

PACKET

APR 23

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 23, 2018

7:00 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.

- | | | |
|---------|------|--|
| 7:00 pm | 1.) | Call to order by Chair <ul style="list-style-type: none">• Review agenda for the public |
| 7:02 pm | 2.) | Announcements and public comment |
| 7:05 pm | 3.) | Organization of the Board: Vote to elect officers |
| 7:15 pm | 4.) | River's Edge Update: Meet with Town Engineer |
| 7:25 pm | 5.) | Board Liaison Assignments: Review, discuss, and assign |
| 7:30 pm | 6.) | Governance Guidelines: Review, revise, and discuss distribution |
| 7:40 pm | 7.) | Special Act Relative to the Prevailing Wage for Affordable Housing: Vote to approve letter to legislative delegation |
| 7:45 pm | 8.) | Cable: Discuss next steps and vote to approve letter to Comcast |
| 7:50 pm | 9.) | Successor Collective Bargaining Agreement: Vote to sign the successor agreement between the Town and the International Association of Firefighters, Local 1978 for the period July 1, 2017 through June 30, 2020 |
| 7:55 pm | 10.) | 11 Hammond Road: Vote to waive Building Department fees for Affordable Housing Trust Project |
| 8:00 pm | 11.) | Town Administrator Search Committee: Discuss process |
| 8:05 pm | 12.) | Town Administrator's Report <ul style="list-style-type: none">1. Correspondence2. Staffing update3. Collins Center Special Act4. Volunteer Recruitment and Education |
| 8:20 pm | 13.) | Minutes: Vote to approve and release minutes of March 26, 2018; April 2, 2018; April 3, 2018; April 5, 2018; and April 9, 2018 |
| 8:25 pm | 14.) | Consent Calendar: Review and vote to approve |
| 8:30 pm | 15.) | Correspondence: Review |
| 8:35 pm | 16.) | Selectmen's reports and concerns |

BOARD OF SELECTMEN

Monday, April 23, 2018

7:00 p.m.

Wayland Town Building

Large Hearing Room

41 Cochituate Road, Wayland

Proposed Agenda Page Two

- 8:40 pm 17.) Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
- 8:45 pm 18.) Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(1) to hear a complaint against public officials and Massachusetts General Laws Chapter 30A, Section 21(a)(7) to comply with the statutory requirements of Massachusetts General Laws Chapter 214, Section 1B with respect to the privacy rights of an individual: The Board will convene an executive session pursuant to these statutes to discuss, deliberate and take appropriate action with respect to an Open Meeting Law complaint filed by George Harris with respect to the Board of Selectmen's executive session held on March 6, 2018.
- 9:00 pm 19.) Adjourn

OFFICERS AND MEETINGS

OFFICERS

1. At the first meeting of the Board of Selectmen held after the adjournment of Annual Town Meeting *sine die*, members shall elect a chairman and vice chairman/clerk whose terms of office begin immediately and end when duly elected successors are chosen at the first meeting of the Board of Selectmen following the adjournment of the subsequent Annual Town Meeting.
2. The chairman shall be the presiding officer at meetings of the board. S/he will set the agenda, represent the board, and act as its spokesman, or designate the same.
3. The vice chairman shall preside at meetings in the absence of the chair, assist the chairman as needed in managing the affairs of the board, and coordinate/schedule the warrant process for the board.
4. If both the chairman and vice chairman are unavailable, the senior Selectman in time served as a Selectman shall preside at meetings of the board.
5. The intent of this policy is for the chairman of the board to rotate among members of the board willing to serve. Nothing in this policy prohibits a selectman from succeeding him/herself if the board so votes.
6. Should the chairman be unable to continue to serve, the vice chairman will become the chair and an election held to choose a new vice-chairman. Should the vice chairman be unable or unwilling to serve, a new chairman shall be elected. Should both positions become vacant, the senior elected Selectman shall hold both offices until an election can be held to fill the vacancy in both positions.

MEETINGS

1. The Board of Selectmen shall convene at least twice a month on Monday evening at 7:00 p.m. with additional meetings scheduled as necessary. Unless deemed appropriate by the Board, discussion shall not begin on new business items after 11:00 p.m.
2. The Town Administrator shall provide the members with appropriate background materials on matters before the Board and shall provide copies of all correspondence sent to the Selectmen. S/he shall maintain accurate records of all meetings and action taken, including executive sessions.
3. Three members shall constitute a quorum.
4. Beginning in July 2015, meeting materials will be provided by electronic packet rather than a paper copy.

Approved on April 26, 2010; restated on October 13, 2010; revised and restated on July 13, 2015.

POLICY ON LIAISON PROGRAM

The purpose of the Board of Selectmen's Liaison Program is to promote a high level of communication and continuing exchange of thoughts and ideas between the Board and the town's committees.

To achieve this goal, each member of the Board of Selectmen is assigned by the Chair to serve as a liaison to a number of boards and committees.

The Selectmen's Liaison receives and reviews copies of board and committee meeting agendas, informational packets and minutes, and may attend meetings as his or her schedule permits.

The chair of a board or committee may schedule a conversation with the Liaison as an agenda item, in order for the Liaison to communicate information from the Board of Selectmen and bring the questions and concerns of the committee back to the Board for discussion at a regular public meeting.

Liaison assignments will be reviewed and may be re-ordered annually by the Board of Selectmen or at the discretion of the Chair.

The presentation of Liaison reports, which may be either written or verbal, will be made as part of "Selectmen's Reports and Concerns" at each meeting as necessary.

Approved on May 1, 2017.

Board of Selectmen Liaison Assignments for April 2017 through April 2018

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
Wayland Real Asset Planning Committee

Lea Anderson - term expires 2018

Finance Committee
Personnel Board

Louis Jurist - term expires 2019

Cable Television Advisory Committee
Board of Health
Recreation Commission
School Committee
Youth Advisory Committee

Cherry Karlson - term expires 2020

Board of Assessors
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 OF WAYLAND
GOVERNANCE GUIDELINES FOR
THE BOARD OF SELECTMEN AND
APPOINTED BOARDS, COMMITTEES, COMMISSIONS
ADOPTED JUNE 5, 2017**

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 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. Public bodies will elect a Chair and any other necessary officers such as a Vice-Chair or Co-Chair, Clerk and Assistant Clerk.

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 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.

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 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" 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 townclerk@wayland.ma.us 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 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:

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 a 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 REFERENCED ABOVE:

1. Remote Participation Policy;
2. Legal Affairs Policy

DATE OF ADOPTION / AMENDMENT: JUNE 5, 2017



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
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CHERRY C. KARLSON
DOUGLAS A. LEVINE

April __, 2018

Senator Richard J. Ross
State House
Room 419
Boston, MA 02133

Representative Carmine Gentile
State House
Room 167
Boston, MA 02133

Representative Alice H. Peisch
State House
Room 473G
Boston, MA 02133

Re: Act Relative to the Prevailing Wage for Affordable Housing in the Town of Wayland

Dear Senator Ross, Representative Gentile and Representative Peisch:

At its 2018 Annual Town Meeting held on April 5, 2018, the Town of Wayland voted to authorize the Board of Selectmen to petition the General Court for special legislation seeking the Town's exemption from complying with sections 26 through 27H of Chapter 149 of the General Laws for affordable housing-related projects estimated to cost \$30,000 or less.

The Town respectfully petitions the General Court of the Commonwealth, pursuant to the provisions of Clause (1) of Section 8 of Article 2 of the Amendments to the Constitution of the Commonwealth of Massachusetts, and all other applicable laws for a Special Law, substantially in the attached form, or to take any action relative thereto.

It is our hope that by limiting the requested exemption from the Commonwealth's prevailing wage law to affordable housing-related projects you will be able to prevail upon your colleagues to move our requested Special Act through the appropriate committees and to vote in favor of the Special Act once it presented for a vote by the House and Senate.

As you know, the creation and preservation of affordable housing in the Commonwealth is a stated priority of Governor Baker and his administration. It is challenging to do this in communities such as Wayland given the high cost of existing housing and lack of affordable development land parcels. Having to comply with the Commonwealth's prevailing wage law makes the job even tougher as the cost of improvements and repairs inevitably ends up costing substantially more and strains already

limited budgets set aside for affordable housing purposes.

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We look forward to working with you on advancing this Special Act through the legislative process and would ask that you direct any questions to Ms. Nan Balmer, Town Administrator, at the number shown above.

Sincerely,

[Lea T. Anderson]
Chair, Board of Selectmen

cc: The Honorable Charlie Baker, Governor of the Commonwealth of Massachusetts
Jay Ash, Secretary - Executive Office of Housing and Economic Development
Town of Wayland Municipal Affordable Housing Trust Fund



NAN BALMER
TOWN ADMINISTRATOR
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April __, 2018

The Honorable Charlie Baker
Governor
State House
Room 280
Boston, MA 02133

Mr. Jay Ash
Secretary
Executive Office of Housing and Economic Development
One Ashburton Place
Room 2101
Boston, MA 02108

Re: Act Relative to the Prevailing Wage for Affordable Housing in the Town of Wayland

Dear Governor Baker and Secretary Ash:

At its 2018 Annual Town Meeting held on April 5, 2018, the Town of Wayland voted to authorize the Board of Selectmen to petition the General Court for special legislation seeking the Town's exemption from complying with sections 26 through 27H of Chapter 149 of the General Laws for affordable housing-related projects estimated to cost \$30,000 or less.

Please find enclosed a copy of the Town's petition to its state legislators.

It is our hope that given your commitment to substantially increasing the number of affordable housing units in the Commonwealth, both of you will support the Town of Wayland's petition. We would ask that you and your staff reach out to Senator Ross and Representatives Gentile and Peisch to see how best to support them in their effort to get the Town's requested Special Act enacted into law as quickly as possible as there is much work to be done.

We would greatly appreciate your support.

Sincerely,

Chair, Board of Selectmen

cc: Town of Wayland Municipal Affordable Housing Trust Fund

**ANNUAL TOWN MEETING
VOTE CERTIFICATE**

At a legal meeting of the qualified voters of the TOWN OF WAYLAND held on April 5, 2018, the following business was transacted under Article 29:

ARTICLE 29: AN ACT RELATIVE TO THE PREVAILING WAGE FOR AFFORDABLE HOUSING IN THE TOWN OF WAYLAND

**AN ACT RELATIVE TO THE PREVAILING WAGE FOR AFFORDABLE
HOUSING IN THE TOWN OF WAYLAND**

Section 1. Notwithstanding any general or special law to the contrary, the Town of Wayland, shall be exempt from complying with Sections 26 through 27H of Chapter 149 of the General Laws for affordable housing-related projects estimated to cost \$30,000 or less.

Section 2. This act shall take effect upon its passage.

Voted that the Town authorize the Board of Selectmen to petition the General Court for special legislation seeking the Town's exemption from complying with sections 26 through 27H of Chapter 149 of the General Laws for affordable housing-related projects estimated to cost \$30,000 or less, substantially the same as the act as printed on Page 102 of the Warrant for the April 2, 2018 Annual Town Meeting.

VOTED:

IN FAVOR: ☐
OPPOSED: ☐ MOTION PASSED

A true copy, Attest:

Beth R. Klein
Town Clerk



NAN BALMER
TOWN ADMINISTRATOR
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DOUGLAS A. LEVINE

April __, 2018

I hereby certify the following is a true copy of the vote taken at a meeting of the Board of Selectmen, Town of Wayland, duly called and held on Monday, April __, 2018, at the Wayland Town Building, 41 Cochituate Road, and that the vote was [unanimous (5-0)]:

“To approve the Petition to the State Legislature seeking the Town of Wayland’s exemption from complying with sections 26 through 27H of Chapter 149 of the General Laws for affordable-related projects estimated to cost \$30,000 or less.”

Name
Title

TOWN OF WAYLAND
ANNUAL TOWN MEETING WARRANT
APRIL 2, 2018

LANGUAGE OF ARTICLE 29

**ARTICLE 29: AN ACT RELATIVE TO THE PREVAILING WAGE FOR
AFFORDABLE HOUSING IN THE TOWN OF WAYLAND**

Proposed by: Municipal Affordable Housing Trust Fund Board

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation seeking the Town's exemption from complying with sections 26 through 27H of Chapter 149 of the General Laws for affordable housing-related projects estimated to cost \$30,000 or less, in substantially the following form:

**AN ACT RELATIVE TO THE PREVAILING WAGE FOR AFFORDABLE
HOUSING IN THE TOWN OF WAYLAND**

Section 1. Notwithstanding any general or special law to the contrary, the Town of Wayland, shall be exempt from complying with Sections 26 through 27H of Chapter 149 of the General Laws for affordable housing-related projects estimated to cost \$30,000 or less.

Section 2. This act shall take effect upon its passage.



NAN BALMER
TOWN ADMINISTRATOR
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TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN

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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.

Very Truly Yours,

Chair, Board of Selectmen

Town of Wayland, Massachusetts.

DATE: APRIL 23, 2018

TO: BOARD OF SELECTMEN

FROM: NAN BALMER, TOWN ADMINISTRATOR

RE: VOTE TO SIGN COLLECTIVE BARGAINING AGREEMENT: FIREFIGHTERS

REQUESTED ACTION:

VOTE TO SIGN A SUCCESSOR AGREEMENT BETWEEN THE TOWN AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 1978 FOR THE PERIOD JULY 1, 2017 THROUGH JUNE 30, 2020.

BACKGROUND:

- The Town and union signed a Memorandum of Agreement with the Fire Fighters Union in December of 2017 for a successor contract for the period July 1, 2017 through June 30, 2020.
- 2018 Annual Town Meeting approved funding for the first year of a contract for a successor agreement as required under MGL Chapter 150 E, Section 70.
- The Fire Chief and Labor Counsel reviewed and approved a draft contract for accuracy and consistency with the Memorandum of Agreement.
- The Union signed the contract and it is now before the Board of Selectmen for final execution.
- Upon execution, staff will process retro payments from 7/1/17 to present.
- Future years' compensation through 6/30/20 will be included in the annual operating budget.
- After the Board signs, the contract will be posted on the Human Resources Department of the Town website at <https://www.wayland.ma.us/human-resources/pages/agreements-contracts>

Balmer, Nan

Subject: FW: Reducing of Building Department Fees for Town Buildings/Structures; Department Policy Recommendations, 4.19.18

DATE: APRIL 23, 2018

TO: BOARD OF SELECTMEN

FROM: NAN BALMER, TOWN ADMINISTRATOR

RE: REQUEST FOR WAIVER OF FEES FROM THE AFFORDABLE HOUSING TRUST FOR ITS PROJECT AT 11 HAMMOND ROAD

REQUESTED ACTION:

VOTE TO APPROVE THE BUILDING COMMISSIONER'S RECOMMENDATION ON THE POLICY FOR BUILDING PERMIT FEES ASSOCIATED WITH THE AFFORDABLE HOUSING TRUST PROJECT AT 11 HAMMOND ROAD

BACKGROUND:

- Brian O'Herlihy as Treasurer of the Affordable Housing Trust, requested that the Building Commissioner waive building permit fees for the Affordable Housing Trust project at 11 Hammond Road. (See attached correspondence)
- Although there is some past practice of waivers for public projects, it is unknown when the Board of Selectmen last approved a policy on waiving such fees.
- Below is the Building Commissioner's recommendation on a policy on waiving Building Department fees.
- The Board is asked to consider this policy for Building Department fees for 11 Hammond Road and to ask staff to draft a general policy on the waiver of building department fees for the Board's consideration at a future meeting.

From: Larsen, Geoffrey

Sent: Thursday, April 19, 2018 8:53 AM

To: Balmer, Nan

Cc: Reef, Elizabeth; Starek, Cheryl

Subject: Reducing of Building Department Fees for Town Buildings/Structures; Department Policy Recommendations, 4.19.18

Good morning Nan,

Moving forward I would recommend the following policy regarding the collection of fees for permitted work on Town buildings/structures or portions of buildings/structures under Town jurisdiction.

Building Permit fees:

1. Require the applicant/contractor to pay only the "minimum fee" (\$50) and not the greater amount based upon the total cost of construction as required by the fee schedule.

This \$50 fee is intended to represent to the applicant/contractor the Department's required code based administration of a building permit application from data entry through plan review, issuance of a building permit, required inspections and the closing of the permit.

Plumbing, Gas and Electrical Permit fees:

1. Do not reduce these specialized code fees.

These fees were not waived or reduced on the most recent Town project/building per Contract Documents. (Loker School renovations)

Violation fees:

1. Do not waive or reduce these fees.

The possible use of these fees are intended to protect the owner (the Town) as well as public safety.

Respectfully,

Geoff Larsen
Geoffrey S. Larsen, CFM
Building Commissioner
Town of Wayland, MA
glarsen@wayland.ma.us

**TOWN ADMINISTRATOR'S REPORT
WEEK ENDING APRIL 20, 2018**

1. CORRESPONDENCE

No comments this week.

2. TOWN ORGANIZATION / DRAFT TOWN ADMINISTRATOR ACT

At its March 26th meeting, Selectmen said they preferred to consider a timeline leading to 2019 Annual Town Meeting to consider a Special Act revising the role of Town Administrator / Manager. The Special Act would address the role of the Town Administrator / Town Manager and would lead to a change in the roles and / or relationships of the Board of Selectmen, Finance Committee, and some Department Heads.

The project timeline includes meetings with Department Heads and Boards and Committees and the first meeting may be with Department Heads on April 30th. Selectmen suggested that these meetings be focused on several defined questions. In discussions the Board may want to remind those present that responses should be in the context of any future Town Administrator or board, not those currently holding positions. The following are some questions for the Board to consider asking:

1. 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. 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. 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?

The Collins Center provided the attached status update on its work. Under the existing Community Compact grant, the Board will: 1) receive a final memo on financial policies and, 2) will be available to meet with the Board two more times by 6/30/18 to update the draft Special Act. From 7/1/18 – 12/31/18, \$6,000 is recommended as the budget for the Collins Center to complete work on the project. Does the Board wish to continue to work with the Collins Center on this project through at least 12/31/18?

3. STAFFING UPDATE

Assistant Town Administrator: The Assistant Town Administrator is now assuming general duties as assigned and required by the organization. Right now, the most important special project assigned to the ATA is to oversee the IT department and keep priority IT projects moving through IT Consultant Mike McCann. More information on the IT Director position will be available at the 4/30 meeting. I will work with Beth through the transition to familiarize her with next steps with ongoing town business. Beth also has ongoing responsibility for Town procurement projects.

Executive Assistant (temp): Effective 4/17, the Town Office employed a long term, temporary employee to learn and perform the duties of the Executive Assistant under the direction of David Porter. Hiring a long term temporary employee provides the office with continuity and allows the new Town Administrator flexibility in choosing his or her own team.

Executive Assistant: Although David Porter remains responsible for all of the day to day traditional duties of this position, he is now taking on the work of the HR Assistant including filing personnel forms, advertising for and posting positions, and submission of worker's compensation and insurance claims. Because David's main career goal is to gain experience and training in municipal management, I am encouraging him to register for training in employment law and procurement. As his time permits, I will assign higher skilled, short term work to David, in the area of policy development, in support of cable negotiations, and if possible in volunteer education.

Human Resources Director: After multiple attempts, we are unable to fill the position of Human Resources Director. Fortunately, with all collective bargaining agreements except the police contract settled, there are few essential, high level HR projects. Near term HR projects include negotiation of the police collective bargaining agreement and development of standard professional contracts with the Personnel Board, especially for the Police Chief who has been serving without a contract since last fall. Attorney Phil Schneider of the Personnel Board has agreed to assist with negotiations and will provide both institutional knowledge and continuity. Management of the Town / School employee benefits program is in the capable hands of the Benefits Manager working with the Town Administrator. New

initiatives such as establishment of a performance management and training programs are best deferred to new management. Day to day personnel issues including discipline, managing grievances and interpretation of contracts, policies and procedures are infrequent and easily handled by the Town Administrator. By leaving the HR Director position unfilled, the new Town Administrator will have maximum flexibility to shape the town organization to complement the new TA's skills and the achievement of the Board's goals.

4. Volunteer Recruitment Attached is a summary of the plan for this year, prepared by David Porter.

Wayland Summary of Work to Date and Proposed Next Steps
Revised 04.10.18

Current Projects Overview:

1. Two active projects:
 - a. Financial policies project
 - b. Financial management structure project
2. Total contract amount for both projects is \$30,000
3. Approximately 75% of hours used
4. \$10,000 billed and invoiced; \$20,000 outstanding

Work to Date:

1. Financial policies project
 - a. Researched Wayland financial situation
 - b. Drafted an initial set of about a half dozen financial policies
 - c. Met with working group to review and revise draft financial policies (9/28/17)
 - d. Presented financial policies to board of selectmen (10/10/17)
2. Financial management structure project
 - a. Researched structure of financial management in Town
 - b. Researched comparable communities
 - c. Drafted report on financial management structure
 - d. Presented draft report to the board of selectmen (10/10/17)
 - e. Revised draft report
 - f. Prepared draft special act that would implement some of the recommendations
 - g. Presented draft special act to the board of selectmen (12/11/17)
 - h. Sent final report to the board of selectmen (2/23/18)
 - i. Held workshop with board of selectmen on draft special act (3/6/18)
 - j. Met with department heads to discuss draft special act (3/21/18)

Proposed Next Steps within Existing Agreement:

1. Financial Policies
 - a. Draft short memo on policies provided (and next steps recommended)
 - b. Send additional set of relatively non-controversial policies with decision points and placeholders in templates
2. Financial Management Structure
 - a. Attend two more meetings with the board of selectmen regarding the draft Special Act
 - b. Input edits to the special act after each of the meetings

Proposed Steps after Completion of Existing Agreement:

1. Draft new agreement to continue financial management structure implantation work
 - a. Scope will include:
 - i. Attendance at four board of selectmen meetings
 - ii. Edits to draft special act after each meeting
 - iii. Research on relevant topics requested at meetings
 - b. Time will be through December 31, 2018
 - c. The cost of the work will be \$6,000

DATE: April 23, 2018
TO: Board of Selectmen
FROM: David Porter
RE: Volunteer recruitment and committee re-appointments

The Town of Wayland is fortunate to have capable and willing volunteers serving on its boards and committees. Most committee appointments are for two or three years. June 30 marks the end of the fiscal year and the expiration of many volunteer board and committee members' appointments. This memorandum outlines a proposed schedule for the recruitment of new volunteers and the re-appointment of current volunteers to ensure that boards and committees can continue to function effectively.

- April 23 – May 7 D. Porter and Town Clerk B. Klein will populate the board and committee database purchased by the Town from Virtual Towns and Schools, the same vendor that provides the Town website. This database software will improve coordination between the Town Clerk and Executive Assistant to the Town Administrator, and will automatically publish appointments to the Town website.
- April 30 D. Porter will email board and committee chairs with link to online survey to provide confidential recommendations regarding re-appointments, as described in the Board's policy on Appointments to Town Boards and Committees.
- May 14 D. Porter, on behalf of the Chair of the Board of Selectmen, will e-mail committee members, thanking them for their service and providing a URL to indicate willingness to be re-appointed.
- May 28 Board of Selectmen will review responses from current volunteers about their willingness to continue to serve and a list of vacancies. D. Porter will post vacancies on Town website; recruitment begins.
- June 11 – June 25 D. Porter will provide list of proposed committee re-appointments that do not require interviews, as described in the Board's policy, for review and potential approval. Interviews with new volunteers scheduled as needed.
- July 9 Anticipated "go live" data when board and committee database is synchronized with the Town website; from this point forward, changes in the database will automatically be reflected on the website

A proposal for the second phase of this effort, addressing volunteer education, is forthcoming and will be addressed at a future meeting.

APPOINTMENTS TO TOWN BOARDS AND COMMITTEES

The Board of Selectmen is responsible for making a number of appointments to town boards and committees. The following procedures generally will be used to post openings, make appointments, and fill vacancies.

POST OPENINGS

- The Town Administrator shall post all vacancies on the Town Building foyer bulletin board for a minimum of one (1) week.
- Applicants, who must be registered voters in the Town of Wayland, shall submit a statement describing their interest, background, and qualifications relevant to the opening being sought, and a résumé, if available.
- Applicants are encouraged to attend at least one meeting of the committee to which they seek appointment and discuss the board's function and responsibilities with a current member of the Board or the appropriate staff member before being considered for appointment.

ANNUAL APPOINTMENTS

- The Board of Selectmen shall interview all applicants new to Town Government.
- Boards or committees are encouraged to submit input on the reappointment of a member and questions for use by the Selectmen in interviewing applicants for their respective boards.
- All vacancies should be filled before the expiration of the term to the extent practical.

VACANCIES

Vacancies that occur between annual appointments shall be filled as soon as is reasonable following the guidelines for annual appointments.

REAPPOINTMENTS

The Selectmen shall solicit recommendations for reappointment from the chairpersons of boards and committees with members whose terms are ending.

- All candidates for reappointment to the Conservation Commission, Finance Committee, Personnel Board, and the Zoning Board of Appeals may be interviewed by the Board of Selectmen.
- Reappointments to other boards generally will not be subject to interviews by the Board of Selectmen unless there is an objection from the chair of the board or at the request of a Selectman.

Approved March 1, 2004; revised and restated on October 13, 2010

See Wayland Code §6-1. For provisions regarding specific appointments, see Wayland Code §19-1 (Finance Committee); §43-2 (Personnel Board); §198-201 (Zoning Board of Appeals); and §198-204 (Planning Board Associate Member).



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DRAFT

Board of Selectmen

Meeting Minutes

March 26, 2018

7:00pm

Large Hearing Room

41 Cochituate Road, Wayland

Attendance: Lea T. Anderson, Mary M. Antes, Louis M. Jurist (arrived 7:48pm), Cherry C. Karlson, Douglas A. Levine.

Also Present: Town Administrator Nan Balmer

A1. Call to Order by Chair L. Anderson called the meeting of the Board of Selectmen to order at 7:02pm p.m. in the Large Hearing Room of the Wayland Town Building and noted that the meeting will likely be broadcast and videotaped for later broadcast by WayCAM. She reviewed the agenda.

A2. Announcement and Public Comment Fiona White, 56 Sedgemoor Road, thanked the Board for being involved and for speaking to her Girl Scout troop. C. Karlson reported that she attended a Girl Scout troop meeting to discuss how Wayland's government works.

Will Tyree, President of Wayland Firefighters Union Local 1978, addressed the Board and thanked them for supporting an increase in staffing. He said there is still concern that the commitment to fund the remaining two positions will be forgotten given the turnover in Town staff and on committees. The Fire Union needs four new staff to effectively provide care to the residents of Wayland.

Alan Reiss, Old Conn Path, said he went to the landfill and was turned away because the power was out. He suggested the Town think about putting a generator at the landfill in the future so residents are not inconvenienced.

A3. Town Administrator Search Firm: Vote to authorize Town Administrator to award contract

Assistant Town Administrator Beth Doucette reported that in February the Town put out an RFP for a firm to conduct the search for a new Town Administrator and received three responses. One did not qualify; the two others did qualify: Community Paradigm Associates, LLC and Municipal Resources, Inc. Both of them were deemed to be able to provide the services and had good references according to E. Doucette. When the financial responses were opened, Community Paradigm came in for less money, so E. Doucette recommended the Board authorize the Town Administrator to award contract to Community Paradigm, LLC. Community Paradigm also had a more targeted approach for recruitment.

M. Antes moved, seconded by D. Levine, that the Board of Selectmen hire Community Paradigm Associates, LLC to do the search for the Town Administrator with a goal of having someone identified by August and to authorize the Town Administrator to sign the contract. YEA: L. Anderson, M. Antes, D. Levine, C. Karlson NAY: none. ABSENT: L. Jurist. ABSTAIN: none. Adopted 4-0.

A4. Town Administrator's Report

1. Correspondence

a. School Bus Parking: Correspondence with School Superintendent Town Counsel recommends the Board rejects all bids since the timeline for the River's Edge project has been extended and the RFP terms are no longer applicable. The Schools would need to find an alternative parking site by March 2019.

2. Draft Work Plan: Town Management Structure/ Draft Town Administrator Act N. Balmer briefly discussed alternative project timelines from the Collins Center. N. Balmer met with Department Heads to discuss the future structure of the Town. They discussed meeting protocol, the budget process, committee and board relationships with departments, elected boards, and the timing of any potential change. N. Balmer summarized that overall the Board should take as much time as required and the Board's leadership will be very important.

3. Board of Selectmen Meeting Schedule First draft is in packet.

The Youth Advisory Committee is working on a Marijuana moratorium and expects to meet with the BOS and other various committees about what the regulations mean for the Town after the moratorium expires. It will also ask the Board to put a question on the ballot for Sept. 4 with the hope of voting at a fall STM and at latest at Annual Town Meeting 2019.

A8. Consent Calendar: Review and vote to approve (See Separate Sheet) M. Antes moved, seconded by D. Levine, to approve the Consent Calendar. YEA: L. Anderson, M. Antes, D. Levine, C. Karlson. NAY: none. ABSENT: L. Jurist. ABSTAIN: none. Adopted 4-0.

