back to work, and potentially continue to keep the buildings closed to the public. L. Miller noted the Board would be updated next week.

D. Levine noted the boards and committees had just received a first notice with guidance on remote public meetings, and if the advisory is lifted, there would be a need for a second issuance of guidance on how boards and committees could continue to meet. D. Levine reported that several other towns were utilizing call-in phone numbers for Zoom meetings to ensure equitable access to meetings. C. Karlson recommended the topic be added to a future agenda.

A3.4. General Financial update L. Miller reported that Finance Director Brian Keveny had consulted with Sean Cronin, Senior Deputy Commissioner for the Division of Local Services (DLS) at the Department of Revenue (DOR). DOR was in the process of issuing regulations to allow Towns to continue funding operations in the event a Town Meeting would not be held before July 1. They anticipated that the regulations would require municipalities to apply for DOR permission to expend funds in FY 2021 that were based on the budget of the previous fiscal year. B. Keveny suggested doing three month projections, and be prepared to send the budgets to the DOR on the monthly basis until a Town Meeting could occur.

A3.5. Facilities: prioritization of projects L. Miller reported that there are some capital projects that were slated to receive funding by a vote at Annual Town Meeting (ATM) that would need to occur before schools can re-open, such as accessibility improvements to playgrounds, kitchens, parking, and classrooms. L. Miller noted that some of the required work is currently restricted by the Governors' stay-at-home advisory. L. Anderson reminded the Board that the Loker School roof project would need funding approval and a debt exclusion question to be answered before those projects could be prioritized. L. Miller reported that the Town may need a Special Town Meeting to address the capital project items that cannot wait. Projects already funded by prior Town Meetings could move forward, if authorized by the state and the manufacturers are able to deliver. L. Miller advised that the Board could entertain the idea of a Special Town Meeting with a limited scope to include only mandatory projects, like the Loker School Roof and the handicap accessibility projects. L. Miller reported that the Massachusetts School Building Authority (MSBA) has inquired about the anticipated date of Town Meeting, and indicated they expect COVID-19 to have an impact on the funding agreement with the Town. The project is expected to go to bid on schedule.

A3.6. MOA with Firefighters (International Association of Firefighters, AFL-CIO, Local 178) re: carryover of unused vacation, compensatory and personal days L. Miller reported that there was an agreement that would authorize the carryover of all unused vacation, compensatory and personal days for eligible Fire Department personnel. L. Miller noted that due to the state of emergency employees have not been allowed to use any earned time.

A3.7. Extension of Annual Town Meeting L. Miller reported that Annual Town Meeting (ATM) would need to be extended beyond the current date of April 30, and that it can only be extended in thirty (30) day increments. L. Miller expected that the Moderator, after consultation with the Chair, Town Administrator, Town Counsel, and Town Clerk, would declare another extension prior to the next Board meeting.

A3.8. Election update L. Miller reported that the Town Clerk had been working on the logistics of how to hold state and local elections safely, in consultation with state election boards, the Health Department and Massachusetts Association of Health Boards (MAHB). L. Miller noted that the special legislation that authorized the postponement of the election to June 9, also required that elections take place before June 30, 2020. L. Miller noted that the polling locations would remain the same, but the Town was exploring the possibility of extending early voting, using absentee ballots and mail-in ballots. The Town would also explore feasibility of enforcing physical distancing and personal protection equipment (PPE) for poll workers and voters at the polling locations. L. Miller reported that the Town Clerk has been contacted by some poll workers who indicated they would not be comfortable working at the polls, and planned for police officers to work at the polling locations in the absence of poll workers. M. Antes noted that the issue was time sensitive.

A3.1. Board of Health Update (revisited) D. Levine noted that the MAHB recently opined that the law would support an order or advisory that requires masks. D. Levine noted that several towns and the state of Connecticut had issued orders to wear face coverings, which was different from the interpretation of the AGO's guidance which advised the Board that it only had authority to issue an advisory. D. Levine felt that the state of emergency gave broad authority to the Board and the BOH to issue such an order. D. Levine had consulted with the administration at the Stop & Shop and at Donelan's, who both reported that the employees were required to wear face coverings, but were observing that only a portion of the shoppers and the general public were wearing face coverings. D. Levine encouraged the Board to discuss the topic of an order to require masks.

Business Analyst J. Adams joined the meeting and cited three legal statutes which would confirm the Board and the Board of Health's authority to issue a face covering order rather than an advisory suggested by the AGO. J. Adams cited and read M.G.L. c. 111 § 104; M.G.L. c. 111 § 31; and Code of Massachusetts Regulations 310 CMR 11.05.