A9. Review Correspondence: (See Separate Index Sheet) The Board noted the memo from Finance Committee Director B. Keveny, the letter from the Fire union, and the letter to Raytheon regarding activity use limitation at Town Center. N. Balmer said she would draft a response to the letter requesting an extension of hours for door to door solicitations. Additionally, the Board found FinCom Chair D. Watkin's memo about funding sources helpful.

L. Jurist arrived at 7:48pm.

A5. Annual Town Meeting Warrant Hearing The Board was joined by Town Moderator, Dennis Berry. L. Anderson led the attendees through a page by page review of the warrant and motions for Annual Town Meeting. Residents made suggestions and asked questions on the Warrant and articles. L. Anderson noted that corrections will be included in an updated errata sheet available at ATM.

A6. Annual Town Meeting Articles C. Karlson had a question about preparing ATM talking points for the Accept Gifts of Land article. All agreed that all members could draft ATM comments based on Board discussions.

A7. Minutes: Vote to approve March 6, 2018 and March 12, 2018. M. Antes moved, seconded by C. Karlson to approve the minutes of March 6, 2018 and March 12, 2018 as amended. YEA: C. Karlson, L. Anderson, M. Antes, D. Levine, L. Jurist. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

A10. Selectmen's Reports and Concerns M. Antes said she attended a tour of Fire Station 2 and found it is a very tight space. D. Levine reported that on Tuesday, April 3 he will meet with a representative from MassDOT and Eversource to discuss completion of the Rte 27/30 intersection.

A11. Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(2) and Section 21(a)(3) to review and consider for approval and potential release of the Executive Session minutes of January 29, 2018; February 5, 2018; February 26, 2018; and

March 6, 2018 because a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the Town L. Anderson moved, seconded by C. Karlson, that the Board of Selectmen enter into executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(2) and Section 21(a)(3) to review and consider for approval and potential release of the Executive Session minutes of January 29, 2018; February 5, 2018; February 26, 2018; and March 6, 2018. The Chair declares 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, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0. The Chair invites attendance by Nan Balmer, Town Administrator. The Board will reconvene in open session in approximately 15 minutes to approve and potentially release Executive Session minutes and adjourn.

The Board returned to regular session at 9:11pm.

A12. Executive Session Minutes: Vote to approve and potentially release with redactions the Executive Session minutes of January 29, 2018; February 5, 2018. C. Karlson moved, seconded by M. Antes, that the Board of Selectmen vote to release with redactions the Executive Session minutes of January 29, 2018 and February 5, 2018 as approved. YEA: L. Anderson, M. Antes, D. Levine, L. Jurist. C. Karlson. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

A13. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
None.

A14. Adjourn L. Jurist moved, seconded by D. Levine, to adjourn the meeting at 9:11 pm. YEA: C. Karlson L. Anderson, M. Antes, D. Levine, L. Jurist. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

Items Distributed for Information and Use by the Board of Selectmen at the Meeting of March 26, 2018.

1. Graph of the cost of electronic voting in Wayland, source Alan Reiss.

Items Included as Part of Agenda Packet for Discussion During the March 26, 2018 Board of Selectmen's Meeting

1. Memorandum from Beth Doucette, Acting Assistant Town Administrator, to Board of Selectmen, dated March 26, 2018, re: Town Administrator Search Firm
2. Town Administrator's Report for the Week Ending March 23, 2018
3. Memorandum from Beth Doucette, Acting Assistant Town Administrator, to Board of Selectmen, dated March 26, 2018, re: School Bus Parking Lease - Status
4. Possible Town Administrator Special Act Timelines for the Wayland Board of Selectmen, revised March 21, 2018
5. An Act Relative to the Position of Town Administrator in the Town of Wayland (redline draft), updated March 20, 2018
6. Board of Selectmen Schedule: April 2, 2018 through September 4, 2018
7. Memorandum from David Porter, Executive Assistant, to the Board of Selectmen, dated March 26, 2018: re: Warrant Hearing logistics
8. List of Annual Town Meeting Articles, updated March 23, 2018
9. Draft Board of Selectmen meeting minutes from March 6, 2018 and March 12, 2018



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DRAFT

Board of Selectmen

Meeting Minutes

April 2, 2018

6:20pm

Wayland High School Field House
264 Old Connecticut Path, Wayland

Attendance: Lea T. Anderson, Mary M. Antes, Louis M. Jurist, Cherry C. Karlson, Douglas A. Levine (arrived 6:32 pm).

Also Present: Town Administrator N. Balmer.

A1. Call to Order by Chair L. Anderson called the meeting of the Board of Selectmen to order at 6:20 pm in the Wayland High School Field House. She reviewed the evening's agenda.

A2. Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(1) to hear a complaint against public officials and Massachusetts General Laws Chapter 30A, Section 21(a)(7) to comply with the statutory requirements of Massachusetts General Laws Chapter 214, Section 1B with respect to the privacy rights of an individual: The Board will convene an executive session pursuant to these statutes to discuss, deliberate and take appropriate action with respect to an Open Meeting Law complaint filed by George Harris with respect to the Board of Selectmen's executive session held on February 26, 2018 At 6:23 pm, 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)(1) to hear a complaint against public officials and Massachusetts General Laws Chapter 30A, Section 21(a)(7) to comply with the statutory requirements of Massachusetts General Laws Chapter 214, Section 1B with respect to the privacy rights of an individual, to discuss, deliberate and take appropriate action with respect to an Open Meeting Law complaint filed by George Harris with respect to the Board of Selectmen's executive session held on February 26, 2018. 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: Town Administrator Nan Balmer and Town Counsel Carolyn Murray. The Board will return to open session in approximately 15 minutes.

Selectman D. Levine joined the meeting at 6:32 pm.

The Board returned to open session at 6:42 pm.

A3. Announcements and Public Comment Chair Anderson announced that Congresswoman Clark had invited the Town to participate in a regional discussion on April 23 and that Selectmen wishing to represent the Town should contact her.

Linda Segal, Aqueduct Road, commented that the Massachusetts Department of Revenue's position is that a ballot question for a debt exclusion is effective for about a year after passage. She asked whether the Board would consider re-voting its position on articles 25, 26 and 28 related to the High School and Loker athletic field appropriations. She noted that the Special Town Meeting (Fall 2017) article on the Loker project only

used the word “recreation” and not “conservation,” and expressed her opinion that the Loker article was not ready for Town Meeting to approve.

A4. Discuss any Annual Town Meeting business C. Karlson said that the Moderator planned for Town Meeting to hear the Library article on Tuesday and asked the Board to consider making a motion to move articles forward if time permitted tonight. L. Anderson reported that the School Committee and Recreation Commission may provide more information on whether their articles would go forward at Town Meeting.

A5. Consent Calendar: Review and vote to approve (See Separate Sheet) M. Antes moved, seconded by C. Karlson, to approve the Consent Calendar. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

A6. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any D. Levine reported that he will meet with Rep Gentile, MassDOT and Eversource tomorrow about the Rte 27/30 intersection work. The meeting has been rescheduled many times due to weather.

A7. Adjourn There being no further business before the Board, M. Antes moved, seconded by C. Karlson, to recess the meeting of the Board of Selectmen at 6:51 pm and join Town Meeting. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, 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 2, 2018.

1. Permanent Municipal Building Committee Status Report, March 29, 2018 regarding Articles 25, 26 and 28.
2. Motions for ATM, as of March 30, 2018
3. Errata for ATM

Items Included as Part of Agenda Packet for Discussion During the March 26, 2018 Board of Selectmen's Meeting

None.



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Board of Selectmen

Meeting Minutes

April 3, 2018

6:30pm

Wayland High School Field House
264 Old Connecticut Path, Wayland

Attendance: Lea T. Anderson, Mary M. Antes (arrived 6:41 pm), Louis M. Jurist, Cherry C. Karlson, Douglas A. Levine.

Also Present: Town Administrator Nan Balmer and Executive Assistant David Porter.

A1. Call to Order by Chair L. Anderson called the meeting of the Board of Selectmen to order at 6:36 pm in the Wayland High School Field House. She reviewed the evening's agenda.

A2. Announcements and Public Comment D. Levine shared that he met with State Representative Carmine Gentile, MassDOT representative Barry Lorian, two individuals from Eversource, Wayland DPW Director Tom Holder, and BoPW member John Mishara regarding the intersection of Route 30 and Route 27. Work is estimated to be finished by June 1. Verizon is responsible for the delays as they still need to remove wires from the intersection.

Linda Segal, Aqueduct Road, asked if there were any revised motions. C. Karlson indicated that a figure in the motion for Article 24 was changed to \$1,300,000 and the words "unless otherwise specified by statute" were added to the end of the motion for Article 36. Both articles are anticipated to be discussed on Thursday's session.

A3. Annual Town Meeting With respect to Articles 19 and 20, C. Karlson participated in a call with N. Balmer, Wayland Facilities Director Ben Keefe, the Town's Licensed Site Professional Ben Gould, and three representatives of Raytheon, the former owner of the site. Raytheon would like to see the vacant building re-used and is amenable to amending the Activities and Use Limitation (AUL) document. A construction management plan would be needed for the building project to deal with soils; however, the Raytheon reps thought it would be appropriate to include a playground with typical ground cover and garden in raised beds (horticulture gardens, not agriculture). C. Karlson will report on this discussion during her comments on Article 19 Accept Gifts of Land.

A6. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any L. Anderson indicated that she had a telephone call with Bernie Lynch of Community Paradigm Associates. He requested a one-hour meeting with the Board of Selectmen.

M. Antes arrived at 6:41 pm.

A7. Adjourn There being no further business before the Board, L. Jurist moved, seconded by C. Karlson, to recess the meeting of the Board of Selectmen at 6:42 pm and join Town Meeting. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, 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 2, 2018.

None.

Items Included as Part of Agenda Packet for Discussion During the March 26, 2018 Board of Selectmen's Meeting

None.



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

DRAFT

Board of Selectmen

Meeting Minutes

April 5, 2018

6:30 pm

**Wayland High School Field House
264 Old Connecticut Path, Wayland**

Attendance: Lea T. Anderson, Mary M. Antes, Louis M. Jurist, Cherry C. Karlson, Douglas A. Levine.

Also Present: Town Administrator Nan Balmer.

A1. Call to Order by Chair L. Anderson called the meeting of the Board of Selectmen to order at 6:31 pm in the Wayland High School Field House. She reviewed the evening's agenda.

A2. Announcements and Public Comment D. Levine discussed with Rep. Gentile the availability of state land in Sudbury for parking school buses. He committed to prepare a letter from the Board of Selectmen expressing Wayland's interest and to mention it to the chair of the School Committee.

Linda Segal, Aqueduct Road, said that on Wednesday night, April 4, the Recreation Commission voted to pass over the article for the Loker field project and asked whether the Board would consider a re-vote on that article.

A3. Rivers' Edge Massworks Grant: Discuss and vote to authorize the Chair to sign the Massworks Contract L. Anderson indicated that the Town Engineer had requested that the Board sign the contract for the Town to receive a grant from MassWorks to construct a water pipeline to the proposed Rivers Edge development. C. Karlson moved, seconded by M. Antes, that the Board authorize the Chair to sign the MassWorks grant contract. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: none. Adopted 5-0.

A4. Discuss any Annual Town Meeting business L. Anderson noted the articles that would be discussed that night by Town Meeting and noted two revisions to the motions. C. Karlson reported that Town Counsel would start title work on the land to be acquired at Town Center and that she forwarded concerns raised by Anette Lewis and others during ATM discussion of the Gifts of Land article to Town Counsel.

A6. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any None.

A7. Recess and reconvene to join Annual Town Meeting There being no further business before the Board, at 6:41 pm L. Jurist moved, seconded by C. Karlson, to recess the meeting of the Board of Selectmen and join Town Meeting. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, 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 5, 2018.

1. Motions for ATM, as of April 4, 2018

Items Included as Part of Agenda Packet for Discussion During the April 5, 2018 Board of Selectmen's Meeting

None.



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41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN

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

DRAFT

Board of Selectmen

Meeting Minutes

April 9, 2018

5:30pm

**Selectmen's Meeting Room
41 Cochituate Road, Wayland**

Attendance: Lea T. Anderson, Mary M. Antes, Louis M. Jurist, Cherry C. Karlson, Douglas A. Levine.
(arrived at 5:34pm)

Also Present: Assistant Town Administrator E. Doucette.

A1.Call to Order by Chair L. Anderson called the meeting of the Board of Selectmen to order at 5:30pm 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. She reviewed the evening's agenda.

A2. Announcements and Public Comment M. Antes announced that the Sudbury-Wayland-Lincoln Domestic Violence Roundtable's rescheduled White Ribbon Day Program will be held at the Public Safety Building tomorrow at 3pm.

There was no Public Comment.

A3. Town Administrator Search: Meet with Bernie Lynch of Community Paradigm Associates Bernie Lynch and Sharon Flaherty of Community Paradigm Associates came before the Board and described the Town Administrator hiring process. B. Lynch stated it's a tough market right now with the trend of Town Managers and Town Administrators retiring and few young professionals entering the field. At this time, there are about 15-18 Manager positions open in the state. Community Paradigm will advertise and receive applications (generally about 1/2 of the candidates who apply are qualified), then narrow the candidate pool and bring forward qualified candidates to the Committee. He said they try to keep the pool of candidates broad. The Screening Committee determines which candidates to interview and identifies finalists for the BoS to interview. B. Lynch distributed a document titled Projected Time-Line outlining the process, steps and target dates. Steps include talking to the stakeholders, board members, department heads and holding a community forum. He said he has several candidates that could be available to serve as interim TAs, if necessary. B. Lynch and the board discussed the uniqueness of Wayland's situation and what makes it different from other communities. B. Lynch pointed out similarities Wayland has to other towns and cities with which he has successfully worked. The Board agreed to form a Screening Committee and decide on a date for a community forum.

A4. Flexible Spending Accounts: Review and approve plan to outsource the administration of employee flexible spending accounts: E. Doucette stated the Town presently manages this function in-house and would like to outsource it to a service. She reported that most municipalities outsource the accounts to better comply with HIPPA in maintaining employee confidentiality. She expects to save staff time and to see increased use of the benefit when a firm takes over; timing for conversion would be mid-year in about October. She has received price quotes from several firms with the cost range shown in the write-up in the packet. M. Antes asked for an update on outsourcing payroll. E. Doucette said the decision was made

not to outsource payroll at this time and Tyler Technologies is conducting an investment assessment. The Board agreed by consensus to approve the plan to outsource administration of employee flexible spending accounts.

A5. Minutes: Vote to approve March 26, 2018 C. Karlson reported that draft minutes were received and will be ready for vote at the next meeting. D. Porter stated he would compile the minutes from the three meetings held before Town Meeting sessions.

A6. Consent Calendar: Review and vote to approve (See Separate Sheet) M. Antes moved, seconded by L. Jurist, to approve the Consent Calendar. YEA: L. Anderson, M. Antes, D. Levine, C. Karlson, L. Jurist. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

A7. Review Correspondence: (See Separate Index Sheet) D. Levine stated he would look into to whom the legal letter should be referred (item #5). C. Karlson said she would like to call attention to the note from Planning Board Chair D. Hill about Ch. 40B compliance, and she's glad he's bring it forward again. E. Doucette said staff would have to look into that. L. Anderson noted there were nice letters to the Police Department included in the monthly report.

A8. Selectmen's Reports and Concerns D. Levine discussed the Route 27/30 intersection issue and said he received correspondence from a resident who used to work for Verizon. Paul Rufo, Old Tavern Road, came before the Board to describe his views of the situation and what has caused the delays. At the same meeting with Rep. Gentile, D. Levine talked to MassDOT about utilizing property in Sudbury to park the school busses. D. Levine mentioned it to the School Committee chair. M. Antes said the MAPC Annual Meeting is on May 25th. They are looking for nominations for officers and for the executive committee. L. Anderson noted that the Board of Selectmen's policy states the first meeting after Annual Town Meeting should be a reorganization meeting, but instead that will take place on April 23.

A9. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
None.

A10. Adjourn D. Levine moved, seconded by L. Jurist, to adjourn the meeting at 6:33 pm. YEA: L. Anderson, M. Antes, D. Levine, L. Jurist, C. Karlson. 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 9, 2018.

1. Town Manager Recruitment Project Time-Line, provided by Bernie Lynch of Community Paradigm.

Items Included as Part of Agenda Packet for Discussion During the April 9, 2018 Board of Selectmen's Meeting

1. Contract between the Town of Wayland and Community Paradigm Associates, LLC for private consultant services for the recruitment and selection of the Town Administrator of Wayland
2. Memorandum from Beth Doucette, Interim Assistant Town Administrator, to the Board of Selectmen, re: Flexible spending accounts

BOARD OF SELECTMEN

**Monday, April 23, 2018
Wayland Town Building
Large Hearing Room
41 Cochituate Road**

CONSENT CALENDAR

1. Vote the question of approving and signing the weekly payroll and expense warrants
2. Vote the question of approving the invoice for Mark J. Lanza, dated March 31, 2018 for legal services rendered through March 31, 2018: \$687.00
3. Vote the question of approving the invoice for Deutsch Williams, dated April 10, 2018, Invoice No. 199, for legal services rendered through March 27, 2018: \$1,615.96
4. Vote the question of approving the placement of four temporary sandwich board signs from April 27-May 3, 2018, at Route 20 at the Weston Town Line, Route 20 at the Intersection of Route 27, the Intersection of Old Connecticut Path and Routes 126 and 27, and the Cochituate Fire Station at the Corner of East Plain Street advertising a workshop with Digital Learning Specialist Kerry Gallagher, sponsored by the Wayland Children and Parents Association.
5. Vote the question of approving the placement of four temporary sandwich board signs from May 4-10, 2018, at Route 20 at the Weston Town Line, Route 20 at the Intersection of Route 27, the Intersection of Old Connecticut Path and Routes 126 and 27, and the Cochituate Fire Station at the Corner of East Plain Street advertising Wayland-Weston Youth Football Summer and Fall Program Registration
6. Vote the question of approving the placement of four temporary sandwich board signs from May 11-20, 2018, at Route 20 at the Weston Town Line, Route 20 at the Intersection of Route 27, the Intersection of Old Connecticut Path and Routes 126 and 27, and the Cochituate Fire Station at the Corner of East Plain Street advertising the Spring Book and Bake Sale, sponsored by the Friends of the Wayland Free Public Library

Mark J. Lanza
Attorney at Law
9 Damonmill Square - Suite 4A4
Concord, MA 01742
Tel. # (978) 369-9100
Fax # (978) 369-9916
e-mail: mjlanza@comcast.net

INVOICE - TOWN OF WAYLAND - 3/31/2018

SUMMARY

FEE CALCULATION: 3.9 HOURS X \$175.00 PER HOUR =	\$ 682.50
DISBURSEMENTS (See below for detail	4.50
TOTAL 3/31/18 INVOICE.....	<u>\$ 687.00</u>

DISBURSEMENTS

Copying - Mainstone CR	4.50
Total Disbursements	<u>\$ 4.50</u>

DEUTSCH WILLIAMS BROOKS
DeRENSIS & HOLLAND, P.C.
P.O. BOX 51480
BOSTON, MASSACHUSETTS 02205
(617) 951-2300
Fax (617) 951-2323

INVOICE FOR LEGAL SERVICES

Town of Wayland
Town Building
41 Cochituate Rd.
Wayland MA 01778

Attn: Town Administrator

Labor

RECEIVED

APR 12 2018

Board of Selectmen
Town of Wayland

Page 1
04/10/2018
Account No. 5673-01M
Invoice No. 199

FOR CURRENT SERVICES RENDERED

9.20 1,580.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
J. Foskett (JF)	1.20	\$200.00	\$240.00
Elizabeth B. Valerio (EBV)	1.20	200.00	240.00
Jennifer King (JK)	1.30	0.00	0.00
W. H. Chu (WHC)	5.50	200.00	1,100.00

Mileage expense

22.46

Photocopying

13.50

TOTAL EXPENSES

35.96

TOTAL CURRENT INVOICE

1,615.96

Town of Wayland

Labor

Page 3
04/10/2018
Account No. 5673-01M
Invoice No. 199

BALANCE DUE

\$1,615.96

PUBLIC DOCUMENTS PROVIDED TO THE BOARD OF SELECTMEN FROM APRIL 7, 2018, THROUGH AND INCLUDING APRIL 20, 2018, OTHERWISE NOT LISTED AND INCLUDED IN THE CORRESPONDENCE PACKET FOR APRIL 23, 2018

Items distributed to the Board of Selectmen – April 7, 2018-April 20, 2018

1. None

Items distributed for information and use by the Board of Selectmen at the Meeting of April 9, 2018

1. None

Items included as part of Agenda Packet for discussion during the April 23, 2018 Board of Selectmen's Meeting

1. Board of Selectmen Policy on Officers and Meetings (revised on July 13, 2015)
2. Board of Selectmen Policy on Liaison Program (approved May 1, 2017)
3. Board of Selectmen Liaison Assignments for April 2017 through April 2018
4. Town of Wayland Governance Guidelines for the Board of Selectmen and Appointed Boards, Committees, and Commissions (adopted June 5, 2017)
5. Draft letter from the Chair of the Board of Selectmen to Senator Ross, Representative Gentile, and Representative Peisch, re: Act Relative to the Prevailing Wage for Affordable Housing in the Town of Wayland
6. Draft letter from the Chair of the Board of Selectmen to Governor Baker and Secretary Ash, re: Act Relative to the Prevailing Wage for Affordable Housing in the Town of Wayland
7. Annual Town Meeting Vote Certificate for Article 29: An Act Relative to the Prevailing Wage for Affordable Housing in the Town of Wayland
8. Board of Selectmen Vote Certificate to approve the petition to the State Legislature seeking exemption from sections 26 through 27H of Chapter 149 of the General Laws for affordable-related projects estimated to cost \$30,000 or less.
9. Copy of Article 29 from 2018 Annual Town Meeting
10. Draft letter from the Chair of the Board of Selectmen to Timothy Murnane, VP of Government and Regulatory Affairs, Comcast, re: Wayland Massachusetts License Renewal Process
11. Memorandum from Nan Balmer, dated April 23, 2018, re: Vote to sign Collective Bargaining Agreement: Firefighters
12. Memorandum from Nan Balmer, dated April 23, 2018, re: Request for waiver of fees from the Affordable Housing Trust for its project at 11 Hammond Road
13. Town Administrator's Report for the week ending April 20, 2018
14. Memorandum from David Porter, dated April 23, 2018, re: Volunteer recruitment
15. Draft minutes of the Board of Selectmen meetings held on March 26, 2018; April 2, 2018; April 3, 2018; April 5, 2018; and April 9, 2018

BOARD OF SELECTMEN
Monday, April 23, 2018
Wayland Town Building
Large Hearing Room

CORRESPONDENCE

Departmental Correspondence

1. Wayland Board of Health, Director's Report, April 2018
2. Memorandum from Brian Keveny, Finance Director, to Nan Balmer, dated April 16, re: Budget Status Report FY2018, 3rd Quarter

Selectmen

3. Email from N. Balmer to Betty Salzberg, re: Possible payment by state for design of new COA
4. Letter from N. Balmer to Thomas Gulley, re: Response to inquiry into whether BOS can reverse the decision of the Board of Public Works
5. Letter from B. Keefe, Public Facilities Director, to Jerry Cellucci, Raytheon Company, re: Partial Release of Notice of Activity and Use Limitation dated October 21, 1997 on Future Municipal Parcel at Wayland Town Center, Wayland, Massachusetts
6. Letter from Gregory P. Watson, Manager of Planning and Programming at MassHousing, to Donald A. Levine of Wayland Meadows LLC, dated April 4, re: Chapter 40B Cost Examination for Wayland Meadows LLC / Wayland Commons
7. Letter from Carolyn Murray, Town Counsel, to Jonathan Sclarsic, Director of the Division of Open Government, Office of the Attorney General, dated April 10, re: Town of Wayland Board of Selectmen – Response to March 22, 2018 Open Meeting Law Complaint of George Harris
8. Letter from Shonda Green, Department Secretary, State Department of Telecommunications and Cable, dated April 11, re: License Expiration Notice
9. Letter from Carolyn Murray, Town Counsel, to Clerk of Land Court, dated April 13, re: Trustees of the Residences at 89 Oxbow Condominium Trust, et al. v. Wayland Planning Board

State

10. Email from N. Balmer to State Representative Carmine Gentile, re: Request to support DLTA Funding
11. Email from J. Russo, assistant to State Representative Carmine Gentile, re: Wayland in House Ways and Means Budget
12. Letter from Barry Lorion, MassDOT Acting District 3 Highway Director, dated April 2, re: Bridge Inspection Reports
13. Decision of the Trial Court (Land Court Department), Case No. 13 MISC. 480577 (KCL), Moss v. Lingley and Town of Wayland
14. Massachusetts Supreme Judicial Court Slip Opinion, SJ-12353, Boelter v. Board of Selectmen of Wayland

Other

15. Flier from MCO Housing Services advertising affordable housing at 219-22 Rice Road
16. Notice from Eversource Energy, dated April 10, re: Application of herbicides along the power line rights-of-way
17. Flier for "The Impacts of Marijuana: Tools for Municipalities to Address Health, Social, and Legal Issues," May 17, 490 Turnpike Street, Canton, MA
18. Letter from Robert F. Larkin, President of Senior Living Residences LLC, to Brian Boggia, Director of Wayland Housing Authority, dated April 15, re: Paine Estate Development Agreement, Section 3.a Affordability Requirements



TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

(BOS)

RECEIVED

APR 18 2018

Board of Selectmen
Town of Wayland

Julia Junghanns, R.S., C.H.O.
DIRECTOR OF PUBLIC HEALTH
TEL. (508) 358-3617
www.wayland.ma.us

Wayland Board of Health Director's Report April 9, 2018

Soil testing for septic designs has picked up for the spring construction season as well as building approval submittals.

File alley project update: this project is now underway again to finish reorganizing and going through old files and cleaning things out. We will begin moving some files into the vault for storage in the next couple of weeks.

Town Building construction-Due to the burst frozen sprinkler pipe that flooded the hallway of the 1st floor and the Conservation and Health Department areas construction work will be done in the hallway and several areas of town building including our front counter area. The work is scheduled to begin next week. Until the work is completed we have relocated the front counter area and staff into our small department area located in the back. We will continue to use this work area temporarily until the work is completed however, it is not ideal for production or assisting the public. During construction the public will enter through our department (in the back) for Conservation and Building also.

The scanning project for Title 5 reports and documents has been vetted and we plan to begin sometime in the next couple of weeks.

Permit program and workflow-Fire Chief Houghton and I worked together to draft a scope of work outline for someone to be hired by the town to identify town workflow processes in preparation for a new permitting program. We met with a potential consultant/contractor today and reviewed the scope of work. We will follow up with this after the Assistant Town Administrator returns from vacation and discuss next steps. Office staff also visited the town of Andover to see their permitting system (Viewpermit).

Fire Dept. Station 2- Office staff has reached out to the engineer and the installer to find out what the delay is. The job site has been under construction for the new septic system since January. We are still waiting for the installer to move forward with tank installations as the inclement weather has been a factor and hope to have this job wrapped up in the next couple of weeks.

Recreational Camp Regulations-these regulations have been changed/updated significantly for this camp season. Office staff is attending seminars hosted by the Community Sanitation Division of DPH to become familiar with the changes and we will do significant outreach to the seasonal camps to ensure everyone will be ready for the changes and in compliance.

Recreational Marijuana Regulation Forum-I attended this forum where several presentations were made and an overview was provided regarding the draft regulations. Since we adopted new Tobacco Regulations in 2015 we are covered in some areas with our Regulations for Smoking in Workplaces and Public Places. However, there are still many areas of the draft regulations that are unclear and being discussed. We will be meeting with the Youth Advisory Committee and Town Planner at our next Board meeting to discuss plans in the Wayland regarding potential zoning, regulation and/or opting out (potentially on the Sept. 4th ballot and then a vote at STM), public forums will be arranged. At this time Wayland has an extended moratorium for recreational dispensaries until December 31st.

Annual permit renewals-Currently our annual permits renew on the calendar year and the town uses a fiscal year of June 30-July 1. We are making a process improvement by changing our annual permits to renew with the same cycle as the town fiscal year end. This will put our dates in line with the town annual reports which we are required to produce as well as the revenue we collect, and our budget and reports. As part of this process we have already billed for a semi-annual fee (end of Dec./Jan) and our next billing will be for a full year (July 1-June 30). Research is being done to identify how we officially make these changes (calendar year vs fiscal year). Procedurally we will likely need to vote to change the dates in the near future once we have all the information prepared.

Dudley Woods-We have been contacted to provide feedback regarding the potential for artifacts and cremains of Wayland origin (from Mansion Inn) to be repatriated from several museums back to Wayland, possibly in Dudley Woods. I am in the process of looking into this through the Recreation Director, Town Planner, and the state for Tonya Largy and Amanda Ciaccio, Town Archeology Consultants. If things work out they may be coming to speak to the Board at one of our next meetings.

Complaints-Animal Keeping Permit complaint-I am in the process of investigating a complaint regarding animal keeping (on Stonebridge Road)without a permit (6 ducks). Also, I did investigation regarding a complaint of a potential cesspool overflowing on King Street which was unfounded.

Annual pool inspections are in the process for the Wayland Community Pool and Longfellow.

Mosquito control-Aerial larviciding (using BTI, *Bacillus thuringiensis* var. *israelensis* planned for this month by the East Middlesex Mosquito Control Project (likely sometime between April 17th and 26th). All formal notifications have been handled by EMMCP as required by law.

Respectfully,

Julia Junghanns, R.S., C.H.O.,
Director of Public Health



TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BRIAN KEVENY
FINANCE DIRECTOR
TEL. (508) 358-3610
www.wayland.ma.us

To: Nan Balmer, Town Administrator
From: Brian Keveny, Finance Director
Date: April 16, 2018
Subject: Budget Status Report FY 2018, 3rd Quarter

General Fund

Please find enclosed the budget status reports for the General Fund, Enterprise Funds and Revolving Funds as of March 31, 2018. The reports detail actual revenues and expenditures to budget as well as a year to year comparison to Fiscal 2017. Additionally I have prepared Health Insurance, Free Cash and Reserve Fund Reports. All recent Town Meeting approved articles related to Fiscal 2018 will be recorded in April.

General Fund Expenditures:

Town Departments have expended / encumbered \$31,053,985 or 79% of budget compared to \$31,880,957 or 81% of budget last fiscal year. The decrease in spending is attributable to the decrease in transfers to the Recreation and Water Departments from the General Fund. The anticipated FY 2018 appropriation turnback is approximately \$1.1M which is comparable to last fiscal year. However additional funding related to year end transfers may reduce this amount. Currently the balance in the Reserve Fund is \$73,000. It is apparent that the Medicare Tax and General Insurance budgets will need additional funding of approximately \$55,000. During Fiscal 2018 town and school departments received increases in wages and retro payments which increased the Medicare Tax on payroll. We will be monitoring all budgets closely during the final quarter of FY 2018.

School Department has expended / encumbered \$24,946,442 or 63% of budget compared to \$26,129,974 or 69% of budgeted last year same period. I did receive notification from the School Department that they are planning on prepaying FY 2019 special education tuition costs in June.

General Fund Revenues:

The Town has collected approximately 79% of budgeted Property Tax, Local Receipts, State Aid and Transfers from Other funds revenue thru 9 months. The total dollar increase year to year is \$6,775,996. Actual Local Receipts are down \$268,069 compared to last fiscal year primarily due to decreases in Penalties and Interest revenue. Motor Vehicle Excise collections increased by \$194,157. Building Permit collections show a decrease of \$40,68 compared to \$149,427 last year. The Town Treasurers Office has collected \$572,512 in unbudgeted prior year Tax Lien and Real Estate receivables compared to \$991,171 last year. Additionally the town received Bond Premium revenue in the amount of \$263,717. State Aid revenue is consistent with last year at 75% of budget. All budgeted transfers from other funds will be posted to the MUNIS system in May. Total revenue collected is \$61,515,491 compared to \$55,389,412 last year. The actual total revenue year to year increase is \$5,862,362.

Fiscal 2017 Continuing Appropriations:

Both the town and school rolled over into Fiscal 2018 continuing appropriations from Fiscal 2017 in the amount of \$1,240,547. Included in this amount is \$300,000 related to Health Insurance Employee Benefits. This amount will be closed to Free Cash at year end. Fiscal 2018 Health Insurance appropriations will be encumbered for \$300,000 in order to continue providing this benefit. The unexpended balance of this appropriation is \$579,000 which will be closed to Free Cash at year end.

Free Cash

I have provided a Free Cash schedule which includes the most recent Town Meeting voted uses of Free Cash including capital projects and the Council on Aging Building study. The projected Free Cash at June 30, 2018 is \$8.1M compared to \$7.2M last fiscal year. If the Assessors release overlay prior to year end the projected Free Cash amount will increase.

Reserve Fund

Thru March 2018 the Finance Committee has authorized \$177,000 in additional funding which leaves a remaining balance of \$73,000. I have prepared for your review a report showing approved and pending transfers. The New Modernization Act provides the following, *The selectmen, with the concurrence of the finance committee or other entity established under section 16 of chapter 39, may transfer within the last 2 months of any fiscal year, or during the first 15 days of the new fiscal year to apply to the previous fiscal year, any amount appropriated, other than for the use of a municipal light department or a school department, to any other appropriation.*

Wastewater Enterprise Fund:

Revenue:

Through nine months the Wastewater Fund has collected 54% of budget revenue or \$386,412 compared to \$471,851 in FY 2017. The dollar collection variance year to year is related to Wastewater User Charge revenue and variance other revenue categories. The Wastewater Commission recently set the annual usage rates for users.

Expenditures:

Total expenses are \$573,625 or 80% of budget which is consistent with prior year. The annual debt payments are \$423,920 which is 66% of the budget. The current fund balance is \$1,187,387 compared to \$1,222,904 last year same period.

Water Enterprise Fund:

Revenue:

The Water Fund has collected 70% of budgeted revenue or \$2,843,375 compared to \$2,970,630 last fiscal year. Actual revenue is down \$127,255 compared to prior year mainly due to an unfavorable variance in Water Meter Charges. I will be transferring closed Water Capital Projects in the Capital Fund back to the Water Fund in the last quarter of Fiscal 2018.

Expenditures:

The Water Fund has expended \$2,315,796 in operation expenses and \$390,000 capital appropriations thru March 201. Approximately 57% of budget has been expended which is consistent with prior year which was 60%. Additionally \$65,043 was transferred to the Water Capital Fund as a result of an incorrect 2008 capital project closeout.

Town of Wayland
Fiscal 2018
March 31, 2018

General Fund

		Fiscal 2018 Budget	Fiscal 2018 Actual	% Budget Spent
Revenue				
Taxation		64,666,538	52,913,092	81.82%
State Aid		5,267,121	3,946,212	74.92%
Local Receipts		4,709,404	4,073,802	86.50%
Transfers from Other Funds		1,862,402	-	0.00%
Other Sources				
Total		76,505,465	60,933,106	79.65%
Non Budgeted		-	582,385	n/a
Total Revenue		76,505,465	61,515,491	80.41%
Expenditures				
Town Budget		39,027,085	31,053,985	79.57%
School Budget		39,156,483	24,946,442	63.71%
Total Expense		78,183,568	56,000,427	71.63%

Water Enterprise Fund

		Fiscal 2018 Budget	Fiscal 2018 Actual	% Budget Spent
Revenue				
Operating revenue		4,005,702	2,843,375	70.98%
Use of Water Capital		325,000	0	0.00%
Unbudgeted Revenue		0	0	0.00%
Total Revenue		4,330,702	2,843,375	65.66%
Expenditures				
Operating expenses		4,005,702	2,315,796	57.81%
Use of Water Capital		325,000	390,063	0.00%
Total Expense		4,330,702	2,705,859	62.48%
Unbudgeted Expense		0	0	0.00%
Total Expenses		4,330,702	2,705,859	62.48%

Wastewater Enterprise Fund

		Fiscal 2018 Budget	Fiscal 2018 Actual	% Budget Spent
Revenue				
Operating revenue	Total Revenue	712,744	386,412	54.21%
Expenditures				
Operating expenses	Total Expense	747,744	573,625	76.71%

Town of Wayland, Massachusetts
General Fund Revenue Report
Fiscal 2018
March 31, 2018- Q-3 Report

	Fiscal 2017 YTD-Actual	Fiscal 2018 YTD-Actual	Fiscal 2018 Budget	\$ Variance 2018 / 2017	B / A Fiscal 2018 \$ Variance	% of Budget Collected
Taxation:						
Real Estate	45,441,864	52,268,944	64,222,212	6,827,080	(11,953,268)	81.39%
Personal Property	606,394	644,148	819,824	37,754	(175,676)	78.57%
Overlay	-	-	(375,498)	-	375,498	0.00%
Total	46,048,258	52,913,092	64,666,538	6,864,834	(11,753,448)	81.82%
State Aid:						
School Construction						
Local Aid : Cherry Sheet						
Chapter 70	3,031,846	3,196,441	4,265,052	164,595	(1,068,611)	74.94%
Charter Tuition Assessment	-	-	-	-	-	0.00%
Unrestricted Aid	651,853	677,268	903,034	25,415	(225,766)	75.00%
Veterans Benefits Chapter 115	34,503	4,363	5,854	(30,140)	(1,491)	74.53%
Exemption : Vets, Blind, Surviving Spouse	3,011	22,420	32,215	19,409	(9,795)	69.59%
State Owned Land Reimbursement	45,798	45,720	60,966	(48)	(15,246)	74.99%
Unknown	0	-	-	-	-	0.00%
Total	3,766,981	3,946,212	5,267,121	179,231	(1,320,909)	74.92%
Local Receipts:						
Motor Vehicle Excise	2,144,248	2,338,405	2,500,000	194,157	(161,595)	93.54%
Other Excise	176,382	180,686	225,000	4,304	(44,314)	80.30%
Penalties and Interest	384,448	157,668	325,000	(226,780)	(167,332)	48.51%
Payment in Lieu of Taxes	46,251	41,234	40,000	(5,017)	1,234	103.09%
Fees	640,646	398,732	650,000	(241,914)	(251,268)	61.34%
Licenses and Permits	579,870	539,190	790,000	(40,680)	(250,810)	68.25%
Special Assessments	3,436	5,056	6,000	1,620	(944)	84.27%
Fines and Forfeits	33,077	33,501	43,000	424	(9,499)	77.91%
Investment Income	69,796	115,613	125,000	45,817	(9,387)	92.49%
Miscellaneous Recurring	0	0	5,404	0	(5,404)	0.00%
Bond Premium	-	263,717	0	-	263,717	0.00%
Total	4,078,154	4,073,802	4,709,404	(268,069)	(635,602)	86.50%
Transfers from other funds:						
Fund 24-Ambulance	-	-	615,000	-	(615,000)	0.00%
Fund 24-Council on Aging	-	-	2,190	-	(2,190)	0.00%
Fund 24-Transfer Station	-	-	80,762	-	(80,762)	0.00%
Fund 24-Recreation	-	-	29,495	-	(29,495)	0.00%
Fund 25-Food Service	-	-	229,376	-	(229,376)	0.00%
Fund 25-BASE	-	-	226,657	-	(226,657)	0.00%
Fund 25-TCW	-	-	221,409	-	(221,409)	0.00%
Fund 25-Full Day Kinder	-	-	47,022	-	(47,022)	0.00%
Fund 61-Water	-	-	381,660	-	(381,660)	0.00%
Fund 62-Septage	-	-	0	-	0	0.00%
Fund 63-Wastewater	-	-	28,831	-	(28,831)	0.00%
	-	-	1,862,402	-	(1,862,402)	0.00%
Total Budgeted Revenue	17,182,965	60,933,106	76,505,465	6,775,996	(15,572,359)	79.65%
Unbudgeted Revenue:						
Tax Title Liens	451,585	181,131	-	(270,454)	-	0.00%
Prior Year RE collections	539,586	391,381	-	(148,205)	-	0.00%
Fund 24-Recreation-New FY 17 accounts	482,618	7,666	-	(474,952)	-	0.00%
Wastewater / Library Agreement	22,230	2,207	-	(20,023)	-	0.00%
Total Unbudgeted Revenue	1,496,019	582,385	-	(913,634)	582,385	0.00%
Total All Revenue	55,389,412	61,515,491	76,505,465	5,862,362	(14,989,974)	80.41%

Town of Wayland
Fiscal 2018 Total Revenue and Expenditures-GAAP
March 31, 2018- Q-3 Report

	FISCAL 2018 BUDGET TO ACTUAL				FISCAL 2017 ROLLOVER BUDGET TO ACTUAL				
	Final Budget	YTD Actual	Encumbrance	FY 2018 Total (Uncollected) / Unspent	FISCAL 2017 CARRYFORWARD	FISCAL 2017 ACTUAL	ENCUMBERED CARRYFORWARD	UNENCUMBERED CARRYFORWARD	COMBINED FY 18 / FY 17
REVENUES:									
Taxation-net of overlay	64,666,538	52,913,092	n/a	(11,753,446)	n/a	n/a	n/a	n/a	(11,753,446)
State Aid:	5,267,121	3,946,212	n/a	(1,320,909)	n/a	n/a	n/a	n/a	(1,320,909)
Local Receipts	4,709,404	4,073,802	n/a	(635,602)	n/a	n/a	n/a	n/a	(635,602)
Transfers From Other Funds	1,862,402	-	n/a	(1,862,402)	n/a	n/a	n/a	n/a	(1,862,402)
Non Budgeted Revenue	-	582,385	n/a	582,385	n/a	n/a	n/a	n/a	582,385
Free Cash	1,092,858	-	n/a	0	n/a	n/a	n/a	n/a	n/a
Overlay	500,000	-	n/a	0	n/a	n/a	n/a	n/a	n/a
Bond Premium	85,245	-	n/a	0	n/a	n/a	n/a	n/a	n/a
Total Revenues	78,183,568	61,515,491	0	(14,989,974)	0	0	0		(14,989,974.00)
EXPENDITURES:									
General Government	4,696,760	3,012,119	228,556	1,456,085	301,759	218,071	15,707	67,981	1,524,060
Public Safety	6,478,289	4,604,946	114,827	1,758,516	27,802	28,093	-1,086	795	1,758,311
Education	39,156,483	24,946,442	2,220,131	11,989,910	483,612	352,214	75,272	56,126	12,046,036
Minuteman Reg School	185,000	78,676	0	106,324	0	0	0	0	106,324
Public Works	3,051,247	2,216,791	28,428	806,028	63,633	52,066	7,178	4,389	810,417
Health and Human Services	1,446,197	946,238	38,899	461,060	3,884	995	0	2,889	463,949
Culture and Recreation	1,263,024	809,482	45,906	407,636	29	0	29	0	407,636
State and County Assessments	153,498	115,187	-	38,311	0	0	0	0	38,311
Debt Service	7,544,703	7,170,978	-	373,725	0	0	29	-29	373,696
Pension	4,362,369	4,362,369	-	-	0	0	0	0	-
Unclassified	8,906,667	6,454,713	7,884.00	2,444,070	359,828	9,815	300,000	50,013	2,494,083
	-	-	-	-	0	0	0	0	-
Other Expenditures	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-
Transfers To Other Funds	221,023	221,023.00	-	0	-	-	-	-	-
Transfer to Recreation	-	-	-	-	-	-	-	-	-
Transfer to Other Funds-Capital Overlay	718,308	1,061,463	-	(343,155.00)	-	-	-	-	(343,155.00)
	-	-	-	0	-	-	-	-	-
Total Expenditures	78,183,568	56,000,427	2,684,631	19,498,510	1,240,547	661,254	397,129	182,164	19,640,674

Fiscal 2018- Reserve Fund

FY 2018 Budget 250,000

Year to date transfers:

Legal Budget (75,000)

Town Building Septic System (32,000)

DPW Riversedge Removal (70,000)

Adjusted balance: 73,000

Estimate

Additional transfers:

Medicare Tax 50,000

General Insurance 5,000

Total estimated-----> 55,000

Available budget: 73,000

**Town of Wayland
Fiscal 2018
Health Insurance Report**

	Fiscal 2018 Budget	Actual-9 Months Budget	3-Month Estimate	Estimated Total Expenses	Estimated Turnback	% of Total Budget
<i>Fiscal 2018</i>						
Health Insurance	6,921,180.00	4,853,899.52	1,624,108.08	6,478,007.60	443,172.40	6.40%
Incentive Waiver	191,820.00	158,497.02	75,347.16	233,844.18	(42,024.18)	-21.91%
Life Insurance	18,600.00	12,224.50	4,050.15	16,274.65	2,325.35	12.50%
Other Expenses	66,200.00	44,989.97	16,799.76	61,789.73	4,410.27	6.66%
Bench Mark	-	50,000.00	300,000.00	350,000.00	(350,000.00)	
	7,197,800.00	5,119,611.01	1,720,305.15	7,139,916.16	57,883.84	0.80%

FREE CASH ANALYSIS		Fiscal	Fiscal
	4/11/2018	2017	2018
Budget growth rate at- 3.50%			77,970
General Fund / Unappropriated Budgets			
Free Cash Balance beginning year:		4,641	7,299
<i>Uses of Free Cash</i>			
Current year increase		-335	-
Art-9 STM High School Part 1		-	-152
Art-2 STM Current Year Transfer-Nov 2017		-	-6
Art-2 ATM Current Year Transfer-April 2018		-	-
OPEB-ATM 2018		-	-
COA-ATM 2018		-	-
IT Leasing ATM 2018		-	-
Snow & Ice ATM 2018		-	-200
Snow & Ice ATM 2018-Additional		-	-100
Town Meeting-ATM 2018		-	-75
Future Town Meeting Articles		-	0
COA Design		-	-470
Overlay to support subsequent year budget		-500	-
Support subsequent year operating budget		-500	-
OPEB Funding after 2018		-221	-
Capital Projects subsequent year		-219	-1126
DOR adjustments- various fund deficits		-284	-200
Total		(2,059)	(2,329)
<i>Sources of Free Cash</i>			
Net change in year to year overlay		613	300
Amortization of MSBA		5	5
Prior year recovery		145	284
Current year unbudgeted revenue			
OPEB transfers to General Fund		50	50
Recreation Revolving Transfer		482	-
Prior Year Real Estate / PP revenue		1,293	750
Account Closeouts		59	-
Current year excess revenue over budget		0	-
Real Estate / Personal Property		-3	-
State Aid		-1	-
Local Reciepts		757	-
Transfers from other funds		0	-
Net all current years revenue over budget		-	500
Prior year rollover appropriation turnback		108	100
Turnbacks-Current Year (Equals 1.50% of CY Budget)		1,209	1,156
Total		4,717	3,145
Net annual source & use change:		2,658	816
Free Cash Balance Beginning Of Next Fiscal Year		7,299	8,115
Free Cash as % of next year budget		9.36%	9.93%

Town of Wayland, Massachusetts
Wastewater Enterprise Fund
Fiscal 2018
Quarterly Report, 03/31/2018

	Fiscal 2018 Budget	Fiscal 2018 Actual	% Budget Collected / Expended	\$ Variance Budget / Actual	Fiscal 2017 Actual	\$ Variance FY 18 / FY 17
Operating Revenue:						
Penalties and Interest	-	344	0.00%	344	1,090	(746)
Wastewater User Charges	241,688	154,914	64.10%	(86,774)	216,276	(61,362)
Liens	-	1,622	0.00%	1,622	6,601	(4,979)
Betterments	283,441	12,176	4.30%	(271,265)	14,047	(1,871)
Betterment Interest	187,615	1,826	0.97%	(185,789)	2,378	(552)
Betterment paid in advance	-	-	0.00%	0	-	0
Unapportioned WW betterment TC	-	24,336	0.00%	24,336	25,052	(716)
Unapportioned WW betterment TC-Int	-	1,065	0.00%	1,065	683	382
WW Betterment TC RE	-	101,955	0.00%	101,955	100,052	1,903
WW Betterment TC Int	-	83,760	0.00%	83,760	89,701	(5,941)
Interest on Savings	-	-	0.00%	0	3,266	(3,266)
Misc. revenue	-	4,414	0.00%	4,414	12,705	(8,291)
Total	712,744	386,412	54.21%	(326,332)	471,851	(85,439)
Operating Expenditures						
Personal Services	29,555	21,698	0.00%	7,857	19,318	2,380
Expenditures	212,132	128,007	60.34%	84,125	80,057	47,950
Funded Debt	471,057	423,920	89.99%	47,137	477,471	(53,551)
Total	712,744	573,625	80.48%	139,119	576,846	(3,221)
Other Financing Sources / (Uses)						
Transfers to General Fund	-	-	0.00%	-	-	-
	35,000	-				
Total	35,000.00	-	0.00%	-	-	-
Total YTD Revenues	747,744	386,412	51.68%	(326,332)	471,851	(85,439)
Total YTD Expenditures	747,744	573,625	76.71%	139,119	576,846	(3,221)
FUND BALANCE						
Undesignated Fund balance		1,376,021				
Reserve for expenditure- Fiscal 2014		-				
Current outstanding encumbrances		-				
YTD expenditures (Current Year & FY 17 rollover)		(575,046)				
YTD revenues		386,412				
Undesignated Fund balance-		1,187,387				

Town of Wayland, Massachusetts
Water Enterprise Fund
Fiscal 2018
Quarterly Report, 03/31/2018

	Fiscal 2018 Budget	Fiscal 2018 Actual	% Budget Collected / Expended	\$ Variance Budget / Actual	Fiscal 2017 Actual	\$ Variance FY 18 / FY 17
REVENUES						
<i>Operating Revenue:</i>						
Penalties and Interest	24,500	21,365	87.20%	(3,135)	16,794	4,571.00
Water Meter Charges	3,691,202	2,492,790	67.53%	(1,198,412)	2,647,831	(155,041.00)
Liens		91,181	0.00%	91,181	57,042	34,139.00
Water Administration Fee	200,000	194,038	97.02%	(5,962)	195,729	(1,691.00)
Water Service Order	40,000	15,326	38.32%	(24,674)	34,814	(19,488.00)
Misc. Revenue	50,000	24,010	48.02%	(25,990)	14,075	9,935.00
Interest on Savings		4,665	0.00%	4,665	4,345	320.00
Total	4,005,702	2,843,375	70.98%	(1,162,327)	2,970,630	(127,255.00)
EXPENDITURES						
<i>Operating Expenditures:</i>						
Personal Services	719,600	467,266	64.93%	252,334	452,755	14,511.00
Expenditures	1,569,617	778,040	49.57%	791,577	783,038	(4,998.00)
Funded Debt	1,331,350	1,070,490	80.41%	260,860	1,069,781	709.00
Indirect Fringe Transfers to GF	381,660	-	0.00%	381,660	-	-
Indirect Fringe Transfers to GF and OPEB	3,475	-	0.00%	3,475	-	-
Total	4,005,702	2,315,796	57.81%	1,689,906	2,305,574	10,222.00
OTHER FINANCING TRANSFERS TO WATER CAPITAL						
<i>Other Financing Uses:</i>						
Transfers to Capital Projects / Unbudgeted expense	325,000	390,063	120.02%	(65,063)	450,000	59,937.00
	<u>325,000.00</u>	<u>390,063.00</u>		<u>(65,063.00)</u>	<u>450,000.00</u>	
<i>Other Financing Sources:</i>						
Water Surplus to Fund 42	325,000.00	-	-	0	0	-
Water Surplus to Fund 42-FY 2008 Project				0		
Water Revenue to General Fund				-		
Total YTD Revenues	4,330,702	2,843,375	65.66%	(1,487,327)	2,970,630	(127,255.00)
Total YTD Expenditures	4,330,702	2,705,859	62.48%	1,624,843	2,755,574	(49,715.00)
FUND BALANCE						
		2018				
Undesignated Fund balance		2,818,397				
YTD expenditures (Current Year & FY 17 rollover)		(2,853,201)				
YTD revenues		<u>2,843,375</u>				
Total Fund Balance		2,808,571				

Town of Wayland, Massachusetts
Major Town Revolving Funds
Comparison Report: Q3 2018 to Q3 2017
March 31, 2018

	24220900 Ambulance Revolving Fund			24494000 Transfer Station Fund			24652000 Recreation Revolving Fund		
	FY 2018 Actual	FY 2017 Actual	FY 18 / FY 17 Variance	FY 2018 Actual	FY 2017 Actual	FY 18 / FY 17 Variance	FY 2018 Actual	FY 2017 Actual	FY 18 / FY 17 Variance
Beginning Fund Balance-7/01/17	1,070,106	1,242,929	(172,823)	88,295	231,235	(142,940)	699,322	944,608	(245,286)
REVENUE:									
Revenue from services:	506,846	559,538	(52,692)	219,971	283,541	(63,570)	-	-	-
Revenue from programs:	-	-	-	-	-	-	-	-	0
Beach	-	-	-	-	-	-	553	-	553
Snack Bar	-	-	-	-	-	-	7,900	-	7,900
Beach Other	-	-	-	-	-	-	54,471	-	54,471
Field Permits	-	-	-	-	-	-	-	136,544	(136,544)
Summer Camps	-	-	-	-	-	-	303,555	290,453	13,102
Youth Programs	-	-	-	-	-	-	146,671	154,284	(7,613)
Adult Programs	-	-	-	-	-	-	58,647	57,251	1,396
Miscellaneous	-	-	-	-	-	-	(7,604)	(8,152)	548
Pre K Programs	-	-	-	-	-	-	29,118	17,474	11,644
Ski Programs	-	-	-	-	-	-	29,822	34,482	(4,660)
Seasonal events	-	-	-	-	-	-	-	6,622	(6,622)
Transfers from Other Funds	-	44,211	-	-	-	-	-	-	-
Total	506,846	603,749	(96,903)	219,971	283,541	(63,570)	623,133	688,958	(65,825)
EXPENDITURES:									
Operating Expenditures									
Personal Services	-	-	-	101,289	110,743	(9,454)	279,624	173,961	105,663
Expenses	49,880	48,054.00	1,826	176,689	177,479	(790)	373,040	282,380	90,660
Total	49,880	48,054.00	1,826	227,978	288,222	(10,244)	652,664	456,341	196,323
Other Financing Sources / (Uses)									
Transfers to Other Funds	445,000	515,000	(70,000)	-	88,000.00	(88,000.00)	-	482,618.00	(482,618)
Total	445,000	515,000	(70,000)	-	88,000.00	(88,000.00)	-	482,618.00	(482,618.00)
Total YTD Revenues	506,846	603,749	(96,903)	219,971	283,541	(63,570)	623,133	688,958	(65,825)
Total YTD Expenditures	494,880	563,054	(68,174)	227,978	376,222	(98,244)	652,664	938,959	(286,295)
Year to date Fund Balance total:									
Beginning Fund Balance-7/01/17	1,070,106	1,242,929	(172,823)	88,295	231,235	(142,940)	699,322	944,608	(245,286)
Total YTD Revenues	506,846	603,749	(96,903)	219,971	283,541	(63,570)	623,133	688,958	(65,825)
Total YTD Expenditures	494,880	563,054	(68,174)	227,978	376,222	(98,244)	652,664	938,959	(286,295)
Balance 03/31/18:	1,082,072	1,283,624	(201,552)	30,288	138,554	(108,266)	669,791	694,607	(24,816)

Balmer, Nan

Subject: FW: [Wayland MA] possible payment by state for design of new COA (Sent by Betty Salzberg, salzberg@ccs.neu.edu)

From: Balmer, Nan
Sent: Friday, April 13, 2018 8:29 AM
To: 'salzberg@ccs.neu.edu'
Cc: Anderson, Lea; Levine, Doug; Karlson, Cherry; Antes, Mary; Jurist, Louis
Subject: RE: [Wayland MA] possible payment by state for design of new COA (Sent by Betty Salzberg, salzberg@ccs.neu.edu)

Hi Betty,

Here's the background about the state earmark for a Wayland COA / Community Center -- I reached Rep. Gentile late yesterday to fill in a few details:

- Every year the state legislators ask towns what projects the towns would like to ask the state to fund through budget "earmarks".
- It is understood by the legislators and by the towns that these "earmark" requests are not often funded -- I have never been in a town where the funding was approved. In Wayland, this may also be related to our perceived lack of economic need.
- This year, Rep. Gentile called me and specifically asked whether he could request funding for a Council on Aging since the towns around Wayland have excellent facilities and Wayland does not have excellent facilities for seniors.
- Since there was no time to meet with the Selectmen and Rep. Gentile asked to support the COA, I said it was OK to discuss an earmark for a COA / Community Center project with the COA Director.
- We heard no more from Rep. Gentile --- neither that he had filed for an earmark --- and certainly not that the town had been funded.
- Yesterday after your e-mail, I talked with Carmine and he said that he decided not to pursue funding for the COA this year but welcomed the Town to work with him again next year.

The good news is that we can continue to pursue a state earmark for the project - Although it's unlikely Wayland would be funded, it's always worth a try!

Thanks for being in touch on this.

As always, please call or stop by if you have any questions,

Nan

-----Original Message-----

From: vtmailer@vt-s.net [<mailto:vtmailer@vt-s.net>]

Sent: Thursday, April 12, 2018 3:45 PM

To: Balmer, Nan

Subject: [Wayland MA] possible payment by state for design of new COA (Sent by Betty Salzberg, salzberg@ccs.neu.edu)

Hello nbalmer,

Carmine Gentile, our state rep, said to me last night, if I understood properly, that he "gave back" \$470,000 to the state because for some reason, the town of Wayland in the town meeting voted to pay for the design of the COA building, which otherwise would have been paid for by the state of Massachusetts.

Would the state have paid? Did anyone know about this? Did we just lose \$470,000?

Betty Salzberg



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

April 20, 2018

Mr. Thomas Gulley
20 Meadowview Road
Wayland, MA 01778-2902

Dear Mr. Gulley:

Thank you for your inquiry into whether the Board of Selectmen can reverse the decision of the Board of Public Works to not provide you with a credit on your water bill. I have reviewed your request and learned that the Board of Selectmen has no authority to reverse the decisions of the Board of Public Works.