J. Adams reviewed orders issued by several municipalities that had issued orders with no citations but were requiring masks in public. J. Adams also indicated that North Reading, Peabody, Middleton and Beverly all cited language from the three laws he referenced. J. Adams noted the authority primarily rested with the Board of Health.

D. Levine moved, seconded by T. Fay, that the Board of Selectmen vote to support an order, by the authorized body, be it jointly or independently by the Board of Selectmen or the Board of Health, to convert the present advisory recommending face coverings, to an order that a face covering must be worn at essential businesses by staff and customers at supermarkets, pharmacies and restaurants offering take-out. In discussion, L. Anderson, M. Antes and T. Fay all expressed agreement with the motion. M. Antes suggested the need for more information to be provided for residents to understand the requirement. L. Miller expressed concern about the lack of enforcement mechanism and the ability for all people to comply. Roll Call Vote: YEA: L. Anderson, M. Antes, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

L. Miller reported that there was a misconception regarding furloughed and laid off employees. The Town is self-insured and because the federal government is offering an additional \$600 per week benefit for furloughed and laid off employees, the Town would pay 36% of the employees wages and 50% the federal benefit for each employee, or \$300 per week.

M. Antes updated the Board on her outreach to the Wayland Interfaith Leaders Association (WILA) thanking them for their efforts.

C. Karlson opened the meeting to the public for comment.

A5. Permitting Software: update on bids L. Miller reported that the permitting software project was moving forward, and that once the permitting software is in place it would be beneficial for remote work situations. The Town had received five proposals that were under review, and the funding sources must be spent by June 30, 2020.

A4. Public Comment Anette Lewis, Claypit Hill Road, commented that she was a poll worker and had not yet been contacted by the Town Clerk. A. Lewis noted that according to Chapter 45 of Session Laws Acts of 2020, the Town was authorized to conduct early voting by mail without opening the polls for early voting. A. Lewis encouraged early voting to ease the traffic at the polls on election day. C. Karlson noted that some poll workers had contacted the Town Clerk, but the Town Clerk had not yet communicated with all poll workers.

A6. Audit Management Letter: review report of the Audit Committee, discussion and possible vote to reissue management letter C. Karlson announced that the management letter was being held until the Audit Committee had a chance to review. C. Karlson noted the slideshow from Melanson Heath was posted with the Board packet and was currently available as part of the WayCAM recording of the meeting.

A4. Public Comment (continued) Richard Turner, Nob Hill Lane, commented that he does not currently have a mask, and that he noticed that the general public is not wearing masks. R. Turner also commented that

his brother wrote an email regarding the paper products stored in the schools and he never received a response.

A7. OML Complaint: discussion and potential vote to approve response to the Open Meeting Law complaint dated April 13, 2020 from resident George Harris pertaining to the approval of the Board of Selectmen's executive session minutes of December 16, 2019 (first session)

M. Antes moved, seconded by D. Levine, that the Board of Selectmen vote to approve and issue the response to the Open Meeting Law complaint dated April 13, 2020 from resident George Harris pertaining to the approval of the Board of Selectmen's executive session minutes of December 16, 2019 (first session), as amended. Roll Call Vote: YEA: L. Anderson, M. Antes, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

A8. Minutes: Review and vote to approve minutes of April 17, 2020

L. Anderson moved, seconded by D. Levine, that the Board of Selectmen vote to approve the meeting minutes of April 17, 2020, as amended. Roll Call Vote: YEA: L. Anderson, M. Antes, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

A9. Correspondence Review. The Board reviewed correspondence included in the Board Packet.

A10. Selectmen's reports and concerns L. Anderson reported that the Energy & Climate Committee co-chair asked about grant applications for programs such as Climate Action Plans and Energy Resiliency programs, and requested the Board add the topic to a future agenda.

A11. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any There were none.

A12. Enter into Executive Session Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to discuss strategy with respect to litigation - Jane Doe v. Town of Wayland; and Pursuant to Massachusetts General Laws Chapter 30A, Section 21, (a) (2) to conduct a strategy session in preparation for contract negotiations with non-union personnel (Town Administrator); and Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (2), (3), and (6), to review and approve the executive session minutes of March 27, 2020; APPROVE AND HOLD: Executive Session minutes of March 27, 2020

(At 12:52 p.m. C. Karlson made a motion to enter into Executive Session; there were technical difficulties resulting in accidentally ending the video conferencing after the roll call vote. After reestablishing the video conference, in an abundance of caution, C. Karlson made the same motion and took a roll call vote. M. Antes was disconnected from the meeting from 12:57 p.m to 1:08 p.m.)