Thank you,

A handwritten signature in cursive script that reads "Nan Balmer".

Nan Balmer
Town Administrator

CC: Board of Selectmen
MIIA



Kenneth Keefe
PUBLIC BUILDINGS DIRECTOR
TEL. (508) 358-3786
www.wayland.ma.us

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

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

Mr. Jerry Cellucci
Raytheon Company
870 Winter Street
Waltham, MA 02451-1449

Re: Partial Release of Notice of Activity and Use Limitation dated October 21, 1997 on Future Municipal Parcel at Wayland Town Center, Wayland, Massachusetts

Dear Mr. Cellucci

This letter is a follow up to the telephone conference conversation concerning this subject of April 2, 2018.

The Town of Wayland is currently conducting due diligence to complete an agreement for the acceptance of eight parcels of land currently owned by Twenty Wayland LLC, including four parcels of land known as the "Municipal Parcel", a portion of the Property known as Wayland Town Center located at 400 - 440 Boston Post Road, Wayland, Massachusetts.

The parcels under consideration are encumbered by a "Deed Restriction" still in effect and documented by filings dated October 21, 1997 consisting of "NOTICE OF ACTIVITY AND USE LIMITATION" (South Middlesex Registry of Deeds Book 27793 beginning on page 141) and "EASEMENT AND RESTRICTION AGREEMENT" (South Middlesex Registry of Deeds Book 27793 beginning on page 167).

In accordance with your previous correspondence and conversations, the Town desires to commence the process of obtaining a PARTIAL RELEASE OF NOTICE OF ACTIVITY AND USE LIMITATION to allow the remodeling of an existing structure on the parcels to be used as a Community Center. At a town meeting in November 2015, residents voted to acquire Assessor's Map 23: Lot 052K (Lot 8-1), Lot 052L (Lot 4-1), Lot 052S (Parcel R-20-1) and Lot 052M (Lot 9-1B). At town meeting in April 2018, residents appropriated funds to create construction and bid documents for a Community Center at this location, contingent on the Town closing on the land anticipated in June 2018.

The Town of Wayland anticipates using the parcels for municipal purposes that could possibly include a Senior/Community/Recreation Center, a Boathouse, and walking paths, playgrounds and gardens. These facilities would be used both daytime and evenings by a wide range of age groups from children to adults. The presently contemplated uses would not include residences or agriculture.

The Town of Wayland is cognizant that the requested Partial Release cannot be finalized until the Town is the Owner of Record for the parcels referenced. The Town is asking that in accordance with Paragraph 4. of the NOTICE OF ACTIVITY AND USE LIMITATION, the LSP consider rendering an Opinion regarding the risk of the proposed activities.

In addition to the four parcels mentioned above for the "Municipal Parcel," the Town of Wayland is also in the due diligence process on an additional four parcels. At town meeting in April 2018, residents voted to accept the gift of two parcels: Assessor's Map 23 Lot 0521 (Lot 3-1) Informal Town Green and Lot 0520 (Parcel 14) Northern Fields. The Town of Wayland would also like to explore possible future uses at these parcels that could be accommodated by further partial releases of the NOTICE OF ACTIVITY AND USE LIMITATION. Wayland's Conservation Commission is considering accepting the gift of Assessor's Map 23 Lot 052P (Parcel 15) and Lot 052Q (Parcel 16) for conservation purposes.

From our previous conversations, the Town understands that there may be Assignments and Acknowledgments associated with some or all of the 8 parcels referenced. Regarding those issues Town Counsel assigned to the project is Amy Kwezell at KP Law who can be reached at AKwezell@k-plaw.com and [\(617\) 654 1811](tel:6176541811).

I will serve as the primary contact for the project and can be reached at bkeefe@wayland.ma.us and (508) 358 3786.

Sincerely
Kenneth "Ben" Keefe

Wayland Public Buildings Director

Copy: Wayland Board of Selectman
Amy Kwezell, Esq., Wayland Town Counsel
Ben Gould, CMG Environmental, Inc.



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

Tel: 617.854.1000
Fax: 617.854.1091 | www.masshousing.com

Videophone: 857.366.4157 or Relay: 711

RECEIVED

APR 09 2018

Board of Selectmen
Town of Wayland

April 4, 2018

Donald A. Levine
Wayland Meadows LLC
c/o Equity Industrial Partners Corp.
20 Pickering Street
Second Floor
Needham, MA 02492

Re: Chapter 40B Cost Examination for Wayland Meadows LLC (the "Developer") /
Wayland Commons (the "Project") / (#80 / PE-297)

Dear Mr. Levine:

As stated in our letter to you dated, February 16, 2017, we have not received the cost examination for Wayland Commons, your 40B Project in Wayland, nor have we received any update from you regarding its submission. This breach of your obligations has constituted an "Event of Default" under the Regulatory Agreement recorded at the Middlesex County Registry of Deeds in Book 52078 Page 1.

Under the Regulatory Agreement you have an obligation to provide information necessary to determine compliance with the 40B profit limitation. In order to determine said compliance with the 40B profit limitation, an Examination must be performed by an independent certified public accountant (CPA) and conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA).

As described further under the Comprehensive Permit Financial Surety Escrow Agreement dated as of October 7, 2008, MassHousing may draw upon the financial surety, held in escrow, to engage a CPA to complete the cost examination for the Project. You are required to provide access to all books and records of the Developer and the Project in order for the CPA to complete an examination of the Project's sales and costs. Please contact MassHousing by April 30, 2018 so that we may begin that process.

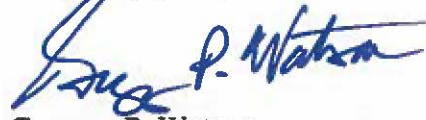
If MassHousing does not receive a response from you by April 30, 2018, MassHousing will undertake an analysis of the Project's revenues and costs, using data from other sources, including but not limited to the Middlesex Registry of Deeds, the Construction Lender and the final approval proforma, to make certain assumptions regarding the Project's profit. The results of our analysis may prompt the Town of Wayland to pursue legal action against the Developer to recover any potential excess profits.

*Wayland Commons, Wayland
MassHousing #80 (PE-297)
Cost Examination*

As previously stated, your non-compliance has resulted in the above-referenced Developer being suspended, effective December 31, 2016, from further participation in the Chapter 40B approval process not only of MassHousing but also of all of the other Subsidizing Agencies (the Department of Housing and Community Development, the Massachusetts Housing Partnership, and the Massachusetts Development Finance Agency). All managing entities, principals and controlling entities of the Developer are likewise suspended.

If you have any questions concerning this matter, please contact me at (617) 854-1880 or Jennifer Wierl at (617) 854-1136 or via email at jwierl@masshousing.com.

Very truly yours,



Gregory P. Watson
Manager, Planning and Programs

cc: Lewis Heafitz, Wayland Meadows Corporation
Richard D. Gass, Wayland Meadows Corporation
Neal S. Shalom, Wayland Meadows Corporation
Gregory P. King, Equity Industrial Partners (via email only)
Representative Carmine L. Gentile
Lea Anderson, Chair, Board of Selectmen
Nan Balmer, Town Administrator
Dan C. Hill, Esq., Chair, Planning Board



The Leader in Public Sector Law

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

April 10, 2018

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

RECEIVED

APR 12 2018

Board of Selectmen
Town of Wayland

Carolyn M. Murray
cmurray@k-plaw.com

Re: Town of Wayland Board of Selectmen –
Response to March 22, 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 March 22, 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 February 26, 2018. A copy of the Complaint is attached as Exhibit A. The Board listed the Complaint on the meeting notice for its April 2, 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 violated the Open Meeting Law relative to its executive session on February 26, 2018. In the Complaint, Mr. Harris alleges that the Board failed to follow proper procedure before entering executive session on said date and discussed an MCAD Complaint filed by Ms. Ordway without proper notice. As outlined herein, the Board submits that it did not include the name of the employee involved in its executive session meeting notice 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, and the Board wanted to ensure that the privacy interests of the employee were maintained at the time the proposed meeting notice was prepared. While the Board notes that its executive session could have included the name of the union pursuing the grievance, the Wayland Police Officers Union, such conduct does not violate the Open Meeting Law since the Board's motion to enter executive session on February 26, 2018 did include such information, as stated in the Board's February 26, 2018 meeting minutes, sufficient to give members of the public notice of same. The Board further submits that it did not discuss or otherwise deliberate regarding Jennifer Ordway's MCAD Complaint, as alleged in the Complaint during the February 26, 2018 executive session.

February 26, 2018 Meeting

In compliance with the Open Meeting Law, the Board scheduled an executive session for February 26, 2018 pursuant to G.L. c. 30A, §21(a)(2) 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 2 not only for purposes of

Jonathan Sclarsic, Esq.
Director, Division of Open Government
April 10, 2018
Page 2

collective bargaining, but also to conduct grievance hearings that are required by a collective bargaining agreement. The Board provided as much information in the proposed meeting 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. While the Board submits that the meeting notice did not contain the name of the employee or the name of the collective bargaining unit relative to the grievance hearing, such agenda item does not give rise to a violation of the Open Meeting Law, particularly where such information constituted confidential personnel information and, after further consideration, the name of the union was specifically included in the Motion to enter executive session made during the February 26, 2018 meeting. Thereafter, the Board properly entered into executive session to deliberate regarding the grievance hearing.

Moreover, upon the Board's review of its February 26, 2018 executive session at its meeting on April 2, 2018, please be advised that there was no deliberation regarding an MCAD Complaint filed by the former police officer during such meeting. Since there was no discussion regarding the MCAD Complaint during the executive session on February 26, 2018, there was no requirement by the Board to include such on the meeting notice. As such, there is no violation of the Open Meeting Law relative to such allegation by Mr. Harris.

Conclusion

In closing, it is the Board's position that it did not violate the Open Meeting Law with respect to the executive session held on February 26, 2018 to review a police union grievance. The Board strives at all times to ensure compliance with the Open Meeting Law, including with respect to its meeting notices and executive sessions. Lastly, the Board submits after its review of the February 26, 2018 executive session that the MCAD Complaint was not discussed during the executive session contrary to Mr. Harris' allegations. As such, no violation of the Open Meeting Law occurred with respect to the Board's February 26, 2018 executive session.

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

Very truly yours,



Carolyn M. Murray

CMM/JMA/smm

Enc.

cc: Board of Selectmen
Mr. George Harris



OPEN MEETING LAW COMPLAINT FORM **EXHIBIT A**

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: Feb. 26, 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: March 22, 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 February 26, 2018.

FACTS

The Board's posted notice for its February 26, 2018 meeting states the following, in pertinent part:

2.) Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(2) to conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions, including grievance hearings, or contract negotiations with nonunion personnel.

See Exhibit 1 (meeting notice) attached hereto.

After the Board convened in open session, chair Lea Anderson made the following statement,¹ in pertinent part:

I move that the Board of Selectmen enter into executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(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.

Ms. Anderson then named the individuals, aside from Board members, who would be attending the executive session. Two of the individuals named were Jennifer Ordway and her counsel. Id. Ms. Ordway, until recently, was employed by the Town of Wayland as a police officer. During the executive session, discussion ensued about Ms. Ordway's grievance and her complaint filed with the Massachusetts Commission Against Discrimination ("MCAD").

DISCUSSION

The posted notice and Ms. Anderson's statement did not comply with the Open Meeting Law for the following reasons.

¹ This statement may be viewed online at www.waycam.tv/government-on-demand. Then select Board of Selectmen, February 26, 2018. See also Exhibit 2 (minutes, p. 1) attached hereto.

1. Neither was sufficiently specific.

A public body must state the purpose for its executive session, both in its public meeting notice and just prior to entering the executive session. In doing so, it must provide as much information as may be revealed without compromising the purpose for entering executive session. See OML 2011-28, citing District Attorney for the N. Dist. v. School Comm. of Wayland, 455 Mass. 561, 567 (2009).

The meeting notice failed to inform the public that the Board would be conducting a grievance hearing with the Wayland Police Officers Union in affiliation with the New England Police Benevolent Association.

Neither the meeting notice nor Ms. Anderson's statement identified the (former) employee who is the true grievant, Ms. Ordway.² Ms. Ordway was identified by Ms. Anderson as attending the meeting, but the public would not know why. The public was entitled to know that the grievance concerned a specific employee, Ms. Ordway, rather than, for example, all or some employees covered by the Agreement. The public was also entitled to know that the grievance concerned a disputed employee termination.

2. Neither cited the MCAD litigation.

In order to discuss a litigation matter in executive session, a public body must properly refer to and comply with the requirements of G.L. c. 30A, § 21(a)(3).

The public was not alerted in advance to the MCAD litigation discussed in executive session, in violation of the Open Meeting Law. Furthermore, whatever MCAD discussion occurred in Ms. Ordway's presence could not possibly have had "a detrimental effect on the . . . litigating position of the [Board]" if revealed in open session. Such discussion in executive session was therefore impermissible.

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.

² The subject grievance hearing was held pursuant to Step Three of the Collective Bargaining Agreement. See Exhibit 3 (Agreement, pp. 1, 24-25) attached hereto. This Agreement is in full force and effect (continued from year to year pursuant to terms of the Agreement).



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
Monday, February 26, 2018
6:00 p.m.
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road Wayland

Proposed Agenda

2018 FEB 22 PM 3:24
TOWN OF WAYLAND
TOWN CLERK

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.

- 6:00 pm 1.) Call to order by Chair
 - Review agenda for the public
- 6:02 pm 2.) Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(2) to conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions, including grievance hearings, or contract negotiations with nonunion personnel; and pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(3) to discuss strategy with respect to *Stephen Cass v. Town of Wayland, et al, USDC D. Mass., CA No. 1:17-CV-11441*
- 7:00 pm 3.) Announcements and public comment
- 7:15 pm 4.) 2018 Borrowing and Debt Refunding: Vote to authorize refunding of bonds, approval of bond sale, award of bonds and the execution of documents by the Board of Selectmen and Treasurer; Discuss future debt decisions with Town financial advisor
- 7:30 pm 5.) Appointment: Interview and potential vote to appoint Pamela Roman to the Council on Aging – Community Center Advisory Committee
- 7:40 pm 6.) Town Administrator Search: Discuss RFP process for executive search firm
- 7:55 pm 7.) Wayland Housing Authority: Accept payment in lieu of taxes for the Bent Park and Cochituate Village apartments
- 8:00 pm 8.) Annual Town Meeting Petitioners' Article
 - 1. Duane Galbi, Lead Petitioner – Article 38: Property Tax Credit for Charitable Contributions to the Wayland School District
- 8:30 pm 9.) Loker Field Project: Meet with representatives of Recreation Commission

BOARD OF SELECTMEN
Monday, February 26, 2018
6:00 p.m.
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road, Wayland

Proposed Agenda Page Two

- 8:45 pm 10.) Annual Town Meeting Articles: Discuss and vote positions, possible withdrawals, and possible re-ordering of articles, including but not limited to
- 11: Lease in Excess of Three Years for Information Technology Network / Middle School Networking Capital Project
 - 20: Accept Gifts of Land
 - 21: Community Center at Town Center: Design, Construction and Bid Documents
 - 33: Zoning By-Law Amendment – Limited Site Plan Review
 - 34: Zoning By-Law Amendment - Off Street Parking
- 9:15 pm 11.) Town Administrator's Report
1. Correspondence
 2. Moody's Bond Rating
 3. Comcast: Ascertainment
- 9:30 pm 12.) Minutes: Vote to approve and release minutes of February 5, 2018 and February 12, 2018
- 9:35 pm 13.) Consent Calendar: Review and vote to approve
- 9:40 pm 14.) Correspondence: Review
- 9:45 pm 15.) Selectmen's reports and concerns
- 9:50 pm 16.) Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
- 9:55 pm 17.) Adjourn



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
Meeting Minutes
February 26, 2018
6:00pm
Selectmen's Meeting Room
41 Cochituate Road, Wayland

Attendance: Lea T. Anderson, Cherry C. Karlson, Mary M. Antes, Louis M. Jurist (6:05pm), Douglas A. Levine (7:11pm)

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 6:00 p.m. in the Selectmen's Meeting Room of the Wayland Town Building and noted that the meeting likely will be broadcast and videotaped for later broadcast by WayCAM.

A2. Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(2) to conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions, including grievance hearings, or contract negotiations with nonunion personnel; and pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(3) to discuss strategy with respect to *Stephen Cass v. Town of Wayland, et al*, USDC D. Mass., CA No. 1:17-CV-11441. At 6:03pm, 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)(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; and pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(3) to discuss strategy with respect to *Stephen Cass v. Town of Wayland, et al*. The Chair declares 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, M. Antes, C. Karlson. NAY: none. ABSENT: L. Jurist, D. Levine. ABSTAIN: none. Adopted 3-0. The Chair invites attendance by: Nan Balmer, Town Administrator; David Porter, Executive Assistant; Patrick Swanick, Chief of Police; Sean Gibbons, Lieutenant; Wendy Chu, Labor Counsel for the Town; Jennifer Ordway; Thomas Horgan, Counsel for Ms. Ordway; Mark Wilkins, Police Union President; Mark Hebert, Police Union Vice President; Chris Custodie, Police Union Secretary/Treasurer. The Board will reconvene in approximately one hour to address the issues listed on the public meeting agenda.

The Board reconvened in open session at 7:35pm. Both L. Jurist and D. Levine were now present.

A3. Announcements and Public Comment L. Anderson reviewed the agenda. M. Antes announced the League of Women Voters' Civics Bee this Sunday at 2pm at the High School. Next Monday will be the Town Meeting issues forum that is hosted by the LWV and will include information about the debt exclusion and the major Town Meeting articles. The next event in Wayland's Concert Series is Thursday. L. Anderson said the MMA Legislative Breakfast is on March 9 in Hudson.

Mike Lowery, 120 Lake Shore Dr., stated that in an aquifer protection district there is the ability to put porous pavement around the Library building and, therefore, it does not count as land coverage. This was not mentioned in the memo in our packet. He distributed a map and document of his calculations.

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.



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

TOWN OF WAYLAND

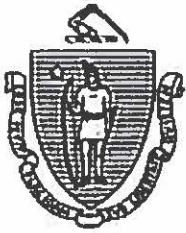
41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

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

BOARD OF SELECTMEN
Monday, April 2, 2018
6:20 p.m.
Wayland High School
Field
264 Old Connecticut Path Wayland
Proposed Agenda

Note: Items may not be discussed in the order listed or at the specific time estimated. Times are approximate.

- 6:20 pm 1.) Call to order by Chair
 - Review agenda for the public
- 6:22 pm 2.) Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(1) to hear a complaint against public officials and Massachusetts General Laws Chapter 30A, Section 21(a)(7) to comply with the statutory requirements of Massachusetts General Laws Chapter 214, Section 1B with respect to the privacy rights of an individual: The Board will convene an executive session pursuant to these statutes to discuss, deliberate and take appropriate action with respect to an Open Meeting Law complaint filed by George Harris with respect to the Board of Selectmen's executive session held on February 26, 2018
- 6:40 pm 3.) Announcements and public comment
- 6:45 pm 4.) Discuss any Annual Town Meeting business
- 6:55 pm 5.) Consent Calendar: Review and vote to approve
- 6:57 pm 6.) Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
- 7:00 pm 6.) Recess and reconvene to join Annual Town Meeting



**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

1000 Washington Street, Suite 820
Boston, MA 02118-6500
Telephone: (617) 305-3580
www.mass.gov/dtc

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

RECEIVED

APR 18 2018

Board of Selectmen
Town of Wayland

JAY ASH
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

JOHN C. CHAPMAN
UNDERSECRETARY
OFFICE OF CONSUMER AFFAIRS AND
BUSINESS REGULATIONS

KAREN CHARLES PETERSON
COMMISSIONER

April 11, 2018

Chairman Board of Selectmen
Town Hall
41 Cochituate Road
Wayland MA 01778-2697

Re: License Expiration Notice

Dear Chairman:

Six months ago, the Department of Telecommunications and Cable (Department) notified you that your cable television license (license) with Comcast Cable Communications, Inc. expires on 10/16/2020. If either you as the Issuing Authority or Comcast Cable Communications, Inc. invoked the formal renewal process, you should have started the ascertainment process to determine your community's cable-related needs and review Comcast Cable Communications, Inc.'s performance under the current license.

Even if you and Comcast Cable Communications, Inc. have agreed to forgo the formal renewal process, you should have an ascertainment process. By ascertaining your cable needs early in the renewal process, you will benefit from sufficient time to review the proposal submitted by Comcast Cable Communications, Inc.. The Department recommends that the Issuing Authority complete its ascertainment process at least twelve months, and no later than six months, prior to the expiration of its cable license.

The Department is available to advise you regarding your duties and rights during the renewal process. While we cannot assist you with substantive negotiations, we would be happy to meet with you and/or your Cable Advisory Committee to discuss procedural requirements. If you would like to schedule a meeting or if you have any questions, please contact the Department at 617-305-3580 or dtc.efiling@mass.gov.

Sincerely,

Shonda D. Green
Department Secretary

RECEIVED

APR 18 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

Carolyn M. Murray
cmurray@k-plaw.com

April 13, 2018

Clerk
Land Court
Three Pemberton Square
Boston, MA 02108

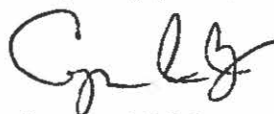
Re: Trustees of the Residences at 89 Oxbow Condominium Trust, et al. v.
Wayland Planning Board
Land Court No. 17 MISC 000492

Dear Sir/Madam:

Enclosed for filing in the above-referenced matter please find Joint Motion to Continue Status Conference currently scheduled for April 19, 2018, along with a Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,



Carolyn M. Murray

CMM/man
Enc.

cc: Town Administrator
Planning Board
Interim Recreation Director
Timothy Schofield, Esq.
Christopher Donnelly, Esq.

622776/WAYL/0077

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

LAND COURT
C.A. NO. 17-MISC-0492

TRUSTEES OF THE RESIDENCES AT 89 OXBOW)
CONDOMINIUM TRUST, CHARLES D'AMBROSIO,)
and THOMAS M. HOOPES,)

Plaintiffs,)

v.)

EDWARD C. SANDERSON, INTERIM RECREATION)
DIRECTOR OF THE TOWN OF WAYLAND)
RECREATION DEPARTMENT, and)
DANIEL C. HILL, ALBERT I. MONTAGUE, JR.,)
KEVIN FRANCIS MURPHY, ANDREW J. RECK,)
NICOLE W. RILEY, AND JENNIFER M. STEEL,)
MEMBERS OF THE TOWN OF WAYLAND)
PLANNING BOARD,)

Defendants.)

JOINT MOTION TO CONTINUE STATUS CONFERENCE

Now come the parties who hereby jointly request that the status conference currently scheduled for April 19, 2018, be continued until a date between May 8 and May 17, 2018. As grounds therefor, the parties state the following:

1. Following the Case Management Conference held in this matter on January 11, 2018, the parties have been engaged in settlement negotiations which, if finalized, will include an alternate access drive to the new soccer field and additional plantings to screen the field from residential neighbors.

2. The Town of Wayland (Town), acting through its Recreation Commission and Department of Public Works, developed a plan including an alternative point of access to the soccer field which is acceptable to the Plaintiffs, and the Town has determined that additional funding for the project from Town Meeting will not be necessary.

3. As such, on or about March 23, 2018, the Town, through its Recreation Commission, filed an application with the Planning Board to modify the Site Plan Approval (the "Modification Application") to address the alternate access drive and screening around the expanded parking area.

4. The Planning Board opened its public hearing on the Modification Application on April 10, 2018, and approved the modification, subject to review of a finalized landscape plan to be prepared by the parties, jointly.

5. At this time, it appears to be prudent and in the best interest of judicial economy, to reschedule the status conference, currently scheduled for April 19, 2018, for at least three weeks or to a date that is convenient for the Court in order to allow the Planning Board process to conclude so that the parties will be better able to advise the Court of the status of the litigation.

6. No party would be prejudiced by the Court granting this motion and all parties assent to the motion.

WHEREFORE, the parties respectfully request that the Court grant a continuance of the Status Conference currently scheduled for April 19, 2018, until a date between May 8 and May 17, 2018, or such other time as is convenient for the Court.

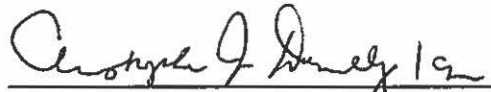
Respectfully submitted,

TRUSTEES OF THE RESIDENCES AT 89
OXBOW CONDOMINIUM TRUST,
CHARLES D'AMBROSIO, and
THOMAS M. HOOPES,

EDWARD C. SANDERSON, INTERIM
RECREATION DIRECTOR OF THE
TOWN OF WAYLAND RECREATION
DEPARTMENT, and DANIEL C. HILL,
ALBERT I. MONTAGUE, JR.,
KEVIN FRANCIS MURPHY,
ANDREW J. RECK, NICOLE W. RILEY,
AND JENNIFER M. STEEL, MEMBERS
OF THE TOWN OF WAYLAND
PLANNING BOARD,

By their attorneys,

By their attorneys,



Timothy N. Schofield (BBO No. 645179)
Christopher J. Donnelly (BBO No. 675714)
SCHOFIELD LAW GROUP, LLC
20 Park Plaza, Suite 1115
Boston, Massachusetts 02116
Tel.: 617-557-4545
Email: tim@schofieldlg.com




Carolyn M. Murray (BBO No. 653873)
A. Alexander Weisheit (BBO No. 682323)
KP Law, P.C.
101 Arch Street, 12th Floor
Boston, Massachusetts 02110-1109
Tel.: 617-556-0007
Email: cmurray@k-plaw.com

CERTIFICATE OF SERVICE

I, Carolyn M. Murray, hereby certify that on the below date, I served a true copy of the foregoing Joint Motion to Continue Status Conference, by first class mail, postage prepaid, to counsel of record listed below:

Timothy Schofield, Esq.
Christopher Donnelly, Esq.
Schofield Law Group, LLC
20 Park Plaza
Boston, MA 02116

4/13/18
Date


Carolyn M. Murray

From: [Balmer, Nan](#)
To: [Gentile, Carmine - Rep \(HOU\)](#) (Carmine.Gentile@mahouse.gov)
Cc: [Porter, David](#)
Subject: Request to support DLTA Funding
Date: Wednesday, April 18, 2018 2:24:53 PM

Dear Rep. Gentile:

I am writing to respectfully urge you to cosponsor Representative Donato's District Local Technical Assistance (DLTA) amendment to restore language that will fund DLTA program in the FY2019 budget. Without this amendment DLTA will receive no funding in FY19. DLTA funding has been a vital tool for communities to provide technical assistance to municipalities on a variety of functions that support some of the Commonwealth's key initiatives. Specifically: DLTA funding is appropriated for all 13 of the state's Regional Planning Agencies (RPAs) covering all of 351 municipalities in the Commonwealth. Funds are available for municipalities on a wide variety of land use permitting and planning functions, including zoning, housing production and preservation, economic development, open space and conservation planning, energy conservation and siting, etc. Equally important, DLTA is used to help cities and towns to improve the efficiency and effectiveness of local service delivery, and to regionalize planning, procurement, and service delivery wherever possible. The demand for DLTA assistance routinely outstrips the supply of funds. MAPC, for example, was only able to fund about half of the worthwhile applications received last year.

The range of issues demanding technical assistance continues to grow, especially as municipalities reduce staff size and depend upon RPAs for additional services. For example, few people would have predicted even five years ago that RPAs would be compelled to provide whole new types of service such as climate-related vulnerability analyses and adaptation planning; coping with short-term rentals such as Airbnb; and licensing of businesses for the distribution of marijuana. Yet, all of these are now on our plate, and the most cost-effective way to provide those services is on a regional basis.

Without Rep. Donato's amendment there will not be funding for this critical program in our community.

Thank you for your consideration of this email. Please let me know if you will cosponsor this important amendment!

Sincerely,

Nan

Porter, David

From: Balmer, Nan
Sent: Thursday, April 12, 2018 2:56 PM
To: Porter, David
Subject: FW: Wayland in House Ways and Means Budget

Correspondence

From: Russo, Joseph (HOU) [<mailto:Joseph.Russo@mahouse.gov>]
Sent: Wednesday, April 11, 2018 4:12 PM
To: Balmer, Nan
Cc: Porter, David; Gentile, Carmine - Rep. (HOU)
Subject: Wayland in House Ways and Means Budget

Good Afternoon,

Rep. Gentile asked me to pass along the information that in the House Ways and Means budget, released this afternoon, Wayland is scheduled to receive \$4,616,097 in Chapter 70 funding and \$934,640 in Unrestricted General Government Aid. This is compared to \$4,585,588 and \$934,640 respectively in the Governor's proposed budget.

If there are any questions or if I can be of further assistance please let me know.

Thank you,

Joe Russo

Joseph Russo | Legislative Aide
Representative Carmine L. Gentile | 13th Middlesex
State House, Room 167 | 24 Beacon Street Boston, MA 02133
617-722-2810 | joseph.russo@mahouse.gov



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, Secretary & CEO
Jonathan L. Gulliver, Highway Administrator



April 2, 2018

Town of Wayland
Board of Selectmen
41 Cochituate Rd.
Wayland, MA 01778

RECEIVED

APR 18 2018

Board of Selectmen
Town of Wayland

Attn: Thomas Holder, DPW Director

SUBJECT: NATIONAL BRIDGE INSPECTION STANDARDS (NBIS)
BRIDGE INSPECTION REPORTS

W-11-007 (24Y) ST 27 OLD SUDBURY / SUDBURY RIVER Dated: 11/15/17

Dear Mr. Holder:

As part of the Massachusetts Bridge Inspection Program, MassDOT - Highway Division performs the inspection of municipally owned bridges that have a clear span of 20 feet or greater. These bridges are scheduled to be inspected every two years or less.

In review of attached report please note the deficiencies highlighted.

For your records is a copy of recent bridge inspection field report for the referenced municipally owned bridge. Repair, rehabilitation or reconstruction of any bridges to address the deficiencies reported is the owner/custodian's responsibility. Chapter 90 funds may be used for these purposes.

Questions regarding the content of the report may be directed to the District Bridge Inspection Engineer, Mahmood Azizi, at 508-929-3822.

Sincerely,

Barry Lorion
Acting District 3 Highway Director

MA/ma
cc: BIE (2), DHD D-3, DBIE D-3
Enclosure

STRUCTURES INSPECTION FIELD REPORT

2-DIST
03B.I.N.
24Y

ROUTINE INSPECTION

BR. DEPT. NO.
W-11-007

CITY/TOWN WAYLAND	8-STRUCTURE NO. W11007-24Y-MUN-NBI	11-Kilo. POINT 087.224	41-STATUS A:OPEN	90-ROUTINE INSP. DATE NOV 15, 2017
07-FACILITY CARRIED ST 27 OLD SUDBURY	MEMORIAL NAME/LOCAL NAME	27-YR BUILT 1956	106-YR REBUILT 0000	YR REHAB'D (NON 106) 0000
06-FEATURES INTERSECTED WATER SUDBURY RIVER	26-FUNCTIONAL CLASS Urban Arterial	DIST. BRIDGE INSPECTION ENGINEER M. Azizi		
43-STRUCTURE TYPE 201 : Concrete continuous Slab	22-OWNER Town Agency	21-MAINTAINER Town Agency	TEAM LEADER D. Simkhovich	
107-DECK TYPE 1 : Concrete Cast-in-Place	WEATHER Sunny	TEMP (air) 6°C	TEAM MEMBERS J. SNYDER TWS	

ITEM 58	5	DEF
DECK		
1. Wearing Surface	5	S-A
2. Deck Condition	5	S-P
3. Stay in place forms	N	-
4. Curbs	7	-
5. Median	N	-
6. Sidewalks	6	M-P
7. Parapets	N	-
8. Railing	9	-
9. Anti Missile Fence	N	-
10. Drainage System	N	-
11. Lighting Standards	N	-
12. Utilities	7	-
13. Deck Joints	N	-
14.	N	-
15.	N	-
16.	N	-
CURB REVEAL (In millimeters)	N 240 S 250	

APPROACHES		
a. Appr. Pavement Condition	5	S-P
b. Appr. Roadway Settlement	6	M-P
c. Appr. Sidewalk Settlement	N	-
d.	N	-

OVERHEAD SIGNS (Y/N) N		
(Attached to bridge)		
a. Condition of Welds	N	-
b. Condition of Bolts	N	-
c. Condition of Signs	N	-

ITEM 59	5	DEF
SUPERSTRUCTURE		
1. Stringers	N	-
2. Floorbeams	N	-
3. Floor System Bracing	N	-
4. Girders or Beams	N	-
5. Trusses - General	N	-
a. Upper Chords	N	-
b. Lower Chords	N	-
c. Web Members	N	-
d. Lateral Bracing	N	-
e. Sway Bracings	N	-
f. Portals	N	-
g. End Posts	N	-
6. Pin & Hangers	N	-
7. Conn Plt's, Gussets & Angles	N	-
8. Cover Plates	N	-
9. Bearing Devices	N	-
10. Diaphragms/Cross Frames	N	-
11. Rivets & Bolts	N	-
12. Welds	N	-
13. Member Alignment	8	-
14. Paint/Coating	N	-
15. Concrete Slab	5	S-P

Year Painted	N
COLLISION DAMAGE: Please explain None (X) Minor () Moderate () Severe ()	
LOAD DEFLECTION: Please explain None (X) Minor () Moderate () Severe ()	
LOAD VIBRATION: Please explain None () Minor () Moderate (X) Severe ()	
Any Fracture Critical Member: (Y/N)	N
Any Cracks: (Y/N)	N

ITEM 60	5	DEF
SUBSTRUCTURE		
1. Abutments	Dive Cur 7	DEF
a. Pedestals	N N	-
b. Bridge Seats	N H	-
c. Backwalls	N H	-
d. Breastwalls	N 7	-
e. Wingwalls	N 7	-
f. Slope Paving/Rip-Rap	N 6	M-P
g. Pointing	N N	-
h. Footings	N N	-
i. Piles	N 7	-
j. Scour	N 7	M-P
k. Settlement	N 7	-
l. Erosion	N 6	M-P
m.	N N	-
2. Piers or Bents	N	-
a. Pedestals	N N	-
b. Caps	N N	-
c. Columns	N N	-
d. Stems/Webs/Pierwalls	N N	-
e. Pointing	N N	-
f. Footing	N N	-
g. Piles	N N	-
h. Scour	N N	-
i. Settlement	N N	-
j.	N N	-
k.	N N	-
3. Pile Bents	5	-
a. Pile Caps	N 6	M-P
b. Piles	6 5	S-P
c. Diagonal Bracing	5 5	S-P
d. Horizontal Bracing	N N	-
e. Fasteners	5 5	S-P

UNDERMINING (Y/N) If YES please explain	N
COLLISION DAMAGE: None (X) Minor () Moderate () Severe ()	
SCOUR: Please explain None (X) Minor () Moderate () Severe ()	
I-60 (Dive Report): 6	I-60 (This Report): 5
93B-U/W (DIVE) Insp 02/24/2017	

X=UNKNOWN

N=NOT APPLICABLE H=HIDDEN/INACCESSIBLE

R=REMOVED

CITY/TOWN WAYLAND	B.I.N. 24Y	BR. DEPT. NO. W-11-007	8-STRUCTURE NO. W11007-24Y-MUN-NBI	INSPECTION DATE NOV 15, 2017
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ITEM 61				6
CHANNEL & CHANNEL PROTECTION				
	Dive	Cur	DEF	
1.Channel Scour	6	6	M-P	
2.Embankment Erosion	7	7	-	
3.Debris	7	7	-	
4.Vegetation	7	5	M-P	
5.Utilities	X	N	-	
6.Rip-Rap/Slope Protection	7	6	M-P	
7.Aggradation	8	8	-	
8.Fender System	N	N	-	

STREAM FLOW VELOCITY:

Tidal () High () Moderate (X) Low () None ()

ITEM 61 (Dive Report): 6 ITEM 61 (This Report): 6

93b-U/W INSP. DATE: 02/24/2017

ITEM 36 TRAFFIC SAFETY			
	36	COND	DEF
A. Bridge Railing	1	9	-
B. Transitions	0	6	M-P
C. Approach Guardrail	1	5	S-P
D. Approach Guardrail Ends	1	7	-

WEIGHT POSTING

Not Applicable X			
H	3	3S2	Single
N	N	N	N
Actual Posting			
Recommended Posting			

Valved Date: 10/11/2016 EJDMT Date: 00/00/0000

At bridge		Other Advance	
E	W	E	W
Signs In Place (Y=Yes, N=No, NR=Not Required)			
Legibility/Visibility			

CLEARANCE POSTING

Not X		N		S	
ft	in	ft	in	meter	
	0		0		
Actual Field Measurement		Posted Clearance			

At bridge		Advance	
N	S	N	S
Signs In Place (Y=Yes, N=No, NR=Not Required)			
Legibility/Visibility			

ACCESSIBILITY (Y/N/P)	
	Needed Used
Lift Bucket	N N
Ladder	N N
Boat	P N
Waders	Y Y
Inspector 50	N N
Rigging	N N
Staging	N N
Traffic Control	N N
RR Flagger	N N
Police	N N
Other:	
FLOATTUBE	Y Y

TOTAL HOURS 8**PLANS (Y/N):** Y**(V.C.R.) (Y/N):** N**TAPE#:**

List of field tests performed:

RATING	
Rating Report (Y/N):	Y
Date:	09/01/2016
Inspection data at time of existing rating	
158: 5	159: 5 160: 5 Date: 11/03/2015

(To be filled out by DBIE)		If YES please give priority:	
Request for Rating or Rerating (Y/N):	N	HIGH () MEDIUM () LOW ()	
REASON:			

CONDITION RATING GUIDE

(For Items 58, 59, 60 and 61)

CODE	CONDITION	DEFECTS
N	NOT APPLICABLE	
G 9	EXCELLENT	Excellent condition.
G 8	VERY GOOD	No problem noted.
G 7	GOOD	Some minor problems.
F 6	SATISFACTORY	Structural elements show some minor deterioration.
F 5	FAIR	All primary structural elements are sound but may have minor section loss, cracking, spalling or scour.
P 4	POOR	Advanced section loss, deterioration, spalling or scour.
P 3	SERIOUS	Loss of section, deterioration, spalling or scour have seriously affected primary structural components. Local failures are possible. Fatigue cracks in steel or shear cracks in concrete may be present.
C 2	CRITICAL	Advanced deterioration of primary structural elements. Fatigue cracks in steel or shear cracks in concrete may be present or scour may have removed substructure support. Unless closely monitored it may be necessary to close the bridge until corrective action is taken.
C 1	"IMMINENT" FAILURE	Major deterioration or section loss present in critical structural components or obvious vertical or horizontal movement affecting structure stability. Bridge is closed to traffic but corrective action may put it back in light service.
0	FAILED	Out of service - beyond corrective action.

DEFICIENCY REPORTING GUIDE**DEFICIENCY:** A defect in a structure that requires corrective action.**CATEGORIES OF DEFICIENCIES:****M= Minor Deficiency** - Deficiencies which are minor in nature, generally do not impact the structural integrity of the bridge and could easily be repaired. Examples include but are not limited to: Spalled concrete, Minor pot holes, Minor corrosion of steel, Minor scouring, Clogged drainage, etc.**S= Severe/Major Deficiency** - Deficiencies which are more extensive in nature and need more planning and effort to repair. Examples include but are not limited to: Moderate to major deterioration in concrete, Exposed and corroded rebars, Considerable settlement, Considerable scouring or undermining, Moderate to extensive corrosion to structural steel with measurable loss of section, etc.**C-S= Critical Structural Deficiency** - A deficiency in a structural element of a bridge that poses an extreme unsafe condition due to the failure or imminent failure of the element which will affect the structural integrity of the bridge.**C-H= Critical Hazard Deficiency** - A deficiency in a component or element of a bridge that poses an extreme hazard or unsafe condition to the public, but does not impair the structural integrity of the bridge. Examples include but are not limited to: Loose concrete hanging down over traffic or pedestrians, A hole in a sidewalk that may cause injuries to pedestrians, Missing section of bridge railing, etc.**URGENCY OF REPAIR:****I = Immediate** - [Inspector(s) immediately contact District Bridge Inspection Engineer (DBIE) to report the Deficiency and to receive further instruction from him/her].**A = ASAP** - [Action/Repair should be initiated by District Maintenance Engineer or the Responsible Party (if not a State owned bridge) upon receipt of the Inspection Report].**P = Prioritize** - [Shall be prioritized by District Maintenance Engineer or the Responsible Party (if not a State owned bridge) and repairs made when funds and/or manpower is available].

CITY/TOWN WAYLAND	B.I.N. 24Y	BR. DEPT. NO. W-11-007	8.-STRUCTURE NO. W11007-24Y-MUN-NBI	INSPECTION DATE NOV 15, 2017
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REMARKS

BRIDGE ORIENTATION

According to the plans, the approaches are East and West and the elevations are North and South. There are 6 spans and 5 reinforced concrete bent caps, numbered West to East, integral with the reinforced concrete deck slab. All bents have 8 timber piles numbered South to North. The river flows South to North.

ITEM 58 - DECK

Item 58.1 - Wearing Surface

The concrete wearing surface has many partial depth repair patches throughout. **See photo 1.** The patched areas encompass 80% of the wearing surface. There are several small (1 to 2.5 foot diameter x 1 inch deep) spalls throughout, some have been patched with bituminous concrete. There is moderate scaling with transverse and longitudinal cracking throughout the wearing surface. Westbound travel lane near the centerline of the road, approximately 30 feet from the East end of the bridge, has a shallow spall exposing two longitudinal reinforcement bars (#7 according to the plans). **See photo 2.** The Northeast corner of the wearing surface has a 15 foot long x 1.5 foot wide area of severe concrete deterioration along the cold joint between the repair patches and original deck surface. **See photo 3.** This area has been patched with bituminous concrete, which is breaking up. There was a presence of moisture staining on the deck underside below this area.

Item 58.2 - Deck Condition

The underside of the deck has several areas of light scaling, honeycombing, delamination, minor transverse, longitudinal, and map cracking with efflorescence. All spans have full length hairline to 1/16 inch wide longitudinal cracks between piles #3 and #5. Spans #5 and #6 have minor to moderate transverse, longitudinal, and map cracking with heavy efflorescence to the North half. **See photos 4 and 5.** There is a 1 foot diameter x 2 inch deep spall with exposed rebar to the underside in span #6, near the South side. Both deck fascias have minor scaling throughout. The North deck fascia has many hairline vertical cracks that extend into the underside.

Item 58.6 - Sidewalks

The North sidewalk has minor scaling throughout, a few isolated areas of heavier scaling (up to 1 inch deep), minor areas of cracking and spalling behind the granite curbs that are patched with bituminous concrete, and a few transverse hairline cracks. **See photo 6.** There is a moderate amount of sand along the sidewalk.

Item 58.8 - Railing

The railing has been replaced since the previous inspection. **See photo 7.**

APPROACHES

Approaches a - Appr. Pavement Condition

Both approach to deck areas have heavy cracking, breakup and bituminous patches up to 3.5 feet from the bridge deck. **See photos 8 and 9.**

Approaches b - Appr. Roadway Settlement

Both approaches have minor settlement.

CITY/TOWN WAYLAND	B.I.N. 24Y	BR. DEPT. NO. W-11-007	8.-STRUCTURE NO. W11007-24Y-MUN-NBI	INSPECTION DATE NOV 15, 2017
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REMARKS

ITEM 59 - SUPERSTRUCTURE

Item 59.15 - Concrete Slab

See Item 58.2.

Item 59.16 - Sidewalk beam

The sidewalk beam has several areas of delamination cracking to the underside. **See photo 10.** Some have rust staining. In span #2, near bent #2, the beam underside has a 1 foot diameter x 1 inch deep spall.

ITEM 60 - SUBSTRUCTURE

Item 60.1 - Abutments

Item 60.1.d - Breastwalls

The West breastwall has a full height x 1/16 inch wide vertical crack at pile #4. The East breastwall has a full height hairline vertical crack with efflorescence between piles #6 and #7. See Item 60.1.i.

Item 60.1.f - Slope Paving/Rip-Rap

The stone rip-rap in front of the abutments has slumped and erosion/settlement of the top of the slope has caused portions of the bottom of the stub abutment caps to be exposed/undermined. No settlement in the approach roadways has been observed.

Item 60.1.j - Scour

See Item 60.1.f.

Item 60.1.l - Erosion

Both embankments along both abutments are settled, exposing the timber piles, almost the entire length of the breastwall x up to 1 foot high x 3 feet deep at the East abutment. **See photos 11 and 12.** (Unchanged since 1979).

Item 60.3 - Pile Bents

Item 60.3.a - Pile Caps

All pile caps have a full height vertical through crack above pile #4, 1/16 inch wide at pile #1, hairline at pile #2, 1/16 inch wide at pile #3, 1/8 inch wide at pile #4, and 3/16 inch wide at pile #5. **See Photos 13.** The East face of the cap on pile #4 has a 1 foot diagonal delamination crack extending out from the vertical crack. **See photo 14.**

Item 60.3.b - Piles

The piles above water have moderate cracking and checking with splits up to 1/2 inch wide.

Bent #1: Piles #1 and #2 have an area of decay approximately from 2 feet above the waterline to the concrete cap x 8 inch wide x up to 5 inch deep. **See photo 15.** The worst area is on the South side of the pile, but decay extends all the way around the pile. Pile #3 on the West side has a 4 foot high x 1 foot wide area of decay with penetrations of up to 2 inches on the West side, 1 foot above the water line. Pile #6 has a 1 foot x 1 foot x 2 inch deep area of decay on the South side, 1 foot above the waterline. Pile #7 appears to be out of alignment, approximately 1 foot to the East.

Bent #2: Pile #2 has a 2 foot high x 1 foot wide x 3 inch deep area of decay. **See photo 16.**

CITY/TOWN WAYLAND	B.I.N. 24Y	BR. DEPT. NO. W-11-007	8.-STRUCTURE NO. W11007-24Y-MUN-NBI	INSPECTION DATE NOV 15, 2017
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REMARKS

Item 60.3.c - Diagonal Bracing

The timber diagonal bracing has areas of minor splitting and checking throughout. **See photo 17.** There are no fasteners at the midpoints of all braces.

Bent #1: The West side brace between pile #6 and #8 is broken. **See photo 18.**

Bent #2: Bracing at piles #6 and #8 is split and disconnected at lower ends. The bracing from pile #3 to #6 is split and disconnected. **See photo 19.**

Bent #3: Bracing at pile #8 is split at the lower end.

Bent #4: Bracing at pile #1 is split and disconnected at lower end. **See photo 20.** Bracing at pile #8 is split at the lower end. The bolt is still in place.

Bent #5: The East brace at the base of pile #6 is disconnected.

Item 60.3.e - Fasteners

The galvanized fasteners above the normal waterline have minor surface rust and oxidation. The lower fasteners have heavy rusting and corrosion. Pile #6 at bent #1 has 100% section loss to the upper bolt connection.

ITEM 61 - CHANNEL AND CHANNEL PROTECTION

Item 61.1 - Channel Scour

See Item 60.1.f.

Item 61.4 - Vegetation

There is a tree growing in front of the Southeast wingwall and parapet. There are trees growing in the rip-rap slopes at all corners of the bridge.

Item 61.6 - Rip-Rap/Slope Protection

See Item 60.1.f.

TRAFFIC SAFETY

Item 36a - Bridge Railing

A new railing system has been installed since the previous inspection.

Item 36b - Transitions

All 4 transitions are double panel SS steel guardrail with posts not properly spaced. All transitions have minor collision denting in isolated areas.

Item 36c - Approach Guardrail

There is moderate collision damage to the approach guardrail at the Southwest and Northeast corners. The Northwest approach rail has moderate collision damage. **See photo 21.**

Item 36d - Approach Guardrail Ends

The Southwest terminal end has minor collision damage.

CITY/TOWN WAYLAND	B.I.N. 24Y	BR. DEPT. NO. W-11-007	8.-STRUCTURE NO. W11007-24Y-MUN-NBI	INSPECTION DATE NOV 15, 2017
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REMARKS

Photo Log

- Photo 1 : View of the wearing surface.
- Photo 2 : Shallow spalls exposing rebar in the Westbound travel lane.
- Photo 3 : Deterioration at the Northeast corner of the wearing surface.
- Photo 4 : Span #5, North half.
- Photo 5 : Deterioration to the deck underside in span #6. Northeast corner of the bridge.
- Photo 6 : Typical condition of the North sidewalk.
- Photo 7 : View of the new railing.
- Photo 8 : The West approach to deck transition.
- Photo 9 : The East approach to deck transition.
- Photo 10 : Typical condition of the sidewalk beam.
- Photo 11 : East breastwall, North half.
- Photo 12 : The West breastwall.
- Photo 13 : Typical cracks above pile #4.
- Photo 14 : Delamination crack on the East side of pile cap #4, above pile #4.
- Photo 15 : Pile bent #1.
- Photo 16 : Pile #2 on bent #2.
- Photo 17 : Typical condition of the diagonal bracing near the waterline.
- Photo 18 : Broken diagonal bracing between piles #6 and #8, bent #1.
- Photo 19 : Broken/disconnected diagonal brace on bent #2.
- Photo 20 : Bracing at pile #1, bent #4.
- Photo 21 : Collision damage to the Northwest approach guardrail.

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PHOTOS



Photo 1: View of the wearing surface.



Photo 2: Shallow spalls exposing rebar in the Westbound travel lane.

CITY/TOWN WAYLAND	B.I.N. 24Y	BR. DEPT. NO. W-11-007	8-STRUCTURE NO. W11007-24Y-MUN-NBI	INSPECTION DATE NOV 15, 2017
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PHOTOS

Photo 3: Deterioration at the Northeast corner of the wearing surface.



Photo 4: Span #5, North half.

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PHOTOS

Photo 5: Deterioration to the deck underside in span #6. Northeast corner of the bridge.



Photo 6: Typical condition of the North sidewalk.

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Photo 7: View of the new railing.



Photo 8: The West approach to deck transition.

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PHOTOS

Photo 9: The East approach to deck transition.



Photo 10: Typical condition of the sidewalk beam.

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PHOTOS

Photo 11: East breastwall, North half.



Photo 12: The West breastwall.

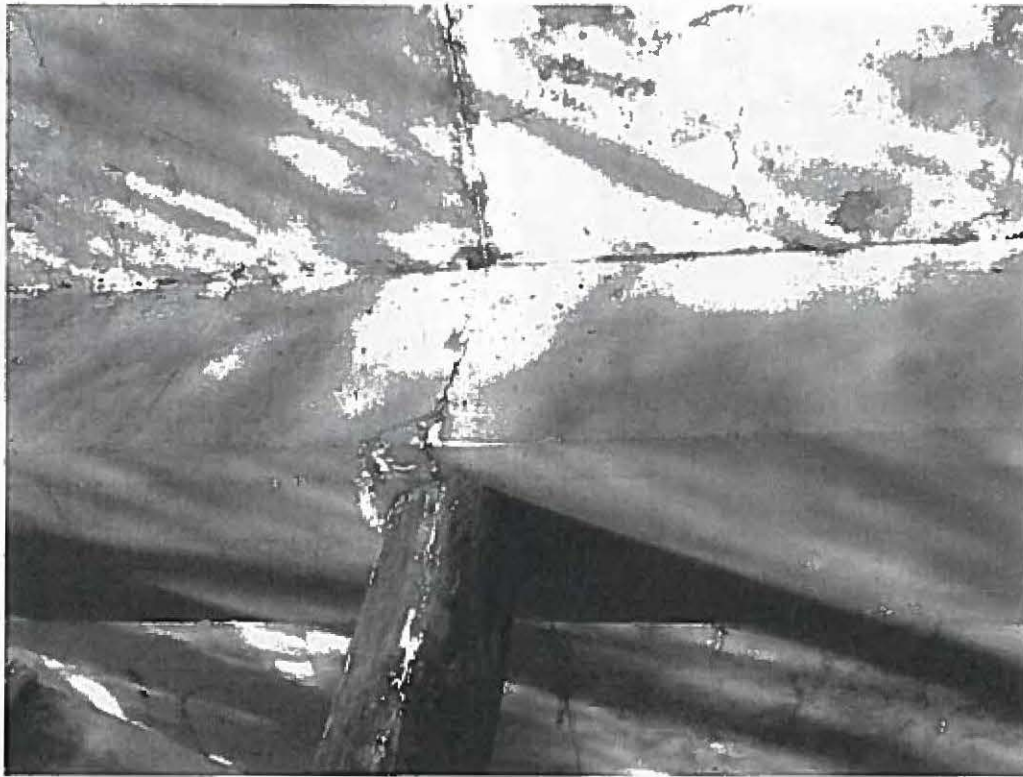
CITY/TOWN
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Photo 13: Typical cracks above pile #4.

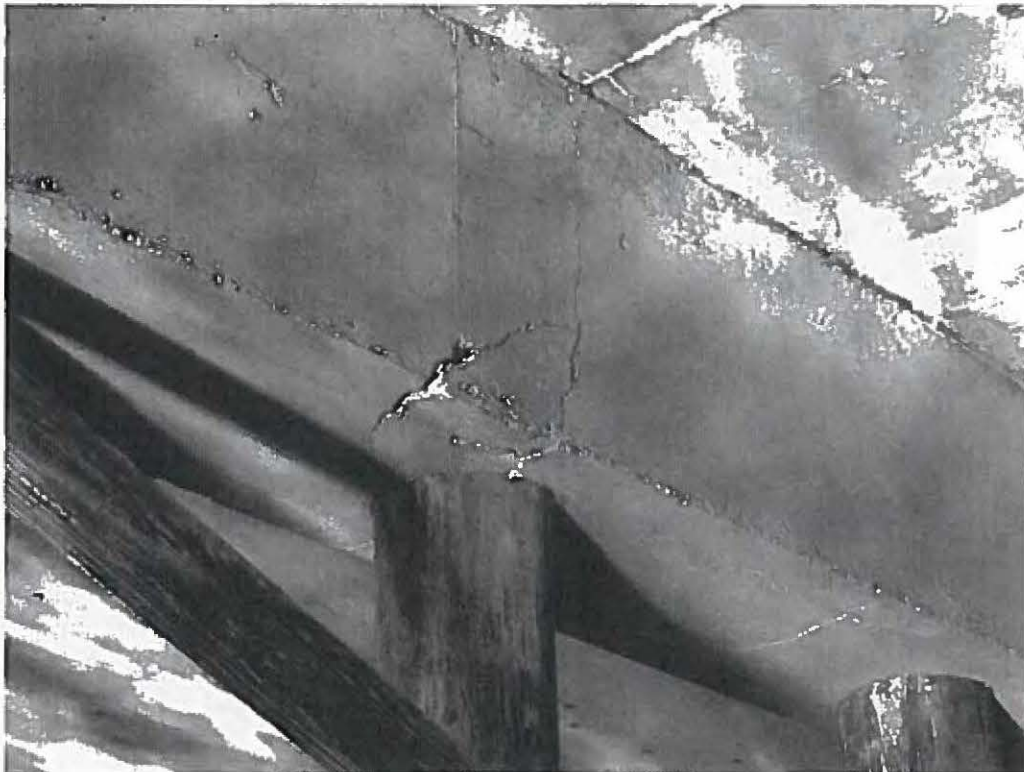


Photo 14: Delamination crack on the East side of pile cap #4, above pile #4.

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PHOTOS

Photo 15: Pile bent #1.



Photo 16: Pile #2 on bent #2.

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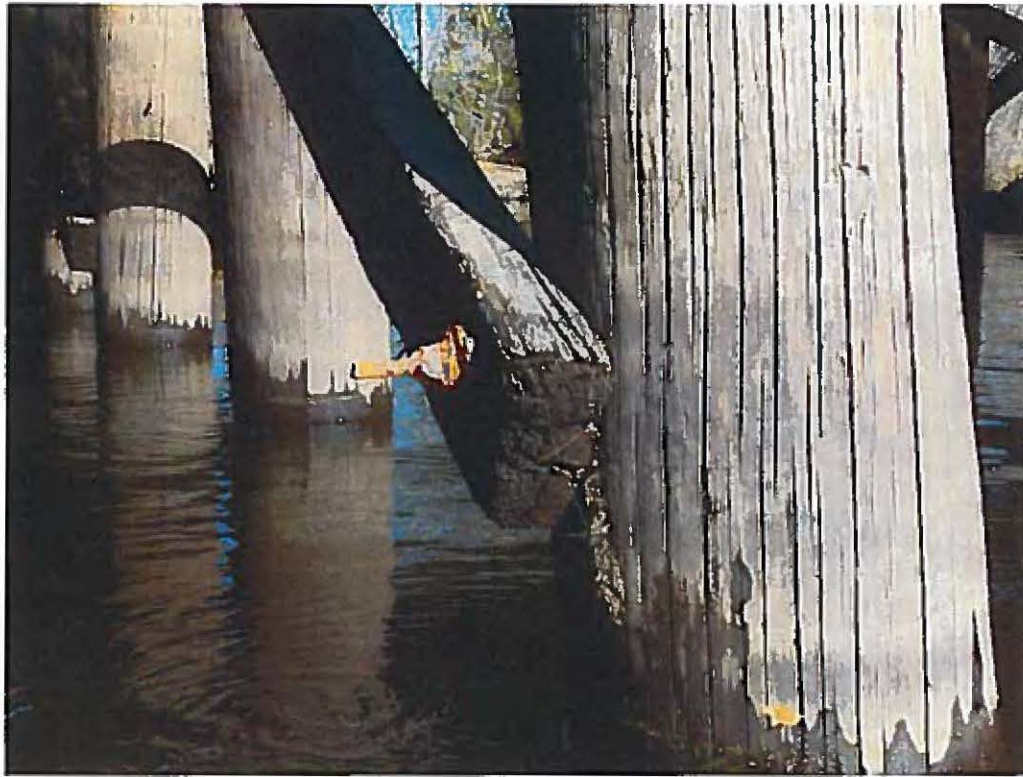
PHOTOS

Photo 17: Typical condition of the diagonal bracing near the waterline.