At 12:57 p.m., Chair C. Karlson moved, seconded by D. Levine, that the Board of Selectmen enter into Executive Session Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to discuss strategy with respect to litigation - Jane Doe v. Town of Wayland; and Pursuant to Massachusetts General Laws Chapter 30A, Section 21, (a) (2) to conduct a strategy session in preparation for contract negotiations with non-union personnel (Town Administrator); and Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (2), (3), and (6), to review and approve the executive session minutes of March 27, 2020 with the anticipation of approving and holding said minutes.

The Chair declared that a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the Town. Roll Call Vote: YEA: L. Anderson, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: M. Antes. ABSTAIN: none. Adopted 4-0.

The Chair invited attendance by Louise Miller, Town Administrator, Elizabeth Doucette, Assistant Town Administrator, Kathleen Buckley, Human Resources Manager, and Jeanne Downs, Chair of the School Committee. The Chair announced that the Board would adjourn from Executive Session and not conduct any additional public business.

M. Antes rejoined the meeting during Executive Session at 1:08 p.m.

A13. Adjourn In Executive Session D. Levine moved, seconded by T. Fay, to adjourn the meeting at 1:47 p.m. Roll Call Vote: YEA: L. Anderson, M. Antes, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

Items Distributed for Information and Use by the Board of Selectmen at the Meeting of April 24, 2020

1. M.G.L. c. 111, § 104 "If a disease dangerous to the public health exists in a town, the selectmen and board of health shall use all possible care to prevent the spread of the infection and may give public notice of infected places by such means as in their judgment may be most effectual for the common safety."
2. M.G.L. c. 111 § 31 "Boards of health may make reasonable health regulations. A summary which shall describe the substance of any regulation made by a board of health under this chapter shall be published once in a newspaper of general circulation in the city or town, and such publication shall be notice to all persons."
3. Code of Massachusetts Regulations (CMR) 310 Section 11.05 Emergency: "Whenever an emergency exists in which the interest of protecting the public health or the environment requires that ordinary procedures be dispensed with, the board of health or its authorized agent, acting in accordance with the provisions of M.G.L. c. 111, § 30, may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as the board of health deems necessary to meet the emergency."

Items included as part of the Agenda Packet for discussion during the Board of Selectmen Meeting of April 24, 2020

1. Informational Document regarding Food Pantries, Help with Groceries and Essential Needs
2. Notice on COVID-19 Wayland update of COVID-19 cases April 17, 2020
3. Notice on COVID-19 Deadline Extended to May 1 for Statutory, Circuit Breaker, and CPA Exemptions April 18, 2020
4. Notice on COVID-19 Temporary Leash Order for Dogs in Public April 19, 2020
5. Notice on COVID-19 Wear Masks When Conducting Essential Business April 20, 2020
6. DRAFT Response from Board of Selectmen regarding the Open Meeting Law Complaint submitted by George Harris on April 13, 2020
7. Open Meeting Law Complaint Form submitted by George Harris on April 13, 2020
8. Draft of Board of Selectmen Meeting Minutes held on 04-17-2020

CORRESPONDENCE

1. Correspondence from Cherry Karlson, Board of Selectmen Chair to George Harris, Wayland Resident dated April 20, 2020 Re: Email with attached Response to the Open Meeting Law Complaint filed on March 4, 2020.
2. Correspondence from Cherry Karlson, Board of Selectmen Chair to George Harris, Wayland Resident dated April 20, 2020 Re: Response to the Open Meeting Law Complaint filed on March 4, 2020.
3. Correspondence from Mira Netsky, Massachusetts Office of the Attorney General to George Harris, Wayland Resident dated April 21, 2020 Re: Email with attached notice letter of Open Meeting Law Complaint filed on March 4, 2020.
4. Correspondence from Mira Netsky, Massachusetts Office of the Attorney General to George Harris, Wayland Resident dated April 21, 2020 Re: Notice letter of Open Meeting Law Complaint filed on March 4, 2020.
5. Correspondence from Cherry Karlson, Board of Selectmen Chair to Maura Healy, Attorney General of Massachusetts dated April 17, 2020 Re: Designation of Wayland Police Chief as the Public Safety Office for the purposes of explaining the reasons for the Moderator's Declaration to Recess and Continue Annual Town Meeting.