Photo 18: Broken diagonal bracing between piles #6 and #8, bent #1.

CITY/TOWN WAYLAND	B.I.N. 24Y	BR. DEPT. NO. W-11-007	8.-STRUCTURE NO. W11007-24Y-MUN-NBI	INSPECTION DATE NOV 15, 2017
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PHOTOS

Photo 19: Broken/disconnected diagonal brace on bent #2.



Photo 20: Bracing at pile #1, bent #4.

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PHOTOS



Photo 21: Collision damage to the Northwest approach guardrail.

National Bridge Element Inspection

BDEPT# W-11-007

Date 11/15/2017

B.I.N. 24Y

District Bridge Inspection Eng'r Mahmood Azizi

Item 8 W11007-24Y-MUN-NBI

Inspecting Agency Mass. Highway Dept.

Span Group 1

Team Leader Dennis Simkhovich

Town Wayland

Team Member(s) John Snyder

District 3

El #	Element Name	Units	Env.	Total Q.	% or Q	State 1	State 2	State 3	State 4
38	Re Concrete Slab	sq feet	2	3,239.999	<input type="checkbox"/> %	1,712.000	1,000.000	1,500.000	
Notes :									
> 1080	Delamination/Spall/Patched Area	sq feet	2	2,000.000	<input type="checkbox"/> %		1,000.000	1,000.000	
Notes :									
> 1120	Efflorescence/Rust Staining	sq feet	2	500.000	<input type="checkbox"/> %			500.000	
Notes :									
215	Re Conc Abutment	feet	2	96.000	<input type="checkbox"/> %	92.000	4.000		
Notes :									
228	Timber Pile	each	3	56	<input type="checkbox"/> %		56		
Notes :									
> 1140	Decay/Section Loss	each	3	2	<input type="checkbox"/> %		2		
Notes :									
> 1150	Check/Shake	each	3	54	<input type="checkbox"/> %		54		
Notes :									
234	Re Conc Pier Cap	feet	2	205.000	<input type="checkbox"/> %	193.000	12.000		
Notes :									
330	Metal Bridge Railing	feet	2	200.000	<input type="checkbox"/> %	200.000			
Notes :									
> 515	Steel Protective Coating	sq feet	2	800.000	<input type="checkbox"/> %	800.000			
Notes :									
> > 3440	Eff (Stl Protect Coat)	sq feet	2	800.000	<input type="checkbox"/> %	800.000			
Notes :									

National Bridge Element Inspection

BDEPT# W-11-007

Date 11/15/2017

B.I.N. 24Y

District Bridge Inspection Eng'r Mahmood Azizi

Item 8 W11007-24Y-MUN-NBI

Inspecting Agency Mass. Highway Dept.

Span Group 1

Team Leader Dennis Simkhovich

Town Wayland

Team Member(s) John Snyder

District 3

El #	Element Name	Units	Env.	Total Q.	% or Q	State 1	State 2	State 3	State 4
38	Re Concrete Slab	sq feet	2	3,240.000	<input type="checkbox"/> %	740.000	1,000.000	1,500.000	
Notes :									
> 1080	Delamination/Spall/Patched Area	sq feet	2	2,000.000	<input type="checkbox"/> %		1,000.000	1,000.000	
Notes :									
> 1120	Efflorescence/Rust Staining	sq feet	2	500.000	<input type="checkbox"/> %			500.000	
Notes :									
215	Re Conc Abutment	feet	2	96.000	<input type="checkbox"/> %	92.000	4.000		
Notes :									
228	Timber Pile	each	3	56	<input type="checkbox"/> %		56		
Notes :									
> 1140	Decay/Section Loss	each	3	2	<input type="checkbox"/> %		2		
Notes :									
> 1150	Check/Shake	each	3	54	<input type="checkbox"/> %		54		
Notes :									
234	Re Conc Pier Cap	feet	2	205.000	<input type="checkbox"/> %	193.000	12.000		
Notes :									
330	Metal Bridge Railing	feet	2	200.000	<input type="checkbox"/> %	200.000			
Notes :									
> 515	Steel Protective Coating	sq feet	2	800.000	<input type="checkbox"/> %	800.000			
Notes :									
> > 3440	Eff (Stl Protect Coat)	sq feet	2	800.000	<input type="checkbox"/> %	800.000			
Notes :									

Report Date: October 30, 2017

State Information				Classification	Code
BDEPT# = W11007		Agency Br.No.		(112) NBIS Bridge Length	Y
Town = Wayland		L.O.		(104) Highway System	Y
B.I.N = 24Y		AASHTO = 056.1		(26) Functional Class - Urban Arterial	14
RANK = 2194 H.I. = 67.1 %		FHWA Select List = Y		(100) Defense Highway	0
(8) Structure Number		W1100724YMUNNBI		(101) Parallel Structure	N
(5) Inventory Route		151000270		(102) Direction of Traffic - 2-way traffic	2
(2) State Highway Department District		03		(103) Temporary Structure	N
(3) County Code 017 (4) Place code		73790		(105) Federal Lands Highways	0
(6) Features Intersected		WATER SUDBURY RIVER		(110) Designated National Network	N
(7) Facility Carried		ST 27 OLD SUDBURY		(20) Toll - On free road	3
(9) Location		1.5 MI. N OF US-20		(21) Maintain - Town Agency	03
(11) Kilometerpoint		0087.224		(22) Owner - Town Agency	03
(12) Base Highway Network		Y		(37) Historical Significance built after 1949 presumed to be not elig	Z
(13) LRS Inventory Route & Subroute		000000000000		Condition	Code
(16) Latitude		42 DEG 22 MIN 26.97 SEC		(58) Deck	5
(17) Longitude		71 DEG 22 MIN 53.54 SEC		(59) Superstructure	5
(98) Border Bridge State Code		Share %		(60) Substructure	5
(99) Border Bridge Structure No. #				(61) Channel & Channel Protection	6
				(62) Culverts	N
Structure Type and Material				Load Rating and Posting	Code
(43) Structure Type Main: Concrete continuous		Code 201		(31) Design Load - H 20=M 18	4
Slab		Jointless bridge type: INTEGRAL (timber)		(63) Operating Rating Method - Load Factor (LF)	1
(44) Structure Type Appr: Other		Code 000		(64) Operating Rating	39.9
(45) Number of spans in main unit		006		(65) Inventory Rating Method - Load Factor (LF)	1
(46) Number of approach spans		0000		(66) Inventory Rating	23.9
(107) Deck Structure Type - Concrete Cast-in-Place		Code 1		(70) Bridge Posting	5
(108) Wearing Surface / Protective System:				(41) Structure - Open	A
A) Type of wearing surface - Concrete		Code 1		Appraisal	Code
B) Type of membrane - None		Code 0		(67) Structural Evaluation	5
C) Type of deck protection - None		Code 0		(68) Deck Geometry	3
Age and Service				(69) Underclearances, vert. and hortic.	N
(27) Year Built		1956		(71) Waterway adequacy	7
(106) Year Reconstructed		0000		(72) Approach Roadway Alignment	8
(42) Type of Service: On - Highway-Ped				(36) Traffic Safety Features	0 0 1 1
Under - Waterway		Code 55		(113) Scour Critical Bridges	8
(28) Lanes: On Structure 02		Under structure 00		Inspections	
(29) Average Daily Traffic		014900		(90) Inspection Date 11/03/15	(91) Frequency 24 MO
(30) Year of ADT 2004 (109) Truck ADT		10 %		(92) Critical Feature Inspection:	(93) CFI DATE
(19) Bypass, detour length		003 KM		(A) Fracture Critical Detail	N 00 MO A) 00/00/00
Geometric Data				(B) Underwater Inspection	Y 36 MO B) 02/24/17
(48) Length of maximum span		0005.5M		(C) Other Special Inspection	N 00 MO C) 00/00/00
(49) Structure Length		00033.2M		(*) Other Inspection ()	N 00 MO *) 00/00/00
(50) Curb or sidewalk: Left 01.6 M Right 00.4 M				(*) Closed Bridge	N 00 MO *) 00/00/00
(51) Bridge Roadway Width Curb to Curb		009.1M		(*) UW Special Inspection	N 00 MO *) 00/00/00
(52) Deck Width Out to Out		012.4M		(*) Damage Inspection	MO *) 00/00/00
(32) Approach Roadway Width (w/shoulders)		009.1M		Rating Loads	
(33) Bridge Median - No median		Code 0		Report Date 09/01/16	H20 Type 3 Type 3S2 Type HS
(34) Skew 00 DEG (35) Structure Flared		N		Operating	22.0 32.0 50.0 38.0
(10) Inventory Route MIN Vert Clear		99.99M		Inventory	14.0 20.0 32.0 25.0
(47) Inventory Route Total Horiz Clear		09.1M		Field Posting	
(53) Min Vert Clear Over Bridge Rdwy		99.99M		Status WAIVED	Posting Date 10/11/16
(54) Min Vert Underclear ref N		00.00M		2 Axle	3 Axle 5 Axle
(55) Min Lat Underclear RT ref N		00.00M		Actual	
(56) Min Lat Underclear LT		00.00M		Recommended	
Navigation Data				Missing Signs N	
(38) Navigation Control - Navigation control on waterway		Code 1		Misc.	
(111) Pier Protection		Code 1		Bridge Name	
(39) Navigation Vertical Clearance		002.1M		N Anti-missile fence N Acrow Panel Y Jointless Bridge	
(116) Vert-lift Bridge Nav Min Vert Clear		M		Freeze/Thaw N : Not Applicable	
(40) Navigation Horizontal Clearance		0005.2M		Accessibility (Needed/Used)	
				N / N Liftbucket	N / N Rigging Y / Y Other
				N / N Ladder	N / N Staging FLOATUBE
				P / N Boat	N / N Traffic Control
				Y / Y Wader	N / N RR Flagperson
				N / N Inspector 50	N / N Police
					Inspection Hours: 008

Report Date: November 24, 2017

State Information				Classification			
BDEPT# = W11007		Agency Br.No.		(112) NBIS Bridge Length		Code	
Town = Wayland		L.O.		(104) Highway System		Y	
B.I.N = 24Y		AASHTO = 056.1		(26) Functional Class - Urban Arterial		14	
RANK = 2194 H.I. = 67.1 %		FHWA Select List = Y		(100) Defense Highway		0	
Identification				(101) Parallel Structure			
(8) Structure Number		W1100724YMUNNBI		(102) Direction of Traffic - 2-way traffic		2	
(5) Inventory Route		151000270		(103) Temporary Structure		N	
(2) State Highway Department District		03		(105) Federal Lands Highways		0	
(3) County Code 017 (4) Place code		73790		(110) Designated National Network		N	
(6) Features Intersected		WATER SUDBURY RIVER		(20) Toll - On free road		3	
(7) Facility Carried		ST 27. OLD SUDBURY		(21) Maintain - Town Agency		03	
(9) Location		1.5 MI. N OF US-20		(22) Owner - Town Agency		03	
(11) Kilometerpoint		0087.224		(37) Historical Significance built after 1949 presumed to be not eligi		Z	
(12) Base Highway Network		Y		Condition			
(13) LRS Inventory Route & Subroute		000000000000		Code			
(16) Latitude		42 DEG 22 MIN 26.97 SEC		(58) Deck			
(17) Longitude		71 DEG 22 MIN 53.54 SEC		(59) Superstructure			
(98) Border Bridge State Code		Share %		(60) Substructure			
(99) Border Bridge Structure No. #				(61) Channel & Channel Protection			
Structure Type and Material				(62) Culverts			
(43) Structure Type Main:		Concrete continuous		Code		201	
Slab		Jointless bridge type:		INTEGRAL (timber			
(44) Structure Type Appr:		Other		Code		000	
(45) Number of spans in main unit				Code		006	
(46) Number of approach spans				Code		0000	
(107) Deck Structure Type - Concrete Cast-in-Place		Code		1			
(108) Wearing Surface / Protective System:				Appraisal			
A) Type of wearing surface - Concrete		Code		1			
B) Type of membrane - None		Code		0			
C) Type of deck protection - None		Code		0			
Age and Service				Inspections			
(27) Year Built		1956		(90) Inspection Date		11/15/17	
(106) Year Reconstructed		0000		(91) Frequency		24 MO	
(42) Type of Service: On - Highway-Ped		Code		55			
Under - Waterway		Code		00			
(28) Lanes: On Structure		02		(92) Critical Feature Inspection:		(93) CFI DATE	
(29) Average Daily Traffic		010800		(A) Fracture Critical Detail		N 00 MO A) 00/00/00	
(30) Year of ADT		2004 (109) Truck ADT		(B) Underwater Inspection		Y 36 MO B) 02/24/17	
(19) Bypass, detour length		003 KM		(C) Other Special Inspection		N 00 MO C) 00/00/00	
Geometric Data				(*) Other Inspection ()			
(48) Length of maximum span		0005.5 M		(*) Closed Bridge			
(49) Structure Length		00033.2 M		(*) UW Special Inspection			
(50) Curb or sidewalk: Left 01.6 M Right		00.4 M		(*) Damage Inspection			
(51) Bridge Roadway Width Curb to Curb		009.1 M		Rating Loads			
(52) Deck Width Out to Out		012.4 M		Report Date		09/01/16	
(32) Approach Roadway Width (w/shoulders)		009.1 M		Operating		H20 Type 3 Type 352 Type HS	
(33) Bridge Median - No median		Code		Inventory		14.0 20.0 32.0 25.0	
(34) Skew 00 DEG (35) Structure Flared		N		Field Posting			
(10) Inventory Route MIN Vert Clear		99.99 M		Status		WAIVED	
(47) Inventory Route Total Horiz Clear		09.1 M		Actual		2 Axle 3 Axle 5 Axle	
(53) Min Vert Clear Over Bridge Rdwy		99.99 M		Recommended			
(54) Min Vert Underclear ref		N 00.00 M		Missing Signs		N	
(55) Min Lat Underclear RT ref		N 00.0 M		Misc.			
(56) Min Lat Underclear LT		00.0 M		Bridge Name			
Navigation Data				N Anti-missile fence N Acrow Panel Y Jointless Bridge			
(38) Navigation Control - Navigation control on waterway		Code		1		Freeze/Thaw N : Not Applicable	
(111) Pier Protection		Code		1		Accessibility (Needed/Used)	
(39) Navigation Vertical Clearance		002.1 M		N / N Liftbucket		N / N Rigging Y / Y Other	
(116) Vert-lift Bridge Nav Min Vert Clear		M		N / N Ladder		N / N Staging FLOATTUBE	
(40) Navigation Horizontal Clearance		0005.2 M		P / N Boat		N / N Traffic Control	
				Y / Y Wader		N / N RR Flagperson	
				N / N Inspector 50		N / N Police	
						Inspection Hours: 008	

(SEAL)

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
LAND COURT DEPARTMENT

MIDDLESEX, ss.

CASE NO. 13 MISC. 480577 (KCL)

JOHN MOSS and AMY BORNER,

Plaintiffs,

v.

GARY LINGLEY and

ANNMARIE LINGLEY as

Trustees of the J.M.J. Realty Trust,

Defendants,

and

TOWN OF WAYLAND, acting by and

through its BOARD OF SELECTMEN,

BOARD OF PUBLIC WORKS and

CONSERVATION COMMISSION,

Intervenor-Defendant.

DECISION

Introduction

The plaintiffs, John Moss and Amy Borner, own the property at 50 and 54 Lake Shore Drive on Dudley Pond in Wayland. It is part of the Woodland Park Subdivision, which was laid out on a plan entitled "Woodland Park, Wayland, Mass." dated September 3, 1914 and recorded at the Middlesex South Registry of Deeds (the "1914 Plan"), a copy of which is attached as Ex. 1. That plan, however, has almost no relationship to how the area has actually developed. See Ex. 2 (present-day aerial photograph). The lots on the

plan were combined into larger parcels before houses were built on them.¹ Others were combined into extensive conservation areas. The Hultman Aqueduct to the Quabbin Reservoir took many more. As a result, many of the roadways shown on the plan were never built, and no steps have ever been taken to build them. *See* Ex. 2. In particular, the “Crown Path” roadway shown across the plaintiffs’ property on the 1914 Plan has never been used or developed. It is, and has always been, only a “paper street”² and has long-since been incorporated into the plaintiffs’ property.

Despite this, and based solely on the existence of Crown Path on the 1914 Plan, both defendant J.M.J. Realty Trust and the Intervenor Defendant Town of Wayland have contended that they have the right to use Crown Path for access to Dudley Pond. The Trust has previously been defaulted,³ leaving only the town as an active defendant.⁴ The

¹ The plaintiffs’ property, for example, is a combination over a dozen lots (lots 301-313, and half of 300), and the entirety of Crown Path.

² A paper street is “a street shown on a plan but not built on the ground.” *Berg v. Town of Lexington*, 68 Mass. App. Ct. 569, 570 (2007).

³ The J.M.J. Realty Trust, which owns a house lot over 1,000 feet away, was defaulted on two independent grounds. The first — a default and associated order pursuant to Mass. R. Civ. P. 33(a)(3), (4) and (6) for failure to respond to the plaintiffs’ interrogatories without good cause — occurred while the Trust was represented by counsel. *See* Docket Entries (Oct. 17, 2014; Oct. 20, 2014; Nov. 20, 2014); *Institution for Sav. in Newburyport & its Vicinity v. Langis*, 92 Mass. App. Ct. 815 (2018). Because a trust must have counsel and cannot be represented by its trustees *pro se*, its then-counsel’s motion to withdraw (he was not being paid) was repeatedly denied while the Rule 33(a) motion, along with the Trust’s failure to respond to other discovery, were still pending. *See* Docket Entries (Jul. 9, 2014; Aug. 13, 2014) and the case law cited therein. When the attorney’s motion to withdraw was ultimately allowed after default was entered, the Trust was directed to have successor counsel file an appearance within thirty days. *See* Docket Entry (Jan. 6, 2015).

The attorney who subsequently entered an appearance on behalf of the Trust was disqualified because of a conflict, and no successor counsel filed an appearance by the court-ordered deadline of March 26, 2015. *See* Docket Entries (Feb. 6, 2015; Feb. 24, 2015; Mar. 12, 2015; Mar. 30, 2015). Judgment shall thus enter against the Trust on that basis as well. *See id.* The plaintiffs’ motion for entry of a separate and final judgment against the Trust was denied solely to avoid multiple appeals in the same case, *see Long v. Wickett*, 50 Mass. App. Ct. 380, 386–404 (2000), and will now be entered along with a Judgment addressing the town’s claims, bringing this matter to a full conclusion.

⁴ The town stipulated that its rights to Crown Path, if any, are based solely on its status as a landowner in the Woodland Park Subdivision as derived from the 1914 Plan and not, in any manner, on its status as a municipality.

town has never used Crown Path for such access, has no need to do so, and has always used other routes to access the pond.

The plaintiffs contend that the town has no right to use Crown Path because, to the extent it ever had an easement to do so, that easement has long-since been abandoned. The town disagrees.

This case was tried before me, jury-waived. Based on the testimony and documents admitted at trial, my assessment of the credibility, weight, and appropriate inferences to be drawn from that evidence, and as more fully explained below, I find and rule that abandonment has occurred, and thus that whatever easement rights previously existed for any of the town's parcels to use Crown Path now no longer exist.

Facts

These are the facts as I find them after trial.

The Woodland Park Subdivision

The Woodland Park Subdivision plan laid out 969 lots on approximately eighty-five acres of land, with Dudley Pond to the south and Old Connecticut Path to the north. Nearly all of those lots have been combined into larger parcels. The 1914 Plan also depicts a network of roadways, most of which, like Crown Path, are only paper streets which have never been developed.

The Town's Property

The town owns the entirety of Dudley Pond. The town also owns, in whole or in part, 159 lots as shown on the 1914 Plan, which are presently configured as eleven parcels (collectively, Town Parcels 1-11) and administered by various town departments.⁵

⁵ The lots depicted on the 1914 Plan that are currently owned by the town are: (1) Lots 105-107, 408-409, 968-969 ("Town Parcel 1"); (2) Lots 410-417 ("Town Parcel 2"); (3) Lots 429-473 and 805-818

Town Parcels 1, 2, 3, 4, and 5 consist of deed-restricted conservation land and are administered by the town's conservation commission. Town Parcel 6, acquired by a taking for "highway purposes" (although not presently used as such), is administered by the town's department of public works. The town's board of selectmen administers Town Parcels 7, 8, 9, and 10 (acquired by tax lien foreclosures), as well as Town Parcel 11 (acquired by quitclaim deed). The Town Parcels are, for the most part, wooded, unimproved, and not presently in active use.

At issue is the town's claim of a right of way over Crown Path, which is based solely on the depiction of Crown Path on the 1914 Plan and the reference in certain of the town's deeds to the right to use the ways shown on that plan.⁶ As discussed more fully below, regardless of what easement rights may have existed on that basis, all such rights to the use of Crown Path have been abandoned.

The Plaintiffs' Property

The plaintiffs' property consists of thirteen (and a portion of a fourteenth) adjoining lots shown on the 1914 Plan.⁷ They acquired title to 50 Lake Shore Drive⁸ in 2006, and title to the adjacent property at 54 Lake Shore Drive in 2008.⁹ After purchasing 50 Lake Shore Drive, the plaintiffs demolished the existing house on the property, constructed a new one, and remodeled its garage. They subsequently

("Town Parcel 3"); (4) Lots 484-493 and 504-518 ("Town Parcel 4"); (5) Lots 522-528, 539-542, 543-555, and 604-613 ("Town Parcel 5"); (6) Lots 616-619 ("Town Parcel 6"); (7) Lots 529-533 and part of Lot 800 ("Town Parcel 7"); (8) Lots 621-624 and 589-591 ("Town Parcel 8"); (9) Lots 945-947 ("Town Parcel 9"); (10) Lot 620 ("Town Parcel 10"); and (11) Lots 266-267 ("Town Parcel 11").

⁶ The town so stipulated. It also stipulated that it has no present plans or intention to use Crown Path.

⁷ The plaintiffs' property consists of part of lot 300, and lots 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312 and 313 on the 1914 Plan.

⁸ 50 Lake Shore Drive consists of Lots 301, 302, 303, 304, 305, 306, 307, 308, 309, and a portion of Lot 300 on the 1914 Plan.

⁹ 54 Lake Shore Drive consists of Lots 310, 311, 312, and 313 on the 1914 Plan.

demolished the house on 54 Lake Shore Drive and, with extensive landscaping, began using that parcel's land as part of their lawn. The two properties are thus now combined into a single parcel with a single dwelling.¹⁰

The plaintiffs' property includes the fee to all of the land abutting Crown Path as depicted on the 1914 Plan. By operation of the Derelict Fee Statute, the plaintiffs own the entirety of the fee in Crown Path as well.¹¹ See G.L. c. 183, § 58.

Crown Path

Crown Path has never been used or developed as a roadway.¹² As shown on the 1914 Plan, it appears to extend from Lake Path (presently Lake Shore Drive) to Dudley Pond, between lots now owned by the plaintiffs. It is approximately two-hundred-and-twenty feet long, varies from nineteen to twenty-one feet wide, and has a hairpin turn near the street. On the ground, most of Crown Path is relatively flat, but toward Dudley Pond it slopes down and has a steep, rocky drop to the water.

Before the plaintiffs combined 50 Lake Shore Drive and 54 Lake Shore Drive into one residence, most of Crown Path was used as part of 54 Lake Shore Drive's side yard. The front portion of the remainder was used as part of 50 Lake Shore Drive's driveway, which has been used only for access to 50 Lake Shore Drive and has never gone farther

¹⁰ The two properties legally merged in 2008 when their title came into the plaintiffs' common ownership. With the plaintiffs' subsequent improvements to the properties, they have physically appeared to be a single lot with a single residence since 2011.

¹¹ The plaintiffs' 2006 and 2008 deeds each describe the land conveyed as bounded by Crown Path. As stipulated by the parties, the plaintiffs' source deeds from the original owner of the subdivision property also describe the properties conveyed as bounding on Crown Path, and all subsequent conveyances in the plaintiffs' chain of title contain such bounding descriptions. So far as the evidence showed, there has been no exception or reservation of the fee in Crown Path by any of the plaintiffs' predecessors in title. Thus, by acquiring title to the land abutting Crown Path, the plaintiffs also acquired the fee in Crown Path itself. See G.L. c. 183, § 58.

¹² This corresponds with United States Geographical Survey maps from 1943, 1950, 1958, 1965, 1970 and 1977 that all depict the 50 Lake Shore Drive and 54 Lake Shore Drive properties as developed with residences, with none showing Crown Path as existing on the ground.

than its house (*i.e.*, never to the pond itself). The rest was part of 50 Lake Shore Drive's side yard.

Other than the part used for 50 Lake Shore Drive's driveway, Crown Path was physically impassable by motor vehicle. Crown Path was heavily wooded from Lake Shore Drive through its hairpin turn, and it contained shrubbery and trees toward the water. This shrubbery and trees within Crown Path made vehicular travel over it impossible. Various other obstructions in Crown Path also prevented passage over it, including a concrete block retaining wall that extended approximately twenty-six feet over it, and portions of two chain link fences — one an approximately six-foot section of fencing near the garage on 50 Lake Shore Drive, and the other an approximately ten-foot section of fencing near the pond. In addition, the former owners of 54 Lake Shore Drive used Crown Path as a year-round storage area for their pontoon boat, trash barrels, a barbeque, a lawnmower, and other household goods.

At present, most of Crown Path is used as part of the plaintiffs' front lawn, and some is used as part of their driveway.¹³ Its entrance by Lake Shore Drive is partially blocked by a stone wall, and is blocked by the water's edge by brush and trees.

So far as the evidence showed, no one other than the owners of 50 Lake Shore Drive and 54 Lake Shore Drive has ever used Crown Path for access to the water and, prior to the filing of this case, only defendant Gary Lingley had ever asserted a right to do so.¹⁴ As the town stipulated, there was no evidence of anyone, town employees included,

¹³ The plaintiffs removed the fencing and retaining wall.

¹⁴ Mr. Lingley's activities on Crown Path, which resulted in the plaintiffs' filing of this lawsuit to stop them, were not done in good faith, but rather in an attempt to get money from the plaintiffs. The J.M.J. Realty Trust property where Mr. Lingley lives is over 1,000 feet away from Crown Path and uses a well-developed, much closer, direct access route to Dudley Pond (Maiden Lane) when its residents actually want to go to the pond. Here, on a dozen occasions in provocative fashion, Mr. Lingley drove onto the Crown Path land (the plaintiffs' yard) and simply parked there on the grass, doing nothing further, with no

having ever used Crown Path to access the pond. And, prior to this action, the town never requested anyone to remove obstacles within Crown Path or demanded that Crown Path be open for its benefit.

In short, Crown Path has never been used as a right of way to the water, by anyone, at any time.¹⁵

Further relevant facts are set forth in the Analysis section below.

Analysis

The town's claimed right of access over the Crown Path area is based solely on the 1914 Plan's depiction of Crown Path and the references in some of its source deeds to those lots' right to use the subdivision's roads. The plaintiffs contend that, to the extent the town ever had an easement over Crown Path (an issue I need not, and do not, decide), all such rights have been abandoned. The plaintiffs are correct that abandonment has occurred.

"[A]bandonment of an easement is a question of intention to be ascertained from the surrounding circumstances and the conduct of the parties." *Carlson v. Fontanella*, 74 Mass. App. Ct. 155, 158 (2009) (citing *Sindler v. William M. Bailey Co.*, 348 Mass. 589, 592 (1965)). Nonuse by itself does not prove abandonment, *see Cater v. Bednarek*, 462 Mass. 523, 528 n.15 (2012), but it is a factor, when combined with others, from which

attempt to get to or use the pond. When challenged by the plaintiffs, he said he would continue doing this until paid to stop, and referred the plaintiffs to his then-attorney to negotiate an amount he would accept. The plaintiffs declined to pay him, and instead filed this lawsuit. *See* Docket Entry (Aug. 13, 2014).

¹⁵ Because of the various impediments to using Crown Path, it is not surprising that it has never been used as a right of way. As discussed, the physical obstructions historically located throughout Crown Path rendered it impassable by vehicle. Even without those obstructions, it would be impracticable to use Crown Path as an access route to the pond. Crown Path does not conform to current subdivision dimensional regulations, and navigating vehicles over it would be difficult because of its hairpin turn. With its steep edge and boulders along the water, boat access would be difficult, if not impossible. It is also highly doubtful that the conservation commission would grant approval for the construction of a roadway to the water.

abandonment can be inferred. *See Sindler*, 348 Mass. at 592-593 (“[F]or a period of over thirty-five years, the respondent . . . permitted the occurrence of events and relatively permanent changes in the disputed area, all of which combine to warrant an inference that it has abandoned its rights to the easement in question.”); *Lund v. Cox*, 281 Mass. 484, 492-493 (1933) (“Physical obstructions on the servient tenement, rendering user of the easement impossible and sufficient in themselves to explain the nonuser, combined with the great length of time during which no objection has been made to their continuance nor effort made to remove them, are sufficient to raise the presumption that the right has been abandoned and has now ceased to exist.”); *Carlson*, 74 Mass. App. Ct. at 158-160. *See also Siebecker v. Orefice*, 22 LCR 178, 181-182, 2014 WL 1896414 at *6 (2014) (Land Ct.) *aff’d*, 87 Mass. App. Ct. 1126, 2015 WL 3477162 (June 3, 2015) (Mem. and Order Pursuant to Rule 1:28) (“[A]bandonment may be found based on a totality of three elements: (1) long-term nonuse, (2) acquiescence by the dominant estate to obstruction of the easement, [and] (3) inconsistent use by the dominant estate.”). In particular, nonuse together with the “failure to protest acts which are inconsistent with the existence of an easement, particularly where one has knowledge of the right to use the easement, permits an inference of abandonment.” *Carlson*, 74 Mass. App. Ct. at 158. *See Sindler*, 348 Mass. at 593; *Lund*, 281 Mass. at 492-493.

Here, the town has never used Crown Path, nor, until this lawsuit, asserted a right to do so. Instead, for decades, it acquiesced to the inconsistent uses that area’s owners were making of it. Prior to intervening in this action, the town never protested the many obstacles — vegetation, chain link fences, a concrete retaining wall, trash barrels, a barbeque, a lawnmower, a pontoon boat, etc. — in Crown Path that prevented vehicular

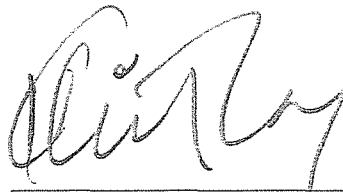
access over it. Nor did the town object to the plaintiff's extensive landscaping work in the Crown Path area until this lawsuit.

The town had knowledge of Crown Path through its depiction on the 1914 Plan, knowledge through decades of observation of its use by the plaintiffs in ways inconsistent with its use for access to the pond, knowledge of the practical and physical impediments to using it for access to the water, and has always used alternative routes to access the pond. All this, combined with the town's long period of non-use, is sufficient to permit an inference of abandonment. I do so, and find that the town has abandoned whatever easement rights it has over Crown Path.¹⁶

Conclusion

For the foregoing reasons, I find and rule that the town has abandoned all rights of easement over Crown Path and so declare. Final judgment shall also now enter against defendant J.M.J. Realty Trust, declaring that it has no easement rights to use Crown Path, based on its failure to timely respond to the plaintiffs' interrogatories without good cause, Mass. R. Civ. P. 33(a)(3), (4) and (6), and its failure, again without good cause, to have counsel enter an appearance on its behalf by the court-ordered deadline of March 26, 2015. Judgment shall enter accordingly.

SO ORDERED.



Keith C. Long, Justice

Dated: 6 April 2018

¹⁶ The town argues that it could not lawfully abandon its alleged easement in Crown Path without following the voting and other requirements of G.L. c. 40, § 15. I disagree. G. L. c. 40, § 15 concerns only land taken by eminent domain, *see Muir v. City of Leominster*, 2 Mass. App. Ct. 587, 593 (1974), and is thus immaterial to this case because the town's claimed right of way over Crown Path is based solely on alleged grants of easement for properties the town acquired by deed. *See* Transcript (Closing Arguments) at 9-12; Intervenor's Post-Trial Brief at 11.

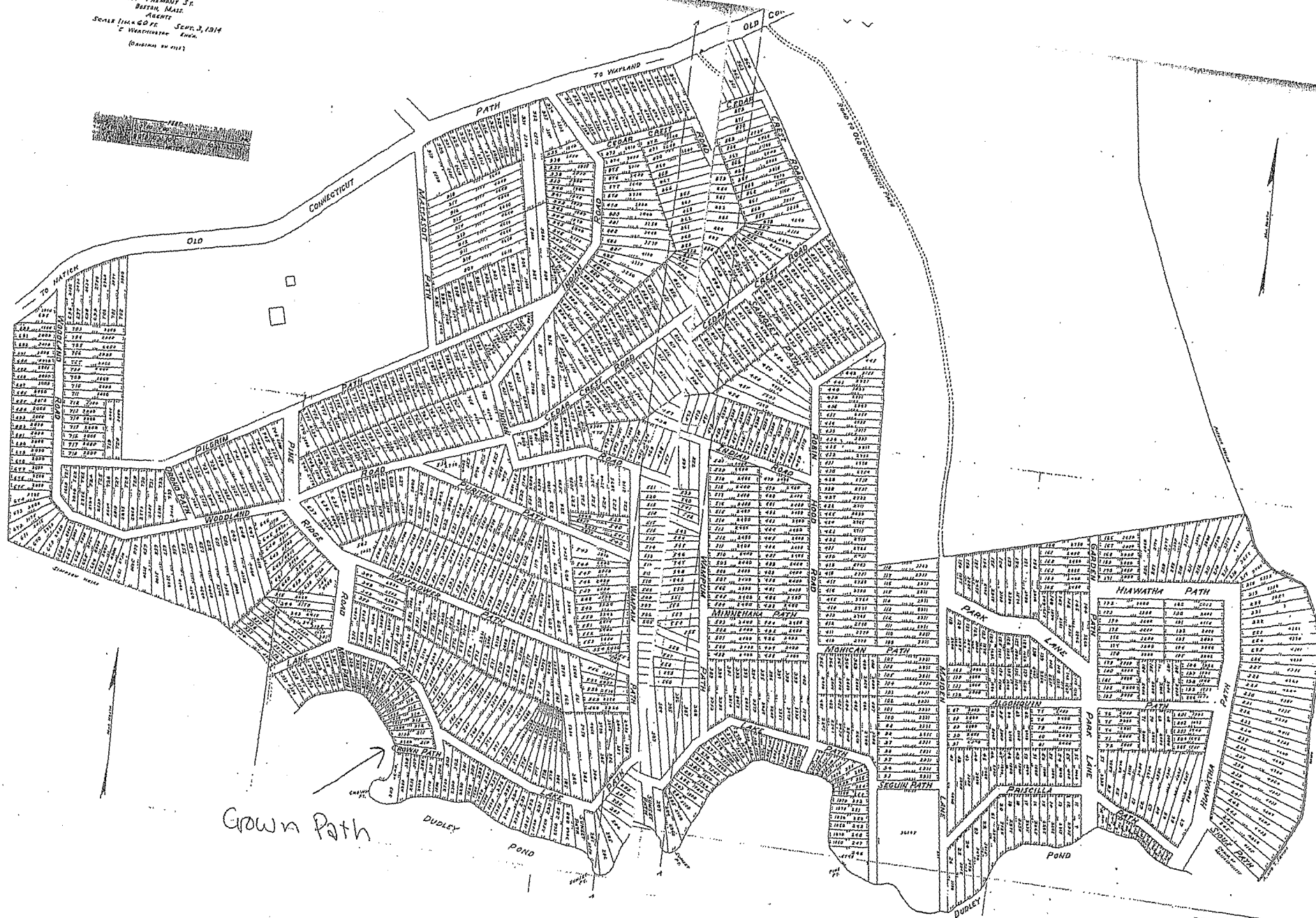


EXHIBIT 1

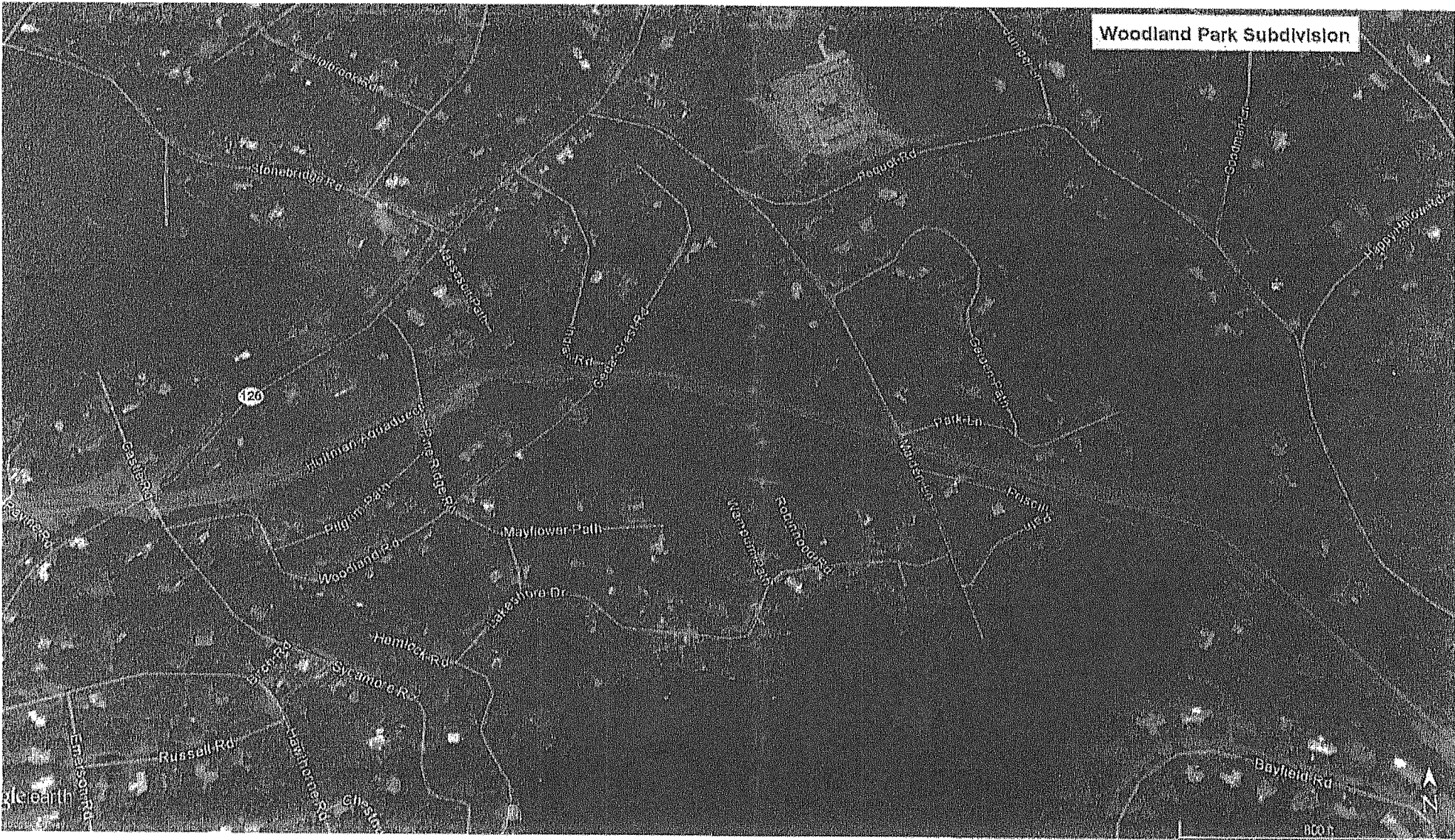


EXHIBIT 2

(SEAL)

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
LAND COURT DEPARTMENT

MIDDLESEX, ss.

CASE NO. 13 MISC. 480577 (KCL)

JOHN MOSS and AMY BORNER,)
)
)
Plaintiffs,)
v.)
)
GARY LINGLEY and)
ANNMARIE LINGLEY as)
Trustees of the J.M.J. Realty Trust,)
)
Defendants,)
)
and)
)
TOWN OF WAYLAND, acting by and)
through its BOARD OF SELECTMEN,)
BOARD OF PUBLIC WORKS and)
CONSERVATION COMMISSION,)
)
Intervenor-Defendant.)
_____)

JUDGMENT

For the reasons set forth in the Court's Decision of this date, it is **FOUND, ORDERED, ADJUDGED, DECLARED, and DECREED** that Intervenor-Defendant Town of Wayland, acting by and through its Board of Selectmen, Board of Public Works, and Conservation Commission, has abandoned all rights of easement it may ever have had over the land depicted as Crown Path on the plan entitled "Woodland Park, Wayland, Mass." dated September 3, 1914 and recorded at the Middlesex South Registry of Deeds (the "1914 Plan"), and has no right to use any portion of Plaintiffs John Moss' and Amy Borner's property at 50 and 54 Lake Shore Drive in Wayland (the "Plaintiffs' property"), and it is further **FOUND, ORDERED, ADJUDGED,**

DECLARED, and **DECREED** that Defendants Gary Lingley and AnnMarie Lingley, as Trustees of the J.M.J. Realty Trust, have no easement rights to use Crown Path or any portion of the Plaintiffs' property. The Intervenor-Defendant and the Defendants are thus **ENJOINED** from using any portion of the Plaintiffs' property, including the area depicted as Crown Path on the 1914 Plan. All other claims and counterclaims are **DISMISSED. SO ORDERED.**

By the court (Long, J.)

Attest:

Dated: 6 April 2018

Deborah J. Patterson, Recorder

A TRUE COPY
ATTEST:

Deborah J. Patterson
RECORDER

NOTICE: All slip opinions and orders are subject to formal revision and are superseded by the advance sheets and bound volumes of the Official Reports. If you find a typographical error or other formal error, please notify the Reporter of Decisions, Supreme Judicial Court, John Adams Courthouse, 1 Pemberton Square, Suite 2500, Boston, MA, 02108-1750; (617) 557-1030; SJCReporter@sjc.state.ma.us

SJC-12353

MARY ALICE BOELTER & others¹ vs. BOARD OF SELECTMEN OF WAYLAND.

Middlesex. December 5, 2017. - April 5, 2018.

Present: Gants, C.J., Lenk, Gaziano, Lowy, Budd, Cypher, & Kafker, JJ.

Open Meeting Law. Municipal Corporations, Open meetings, Selectmen. Moot Question. Attorney General.

Civil action commenced in the Superior Court Department on February 11, 2014.

The case was heard by Dennis J. Curran, J., on motions for summary judgment.

The Supreme Judicial Court on its own initiative transferred the case from the Appeals Court.

Mark J. Lanza, Special Town Counsel, for the defendant.
David S. Mackey, Special Assistant Attorney General
(Christine M. Zaleski also present) for Massachusetts Gaming Commission.

George H. Harris for the plaintiffs.
The following submitted briefs for amici curiae:

¹ Dorothy J. Dunlay; Kent E. George; Stanley U. Robinson, III; and Lois Voltmer.

Maura Healey, Attorney General, & Jonathan Sclarsic & Kevin W. Manganaro, Assistant Attorneys General, for the Attorney General.

Robert J. Ambrogi & Peter J. Caruso for Massachusetts Newspaper Publishers Association.

Kenneth S. Leonetti, Christopher E. Hart, Michael Hoven, & Kelly Caiazzo for Hal Abrams & others.

LENK, J. The plaintiffs, all registered voters in the town of Wayland (town), brought this action in the Superior Court to challenge the procedure by which the board of selectmen of Wayland (board) conducted the 2012 performance review of the town administrator. The chair of the board had circulated to all board members, in advance of the public meeting where the town administrator's evaluation was to take place, board members' individual written evaluations, as well as a composite written evaluation, of the town administrator's performance. The board made public all written evaluations after the open meeting. The issue before us is whether the board violated the Massachusetts open meeting law, G. L. c. 30A, §§ 18 and 20 (a), which generally requires public bodies to make their meetings, including "deliberations," open to the public.

A judge of the Superior Court allowed the plaintiffs' motion for summary judgment, issued a permanent injunction, and declared "stricken" a contrary determination by the Attorney General that had issued the prior year, on essentially the same facts, in which the Attorney General had found that the board's

conduct had not violated the open meeting law. The board appealed from the allowance of summary judgment, arguing that the matter is moot, its conduct did not violate the open meeting law, and the judge erred in "striking" the Attorney General's separate administrative decision.

We conclude that the judge did not err in declining to dismiss the case on mootness grounds, because the matter is capable of repetition and yet evading review, and is of substantial public importance. See, e.g., Seney v. Morhy, 467 Mass. 58, 61 (2014). We conclude further that the procedure the board followed in conducting the town administrator's evaluation did violate the open meeting law. In making this determination, we consider, for the first time, the meaning of the open meeting law's exemption to the definition of "[d]eliberation," which became effective in July, 2010, that permits members of public bodies to distribute to each other "reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed." See St. 2009, c. 28, § 18; G. L. c. 30A, § 18.

We conclude that this exemption was enacted to foster administrative efficiency, but only where such efficiency does not come at the expense of the open meeting law's overarching purpose, transparency in governmental decision-making. As the individual and composite evaluations of the town administrator

by the board members contained opinions, the circulation of such documents among a quorum prior to the open meeting does not fall within the exemption, and thus constituted a deliberation to which the public did not have access, in violation of the open meeting law. We therefore affirm the judge's decision allowing summary judgment for the plaintiffs on this ground. We agree with the board, however, that the judge erred in "striking" the Attorney General's determination, and vacate that portion of the judge's decision.²

1. Background. The material facts are not in dispute. On January 3, 2012, the five-member board held an open meeting during which it reviewed the procedures it intended to follow in conducting the annual performance evaluation of the town administrator. The board agreed that, by the end of the month, its members would submit individual evaluations to the chair, who would compile the evaluations and draft a composite evaluation. The composite evaluation was to be distributed to all board members in advance of the scheduled March 28, 2012, open meeting at which the board planned to discuss the town administrator's performance and issue a final written evaluation. The procedure the board chose to follow was largely

² We acknowledge the amicus briefs submitted by the Attorney General; the Massachusetts Gaming Commission; the Massachusetts Newspaper Publishers Association; and Hal Abrams, Kim Abrams, and Karen Silva.

consistent with the Attorney General's guidance to public bodies regarding performance evaluations, which was available on the Attorney General's Web site:

"May the individual evaluations of an employee be aggregated into a comprehensive evaluation?

"Yes. Members of a public body may individually create evaluations, and then submit them to an individual to aggregate into a master evaluation document to be discussed at an open meeting. Ideally, members of the public body should submit their evaluations for compilation to someone who is not a member of the public body, for example, an administrative assistant. If this is not a practical option, then the chair or other designated public body member may compile the evaluations. However, once the individual evaluations are submitted for aggregation there should be no deliberation among members of the public body regarding the content of the evaluations outside of an open meeting, whether in person or over email."

In accordance with the plan developed at the open meeting, three of the board members submitted written evaluations to the chair. Two sent the evaluations by electronic mail (e-mail) message, and one hand-delivered her evaluation. The chair created a composite performance evaluation which included the opinions of those three board members, as well as his own. The reviews were predominantly positive. The chair then sent the composite document, along with the three individual performance evaluations, to each board member, by e-mail, as part of an agenda packet for the then-upcoming open meeting.

At the meeting, the board reviewed and discussed the composite evaluation and approved it as final. The minutes of the meeting simply state that the board "praised [the town administrator] for his availability and responsiveness to the public, his work ethic, his relationship with town staff, and his accessibility to board and committee members." The composite and individual evaluations subsequently were released to the public.

Approximately two months after the March 28, 2012, open meeting, George Harris, a registered voter in Wayland, filed a complaint with the office of the Attorney General, claiming that the board's procedure for conducting the town administrator's performance evaluation violated the open meeting law. See G. L. c. 30A, §§ 18, 20 (a). The open meeting law requires public bodies to make their meetings open to the public, and provide advance notice of such meetings, unless the meeting is an executive session, which can be conducted only for limited reasons. See G. L. c. 30A, §§ 18, 20.

In January, 2013, the Attorney General responded with a determination letter finding that the board's conduct had not violated the open meeting law; Harris's subsequent request for reconsideration was denied. As judicial review of an Attorney General's determination in such matters is available only to an

aggrieved public body or member thereof, see G. L. c. 30A, § 23 (d), Harris did not appeal from the decision.

In February, 2014, the five plaintiffs in this action, who are also registered voters in Wayland (and who are represented by Harris) filed a complaint against the board in the Superior Court, concerning the same facts. The complaint sought a declaratory judgment and injunctive relief prohibiting the board from commencing a "private exchange of opinions in deliberating the professional competence of an individual prior to an open meeting." The parties filed cross motions for summary judgment.³

The plaintiffs' motion was allowed after a hearing. The judge concluded that the board had violated the open meeting law and permanently enjoined it from "deliberating the town administrator's professional competence by private written messages before the commencement of a meeting open to the public." In his decision, although not in the judgment or amended judgment,⁴ the judge also declared that "[t]he opinion from the Attorney General [d]ivision of [o]pen [g]overnment is

³ In civil actions to enforce the open meeting law, "the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law." G. L. c. 30A, § 23 (f).

⁴ The initial judgment was amended to correct an erroneous statutory reference.

stricken." The board appealed to the Appeals Court, and we transferred the case to this court on our own motion.

2. Discussion. a. Standard of review. We review a decision on a motion for summary judgment de novo, and thus "accord no deference to the decision of the motion judge" (citation omitted). Drakopoulos v. U.S. Bank Nat'l Ass'n, 465 Mass. 775, 777 (2013). "Summary judgment is appropriate where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law." Boazova v. Safety Ins. Co., 462 Mass. 346, 350 (2012), citing Mass. R. Civ. P. 56 (c), as amended, 436 Mass. 1404 (2002).

b. Mootness. At first blush, the plaintiffs' claims appear moot, because the evaluation of the town administrator has been completed, and the plaintiffs are no longer able to affect the procedure the board implemented in 2012 in order to ensure compliance with the open meeting law. In addition, the typical remedy for such a violation is public release of the documents at issue, which the board effectuated after the asserted violation.⁵ See District Attorney for the N. Dist. v.

⁵ The board's mootness argument focuses on the fact that the town administrator, whose performance evaluation was the subject of this action, was terminated in August, 2013. The record is silent as to the reasons for the termination or the outcome of the administrator's other performance evaluations, if any. The plaintiffs, however, are not challenging the outcome of this particular town administrator's performance evaluation, which

School Comm. of Wayland, 455 Mass. 561, 572 (2009) (School Comm. of Wayland).

Nonetheless, dismissal for mootness may be inappropriate if the situation presented is "capable of repetition, yet evading review" (citation omitted). Seney, 467 Mass. at 61. See Globe Newspaper Co. v. Commissioner of Educ., 439 Mass. 124, 127 (2003). "In such circumstances, we do not hesitate to reach the merits of cases that no longer involve a live dispute so as to further the public interest" (citation omitted). Seney, supra. Here, the board's practice is likely to recur; regardless of who is serving as the town administrator, an evaluation must take place every year. Moreover, the practice that the board followed is endorsed by the posted information on the Attorney General's Web site, meaning that other public bodies might follow suit.⁶ At the same time, the issue likely would evade judicial review, because of the relatively short window involved in the annual review. See Wolf v. Commissioner of Pub. Welfare, 367 Mass. 293, 298 (1975) (matter capable of repetition and yet evading review "because the claim of any named plaintiff is

was in fact positive. The town administrator's subsequent termination thus is irrelevant to the mootness determination.

⁶ The Attorney General is authorized to interpret and enforce the open meeting law. See G. L. c. 30A, § 23 (a). She also may "promulgate rules and regulations to carry out enforcement of the open meeting law," and "issue written letter rulings or advisory opinions." G. L. c. 30A, § 25.

likely to be mooted by the mere passage of time during the appeal process").

This matter is also of substantial public importance. By challenging the board's procedure, the plaintiffs seek to ensure that all of the town's constituents have access to the decision-making process of their local government whenever a town administrator is evaluated. See School Comm. of Wayland, 455 Mass. at 570 ("It is essential to a democratic form of government that the public have broad access to the decisions made by its elected officials and to the way in which the decisions are reached" [emphasis in original; citation omitted]). We conclude that the motion judge did not err in declining to dismiss the case for mootness.

c. Open meeting law. General Laws c. 30A, § 20 (a), provides that, with the exception of executive sessions,⁷ "all meetings of a public body shall be open to the public."⁸ The

⁷ General Laws c. 30A, § 21 (a), permits a public body to meet in an executive session in ten limited circumstances, none of which is applicable here. Notably, these circumstances include discussion of "the reputation, character, physical condition or mental health, rather than professional competence, of an individual" (emphasis added). See G. L. c. 30A, § 21 (a) (1).

⁸ "Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least [forty-eight] hours prior to the meeting, excluding Saturdays, Sundays and legal holidays. In an

statute defines a "meeting" as "a deliberation by a public body with respect to any matter within the body's jurisdiction," subject to certain exclusions not relevant here. G. L. c. 30A, § 18. A "deliberation," in turn, is defined as "an oral or written communication through any medium, including [e-mail], between or among a quorum of a public body on any public business within its jurisdiction." Id.

The statute, however, provides an exemption: "'deliberation' shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed" (emphasis added). Id. The parties dispute whether, in circulating the individual and composite evaluations in advance of the public meeting, the board members' opinions were "expressed" within the meaning of this exemption.

To resolve this dispute, we must "effectuate the intent of the Legislature" (citation omitted). Koshy v. Sachdev, 477 Mass. 759, 765 (2017). "We begin with the canon of statutory construction that the primary source of insight into the intent of the Legislature is the language of the statute." Id. at 766,

emergency, a public body shall post notice as soon as reasonably possible prior to the meeting." G. L. c. 30A, § 20 (b).

quoting International Fid. Ins. Co. v. Wilson, 387 Mass. 841, 853 (1983).

As an initial matter, the open meeting law does not provide a meaning for the word "opinion." In ordinary usage, an "opinion" is "a view, judgment, or appraisal formed in the mind about a particular matter." Webster's Third New International Dictionary 1582 (1993). See Boylston v. Commissioner of Revenue, 434 Mass. 398, 405 (2001) ("We usually determine the plain and ordinary meaning of a term by its dictionary definition" [quotation omitted]). The individual and composite evaluations prepared by the board members and shared with the quorum doubtless constituted "appraisals" of the town administrator's performance, and therefore contained board members' opinions. The question, then, is whether the circulation of the individual and composite evaluations containing board members' opinions was permissible since the opinions were not expressed in the body of the chair's e-mail message circulating the evaluations but, rather, in the attachments themselves.

The phrase, "provided that no opinion of a member is expressed," specifically pertains to "reports or documents that may be discussed at a meeting." G. L. c. 30A, § 18. See Deerskin Trading Post, Inc. v. Spencer Press, Inc., 398 Mass. 118, 123 (1986) (general rule of grammatical construction is

that "a modifying clause is confined to the last antecedent" [citation omitted]). The natural reading of the statute is that two categories are carved out of the definition of "deliberation." It is not "deliberation" when the materials distributed to the quorum fall into one of two categories: first, purely procedural or administrative materials (such as agendas) and, second, reports or documents to be discussed at a later meeting, so long as such materials do not express the opinion of a board member.

The board argues that the phrase, "provided that no opinion of a member is expressed," only pertains to the distribution of reports or documents, and not to the reports or documents themselves. In other words, the board believes that the statute permits board members to share their opinions with a quorum provided that the opinions are not expressed in, for example, the body of an e-mail message or in a cover letter, but only in attachments to e-mail messages or documents referred to in a cover letter. This reading would create a loophole that would render the open meeting law toothless. See ENGIE Gas & LNG LLC v. Department of Pub. Utils., 475 Mass. 191, 199 (2016) ("The court does not determine the plain meaning of a statute in isolation but, rather, . . . [considers] the surrounding text, structure, and purpose of the Massachusetts act" [citation and quotations omitted]); Champigny v. Commonwealth, 422 Mass.

249, 251 (1996) (reading of statute that causes it to have "no practical effect" is absurd result, and we "assume the Legislature intended to act reasonably"). If we were to adopt the board's view, the board members permissibly could have conducted an extended communication on any topic without public participation, so long as they styled their opinions as separate reports or documents and delivered them without substantive comment by hand, United States mail, or e-mail messages. This plainly cannot be what the Legislature intended in adopting the exemption. See Worcester v. College Hill Props., LLC, 465 Mass. 134, 145 (2013), quoting North Shore Realty Trust v. Commonwealth, 434 Mass. 109, 112 (2001) (statute "should not be so interpreted as to cause absurd or unreasonable results when the language is susceptible of a sensible meaning").

Our reading is consistent with the statute's history. Previously, the open meeting law defined "deliberation" as "a verbal exchange between a quorum of members of a governmental body attempting to arrive at a decision on any public business within its jurisdiction." See G. L. c. 39, § 23A, as appearing in St. 1975, c. 303, § 3. In School Comm. of Wayland, 455 Mass. at 570-571, this court clarified that a "private e-mail exchange in order to deliberate the superintendent's professional competence" among Wayland school committee members "violated the letter and spirit of the open meeting law," because

"[g]overnmental bodies may not circumvent the requirements of the open meeting law by conducting deliberations via private messages, whether electronically, in person, over the telephone, or in any other form." We reasoned that the e-mail communications at issue were not protected, "as we must presume the substance of the written comments would have been stated orally at an open meeting in which the superintendent's professional competence was discussed." Id. at 571-572.

In the same year that School Comm. of Wayland, supra, was decided, the Legislature broadened the open meeting law's definition of "deliberation," and affirmed that a "deliberation" could encompass "any medium," not just verbal communication. See St. 2009, c. 28, §§ 18, 20, 106 (effective July 1, 2010). At the same time, however, the Legislature amended the open meeting law expressly to allow public bodies to distribute some materials internally in advance of open meetings without triggering the definition of "deliberation"; this change seems to have been a response to the practical realities of local governmental service. By permitting officials to review certain administrative materials and reports in advance of an open meeting, the Legislature took steps to ensure that the work of those officials at the meetings could be focused and efficient. At the same time, in recognition that the overarching purpose of the open meeting law is to ensure transparency in governmental

decision-making, the Legislature specified that no opinion of a board member could be expressed in any documents circulated to a quorum prior to an open meeting. See Revere v. Massachusetts Gaming Comm'n, 476 Mass. 591, 610 (2017) ("the new version of the open meeting law does not alter our belief that '[i]t is essential to a democratic form of government that the public have broad access to the decisions made by its elected officials and to the way in which the decisions are reached'" [citation omitted]). However inefficient this may prove for local bodies in certain circumstances, this is the balance that the Legislature has struck.

The board argues that the Attorney General's interpretation of the open meeting law is entitled to deference and should prevail. In the determination letter dismissing Harris's complaint, the Attorney General found that the board did not violate the open meeting law because "the [c]hair performed an administrative task exempt from the law's definition of deliberation." She explained that the chair's "email did no more than distribute a document to be discussed at the [b]oard's meeting that night. The email did not contain any advocacy by [the chair], and it did not invite comment from other [b]oard members, nor was any comment provided." She went on to explain that "[a]lthough the document itself may have contained the opinions of [b]oard members, we find compiling evaluations to be

a permissible and necessary function for public bodies to conduct ahead of meetings, so long as discussion of the evaluations occurs during an open meeting." The Attorney General conceded, however, that because e-mail communication among a quorum of public body members, "however innocent[,]" creates at least the appearance of a potential open meeting law violation . . . our best advice continues to be that public bodies not communicate over email at all except for distributing meeting agendas, scheduling meetings and distributing documents created by non-members to be discussed at meetings, which are administrative tasks specifically sanctioned under the open meeting law."

Where, as here, the Attorney General is authorized to interpret a statute, her interpretation is entitled to substantial deference, unless it is inconsistent with the plain language of the statute. Smith v. Winter Place LLC, 447 Mass. 363, 367-368 (2006). In this case, the Attorney General's characterization is not supported by the plain meaning of the statute, and therefore is not accorded such deference. While the Attorney General correctly notes that the e-mail message to the board to which the evaluations were attached did not itself contain advocacy or invite comment, this does not alter the fact that the evaluations themselves contained board members' opinions. The Attorney General dismisses the fact that the

composite evaluation contained board members' opinions by stating that "compiling evaluations" is a "permissible and necessary function for public bodies," but the chair did not simply compile the evaluations in this case -- he circulated the compiled evaluations to a quorum. We note also that the Attorney General's determination letter fails to recognize that the chair sent not only the composite evaluation, but also the three individual evaluations, to all board members.

We conclude that the board's conduct violated the open meeting law. The circulated individual and composite evaluations expressed the opinions of the board members to a quorum in advance of the public meeting. As the plaintiffs note, the effect of the circulation of the individual and composite evaluations was that all five board members were aware of the opinions of four of the members in advance of the open meeting; thus, the circulation, in effect, constituted a deliberation, or a meeting, to which the public did not have access. Indeed, the motion judge noted that, after the circulation, and before the open meeting, "it was rather obvious that the die had been cast as to whether the town administrator should be continued in his position." The open meeting law was intended to ensure that the public is able to see for themselves how such decisions are made. See Revere, 476 Mass. at 610. The distribution of the individual and composite opinions to the

quorum, prior to the meeting, was thus a violation of the open meeting law. See G. L. c. 30A, § 18. Compare School Comm. of Wayland, 455 Mass. at 570 ("Open meetings provide an opportunity for each member of the governmental body to debate the issues and disclose their personal viewpoints before the governmental body reaches its decision on a matter of public policy" [emphasis added]); McCrea v. Flaherty, 71 Mass. App. Ct. 637, 641 (2008) (open meeting law "provides for public access to the decision-making process when it is in a formative stage, several steps removed from the eventual result").

The result here would have been different if the board had made the individual and composite evaluations publicly available before the open meeting. For example, the board could have posted the evaluations on its Web site and made paper copies available for inspection at or about the time that the evaluations were circulated among a quorum of board members. Ordinarily, the board is required only to make the minutes of open meetings, along with "the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session," available to the public, upon request, within ten days after an open meeting has taken place. G. L. c. 30A, § 22 (c), (e). Nothing in the open meeting law or the public records statute, however, precludes the board from prior disclosure, at least in these

circumstances.⁹ See G. L. c. 4, § 7; G. L. c. 30A, §§ 18-25; G. L. c. 66, §§ 1 et seq. If board members wish to circulate documents containing board member opinions among a quorum in advance of an open meeting, as here, prior and relatively contemporaneous public disclosure of those documents, where permissible, is necessary in order to comply with the open meeting law and to advance the statute's over-all goal of promoting transparency in governmental decision-making.

d. Striking the Attorney General's decision. The board argues that, in his decision granting the plaintiffs' motion for summary judgment, the judge erred in ruling that "[t]he opinion from the Attorney General [d]ivision of [o]pen [g]overnment is stricken."¹⁰ We agree. The open meeting law establishes two separate means by which a party may complain of a violation: an aggrieved party may seek administrative remedies, for which

⁹ Under the open meeting law, only the following materials used in open meetings are "exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt" (emphasis added). G. L. c. 30A, § 22 (e).

¹⁰ While the judge's decision does not specify which opinion it purports to strike, in context, it can refer only to the 2013 determination letter dismissing Harris's complaint. The plaintiffs do not dispute that the decision to strike was improper.

judicial review is available only to a government entity that is party to the ruling, or file a registered-voter complaint in the Superior Court, as here. See G. L. c. 30A, § 23 (b), (d), (f). To the extent that the judge was attempting to reverse the Attorney General's decision on Harris's administrative complaint, he had no authority to do so.¹¹ While Harris's administrative complaint and this action concern the same facts, Harris's complaint was not before the judge. Nor could it have been, as Harris was not a member of a public body at the time that the complaint was filed. See G. L. c. 30A, § 23 (d) ("A public body or any member of a body aggrieved by any order issued pursuant to this section [by the Attorney General] may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in [S]uperior [C]ourt seeking relief in the nature of certiorari").

3. Conclusion. The judgment is affirmed. The purported "striking" of the Attorney General's determination at the administrative proceeding is vacated. The matter is remanded to the Superior Court for such further proceedings as are required.

So ordered.

¹¹ The purported striking was not necessary to ensure uniform resolution of future open meeting law challenges. The Attorney General has represented that if we affirm the judge's decision, she will amend her guidance and adjust her interpretation of the open meeting law when resolving complaints.

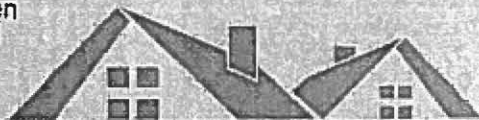


your resource for Affordable Housing

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APR 09 2018

Board of Selectmen
Town of Wayland



Covered Bridge Condominiums

219-223 Rice Road

Wayland, MA

Directions: From Route 2

Take Exit 42 (MA-27S toward Maynard/Sudbury, turn left onto MA-27/MA-62/Summer Street. Continue to follow MA-27/MA62. Take 1st right onto Parker Street/MA-27. Continue to follow MA-27. Turn left onto Hudson Road/MA-27. Continue to follow MA-27. Turn left onto US-20 E/Boston Post road. Turn right onto Pine Brook road. Pine Brook Road become Rice Road. 219 Rice Road is on the left.

Unit Information

of BR: 1 or 2
Baths: 1 or 1 1/2
Parking: Surface
HOA Fee: \$135 or \$185
Appliances All Appliances

HOA includes: Landscaping, snow removal,
road maintenance, common utilities, common
insurance

Eligibility Criteria

1. Must be a first time homebuyer, some exceptions apply.
2. Asset limit to \$75,000
3. Gross household Income Limits:
1 person: \$56,800
2 person: \$64,900
3 person: \$73,000
4 person: \$81,100

**Contact us for lottery details or application
Deed restricted/Income and Asset Eligibility**

**Public Information Meeting: 6:30 p.m., Thursday, April 26, 2018—Wayland Public Library, 5 Concord Rd
Raytheon Meeting Room**

Application Deadline: May 28, 2018

Lottery: 6:30, Monday, June 11, 2018—Wayland Public Library

Great school system!

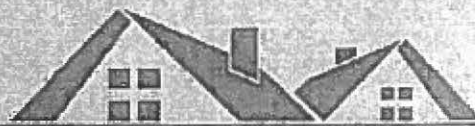
For program information:
Maureen O'Hagan
(978) 456-8388
lotteryinfo@mcohousingservices.com

Visit our Website:
MCOHousingServices.com
Sign up for future offerings
and available listings.





your resource for Affordable Housing



**Covered Bridge Condominiums
219-223 Rice Road
Wayland, MA**



OPEN HOUSE

Saturday, May 19, 2018

10:00 a.m.—12:00 p.m.

219-223 Rice Road

Sale Price:

One Bedroom: \$169,700

Two Bedroom: \$186,300

**2 One Bedroom Condos/1 Bath
1 Two Bedroom Condo/1.5 Baths**

Call for details!!

For program information:

Maureen O'Hagan

(978) 456-8388

lotteryinfo@mcohousingservices.com

Applications available at Town Hall,

Town Clerks Office and Public Library

Visit our Website:

MCOHousingServices.com

**Sign up for future offerings
and available listings.**





RECEIVED

APR 18 2018

Board of Selectmen
Town of Wayland

Referred to Dep't Heads
4/19/18

247 Station Drive, SE-370
Westwood, MA 02090

William Hayes
Senior Arborist
Electric Transmission
Vegetation Management

Certified mail-return receipt requested

April 10, 2018

Dear Municipal Official:

This letter is to inform you that Eversource Energy, Eastern MA intends to selectively apply herbicides in 2018 along the power line rights-of-way that pass through your municipality. This treatment is conducted as a component of an integrated vegetation management program that uses the appropriate mechanical and/or herbicides treatments to control vegetation in order to encourage the growth of healthy early successional ecological communities that benefit wildlife while allowing for the safe delivery of electricity to our customers.

Eversource Energy, Eastern MA's 2018-2022 *Five-year Vegetation Management Plan* (VMP) is posted at the following websites:

<http://www.mass.gov/eea/agencies/agr/pesticides/vegetation-management-and-yearly-operation-plans.html>

<https://www.eversource.com/content/ema-c/about/about-us/doing-business-with-us/municipal-officials/transmission-vegetation-management>

If you would like a hard copy please contact us with this request.

Eversource Energy, Eastern MA's 2018 *Yearly Operational Plan* (YOP) is also posted at the above websites. If you would like a hard copy please contact us with this request.

Please note that the YOP also includes the rights-of-way (ROW) from the 2017 treatment program. This is just in case Eversource Energy, Eastern MA needs to request a "touch-up" retreatment of scattered locations from its contractor(s). For some municipalities, these "touch-up" ROW's are the only ones that are located within your boundaries; please note the difference on page 4 in the YOP.

Please review the YOP map(s) that locate the ROW corridors and the plotted location of known sensitive areas including public and private drinking water supplies. **If there are any additional sensitive areas located on or near the ROWs please advise us as soon as possible so a permanent record can be established and appropriate field protective actions implemented. We particularly rely on this process to collect corrections to the public wells and to record the location of private wells.** The enclosed maps will be updated with any new information that is received by Eversource Energy, Eastern MA and posted at the above website.

The herbicides are listed in Section VII of the YOP and will be selectively applied to target vegetation by experienced, Massachusetts' licensed/certified applicators that walk along the ROWs using backpack equipment.

The foliage treatments will take place between June 1st and October 16th along with cut surface treatments (CST). Fall CST, basal treatments or sensitive foliar treatments may be necessary and are scheduled between October 1st and December 31st in areas along the ROWs that might not have received a foliage treatment or to trees over 12 feet tall. The exact time is dependent upon weather conditions and field crew progress.

In compliance with 333 CMR 11.06-11.07, No herbicide applications will occur before the conclusion of the 45 day YOP review period, the 21 day treatment notice and the 48 hour newspaper notice.

At the end of these review periods, which can run concurrently, no application shall commence more than ten days before nor conclude more than ten days after the treatment periods listed above.

All of the herbicides selected for this program are registered by the Federal Environmental Protection Agency, the Massachusetts Pesticide Board, and are recommended for use in and around sensitive areas jointly by the Massachusetts Pesticide Bureau and Massachusetts Department of Environmental Protection (please refer to the YOP for specifics).

The work will be performed by one of the following companies:

Vegetation Control Service, Inc.
2342 Main Street
Athol, MA 01331
(978) 249-5348

Lewis Tree Service, Inc.
300 Lucius Gordon Drive
West Henrietta, NY 14586
(585) 436-3208

Lucas Tree
636 Riverside St.
Portland, ME 04104
(888) 845-7870

Tree Tech
6 Springbrook Rd.
Foxboro, MA 02035
(888) 873-3832

Stanley Tree Service, Inc.
662 Great Rd
North Smithfield, RI 02896-6864
(866) 765-4783

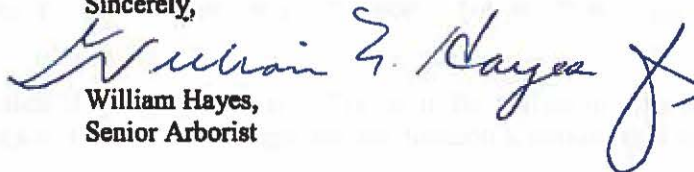
This informational 21-day notification is in compliance with Chapter 132B, section 6B of the Massachusetts General Laws and 333 CMR 11.05-11.07 Rights of Way Management and Chapter 85, Section 10 of the Acts of 2000.

For inquiries concerning the safety of the herbicides please contact:

Director of Rights of Way Program
Department of Food and Agriculture
251 Causeway Street, Suite 500
Boston, MA 02114-2151

If there are any questions or comments relative to technical questions about the treatment program, you would like a hard copy of the VMP or YOP, or have any questions about Eversource Energy, Eastern MA and its electrical rights-of-way system please contact William Hayes (781) 441-3932 for transmission lines and Paul Sellers (508) 957-4517 for distribution lines.

Sincerely,



William Hayes,
Senior Arborist

Enc: Environmental Monitor Notice
2018 Yearly Operational Plan Maps
45 Day YOP Public Notice and Review and Comment Period Document

cc: Board of Health
Board of Selectmen
Conservation Commission
Municipal Water Supplier
Massachusetts Pesticide Bureau



247 Station Drive, SE-370
Westwood, MA 02090

William Hayes
Senior Arborist
Electric Transmission
Vegetation Management

April 10, 2018

45 Day Yearly Operational Plan Public Notice, Review and Comment Period

Dear Municipal Officials:

In compliance with 333 CMR 11.06, *45 Day Yearly Operational Plan Public Notice, Review and Comment*, please review Eversource Energy, Eastern MA's 2018 Yearly Operational Plan.

Posted at the listed websites, Eversource Energy, Eastern MA's *Yearly Operational Plan (YOP)* details specific information pertaining to the intended 2018 program:

<http://www.mass.gov/eea/agencies/agr/pesticides/vegetation-management-and-yearly-operation-plans.html>

<https://www.eversource.com/content/ema-c/about/about-us/doing-business-with-us/municipal-officials/transmission-vegetation-management>

Please review the enclosed maps that locate the rights-of-way and the location of known *sensitive areas*. If there are any additional *sensitive areas* located on or near the right-of-way, please advise us as soon as possible, so we may establish permanent records and implement appropriate field protective actions. We particularly rely on this process to collect corrections to the public wells and to record the locations of private wells. The enclosed maps will be updated with any new information that is received by Eversource Energy, Eastern MA and posted at the above website. If you would like a hard copy of the YOP please contact us with this request.

Also please review the enclosed copy of the Environmental Monitor Notice, published under the Massachusetts Environmental Policy Act (MEPA) also located at:

www.env.state.ma.us/mepa/emonitor.aspx

Enclosures: 21 Day Letter
Environmental Monitor Notice
2018 Yearly Operational Plan Maps

Notice Sent to: Chief Elected Municipal Official
Board of Health
Conservation Commission
Municipal Water Supplier
Massachusetts Pesticide Bureau

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

MATTHEW A. BEATON
Secretary

JOHN LEBEAUX
Commissioner

Notice

Pursuant to the provisions of the Rights-of-Way Management Regulations, 333 CMR 11.00, to apply herbicides to control vegetation along rights-of-way (ROW), a five year Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP) must be approved by the Department of Agricultural Resources (DAR). Eversource Energy, Eastern MA has submitted and holds a current VMP, therefore, notice of receipt of a YOP and procedures for public review is hereby given as required by Section 11.06 (3).

Eversource Energy, Eastern Ma has submitted a YOP to DAR in March 2018.

In 2018 Eversource Energy, Eastern MA will conduct an Integrated Vegetation Management (IVM) program on their transmission and distribution lines. The intended vegetation control program will be consistent with Eversource Energy, Eastern MA's VMP (approved by DAR in 2018). In accordance with the guidelines set forth in Eversource Energy, Eastern MA's VMP and YOP, herbicides will be selectively applied to target vegetation by licensed/certified applicators carrying backpack or hand held application equipment for the IVM program.

Eversource Energy, Eastern MA's YOP identifies the following 37 municipalities as locations where they intend to use herbicides to treat their electric Rights-of-Way in 2018:

Acushnet	Duxbury	Lexington	Plymouth	Wayland
Ashland	East Bridgewater	Marion	Plympton	Westwood
Bridgewater	Fairhaven	Marshfield	Rochester	Whitman
Burlington	Framingham	Medfield	Sherborn	Wilmington
Carver	Hanson	Medway	Sudbury	Woburn
Chelsea	Holliston	Middleborough	Walpole	
Dartmouth	Hopkinton	Natick	Waltham	
Dover	Kingston	Pembroke	Wareham	

Eversource Energy, Eastern MA will only use herbicides recommended by DAR for use in regulated sensitive areas for their IVM program. Pursuant to 333 CMR 11.04, no herbicides will be sprayed within any designated "no spray sensitive area" instead mechanical only methods will be used to control vegetation.

Public notification, by certified mail, will be provided to each "affected" municipality at least twenty-one days prior to any herbicide application.

In accordance with 333 CMR 11.06 (2), Eversource Energy, Eastern MA's YOP includes the identification of target vegetation; methods of identifying, marking and protecting regulated sensitive areas; application techniques; the herbicides, application rates, carriers and adjuvants proposed for use; alternative control measures, a list of the application companies and YOP supervisor; procedures for handling, mixing and loading herbicides; emergency resources including local, state and federal emergency telephone numbers; maps of the ROWs which included regulated sensitive areas, and herbicide fact sheets and labels.

PUBLIC REVIEW

The DAR seeks to verify the location of regulated Sensitive Areas defined in Section 11.02 reported in the YOP. DAR itself has a limited ability to survey the geography, land use and water supplies in all the communities through which ROWs pass. Municipalities have most of this information readily available, and the particular knowledge with which to better certify the regulated Sensitive Areas in their communities. DAR, therefore, requests, and urges the assistance of the "affected" municipalities in reviewing the completeness and accuracy of the maps contained in the submitted YOP.

DAR has established the following procedures for this review:

Copies of the YOP and this *Notice* will be sent by the applicant to the Conservation Commission, Board of Health (or designated health agent), and the Head of Government (Mayor, City Manager, Chair of the Board of Selectman) of each municipality where herbicides are to be applied during the 2018 calendar year; and if applicable to the Natural Heritage Endangered Species Program of the Massachusetts Department of Fisheries and Wildlife, the Massachusetts Water Resource Authority and the Massachusetts Department of Conservation and Recreation. Municipal agencies and officials will have forty-five days, following receipt of the YOP, to review its map for inaccuracies and omissions in the location of "regulated sensitive areas not readily identifiable in the field."

Municipal agencies and officials are requested to forward the YOP to the appropriate official(s) in their municipality qualified to certify the accuracy of the regulated sensitive areas indicated on the maps. The maps should then be "corrected" and returned to the applicant and a copy should be sent to DAR at the address listed below within the forty-five day review period.

If a city or town needs more time to carry out this review, it should send a written request for an extension to DAR and cite why there is a "good cause" for requesting additional time.

The applicant is required to make all corrections and the corrected maps will be sent back to the city/town that requested the disputed changes within fifteen days of receipt of the request. DAR will decide whether or not the YOP should be approved without the requested changes. DAR will consider the "final approval" of a YOP individually for each municipality.

The twenty-one day public review period of the Municipal ROW Notification Letter may serve concurrently with the forty-five day YOP review period in order to provide public notifications as required by 333 CMR 11.07, if the applicant has an approved VMP and if all the requisite city-town offices that received copies of the YOP completed their review and all corrections were duly made by the applicant and approved by DAR.

A failure by the city/town to respond to the applicant's submission of the YOP within the forty-five day period will be automatically considered by DAR to indicate agreement by the municipal officials with the regulated Sensitive Area demarcations provided by the applicant in their YOP.

Any questions or comments on the information provided in this *Notice* and the procedures established for the municipal review outlined above should be addressed to:

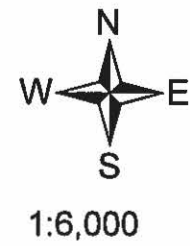
Clayton Edwards
Director of Rights-of-Way Programs
Massachusetts State Pesticide Bureau
251 Causeway Street, Suite 500
Boston, MA 02114-2151

Any questions or comments regarding the YOP should be addressed to:

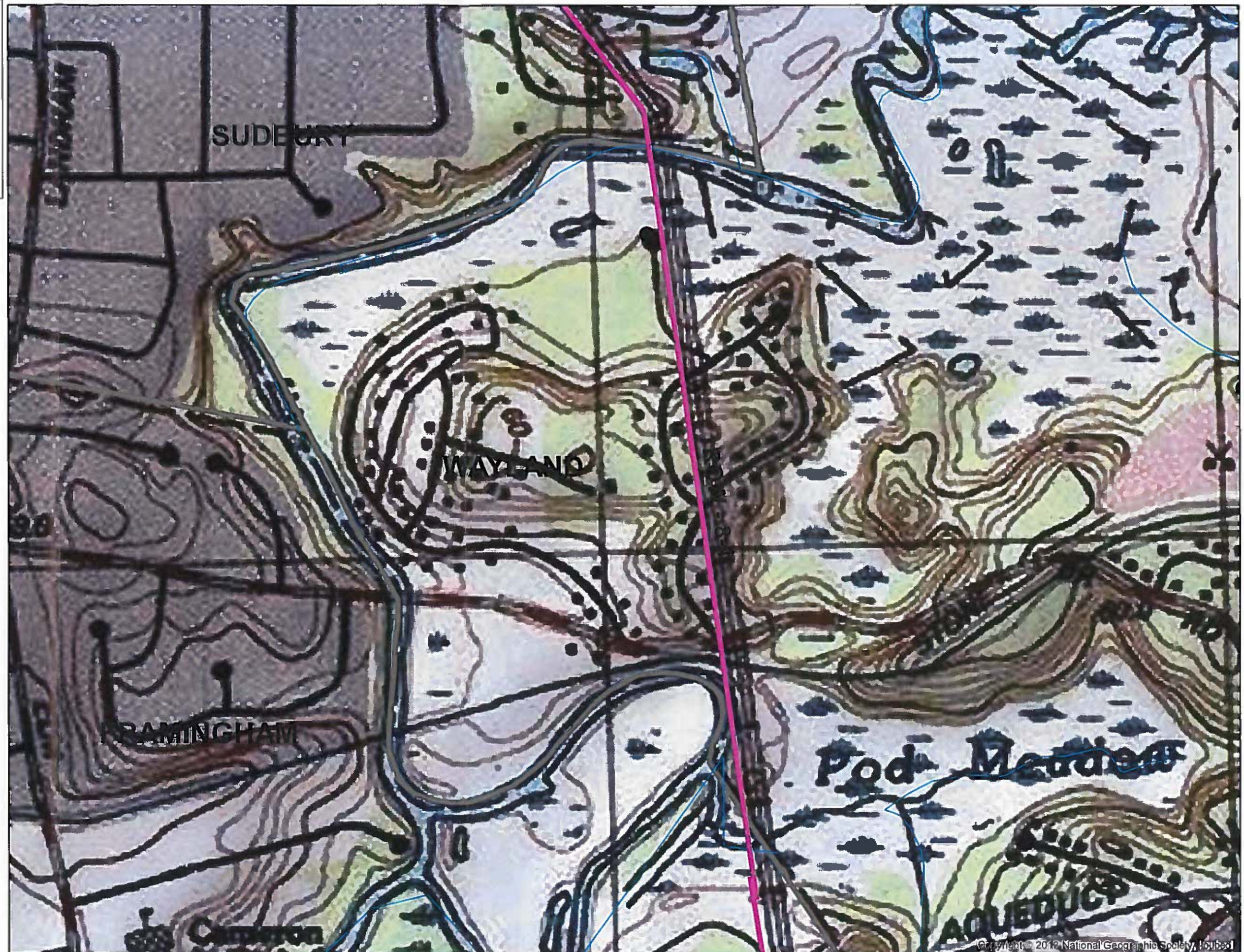
William Hayes, Senior Transmission Arborist
Eversource Energy, Eastern MA
Vegetation Management
247 Station Drive, SE-370
Westwood, MA 02090-9230
781-441-3837 (office)

COMMENT PERIOD ENDS AT THE CLOSE OF BUSINESS (5 p.m.) ON Monday, May 28, 2018

Eversource Energy
Eastern MA
2018 Yearly
Operational Plan
WAYLAND
Right of Way 8-1



- 2018 Eversource Energy Electric Rights-of-Way
- 2017 Eversource Energy Touchup Electric Rights-of-Way
- ▲ Emergency Surface Water Well
- Ground Water Well
- Non-Transient, Non-Community Well
- + Proposed Well
- ◆ Surface Water Well
- ★ Transient, Non-Community Well
- Private Well
- * NHESP Certified Vernal Pools
- Perennial Rivers and Streams
- - - Intermittent Rivers and Streams
- ▬ Mass Town Lines
- ▨ Mass Zone A (identifies surface waterbodies, tributaries and associated waterbodies, follow Sensitive Area treatment methods per 333 CMR 11.04)



Source: "Office of Geographic and Environmental Information (Mass GIS), Commonwealth of Massachusetts, Executive Office of Energy and Environmental Affairs".
Public Water Supply data provided by MA DEP Drinking Water Program, October 2017 DEP Public Water Supplies

February 20, 2018



THE IMPACTS OF MARIJUANA

Tools for Municipalities to Address Health, Social, and Legal Issues.



WHO SHOULD ATTEND

- Law enforcement
- Boards of health
- Local government
- Prevention Coalition Partners

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8:30am-3:00pm
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SENIOR LIVING RESIDENCES
The Right Values



April 15, 2018

Mr. Brian Boggia
Wayland Housing Authority
106 Main Street
Wayland, MA 01778

RECEIVED

APR 18 2018

Board of Selectmen
Town of Wayland

RE: Paine Estate Development Agreement
Section 3.a Affordability Requirements

Dear Mr. Borgia,

This is in response to your letter to Traditions of Wayland ("Traditions"), and your email message to Michael Schaus requesting information on compliance by Traditions with the Affordability Requirements of the Paine Estate Development Agreement dated June 29, 1998, between the Town of Wayland and the Developer of Traditions.

Senior Living Residences ("SLR") assumed management of Traditions in January 2018 after the project had been under management by another firm for many years. Since receiving your letter we have searched all available records at the Community and at the Developer's office for copies of any past compliance reports submitted to you in previous years as well as for the particular kinds of information being requested this year. As Mike Schaus has informed you, we are unable to locate any earlier compliance reports that might have been requested by or furnished to the Town of Wayland on this subject. We thank you for your offer to search the town's archives for submissions from Traditions that would show us the report format that you would prefer.

We believe that the affordability requirement referred to in your letter is the one found at Section 3.a of the Development Agreement, but please let us know if there is some other agreement or document that is applicable. Section 3.a calls for Traditions to designate, for not less than 25 years, 15 apartment units to be occupied by persons of moderate or low income (as defined from time to time by state or federal regulatory agencies). Additionally, those units are to be made available to present and former residents or employees of the town, or to parents of such persons.

Based on the 2017 HUD Published Annual Income Limits (2018 income limits are expected to be published later this month) for the Middlesex County MSA in which Wayland is located, the moderate income limit of 80% of the Area Median Income ("AMI"), for a one person household, is \$54,750. The Low income limit of 60% of AMI is \$43,440. The Very Low income limit of 50% of the AMI, is \$36,200. The attached roster lists all of our moderate, low and very low income residents by their apartment number and annual income. As you will observe, Traditions has more than the minimum 15 required for compliance with the Development Agreement. (Per HIPAA requirements, residents names are not shown). The listed incomes are based on the financial information supplied by each resident, together with information about past Wayland residency, town employment or family residing in town.



We believe that this information demonstrates Traditions' good faith compliance with the affordability requirement contained in the Development Agreement. If you would prefer some alternative presentation format for the information please let me know and we will be happy to cooperate.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Larkin", with a horizontal line extending to the right.

Robert F. Larkin

President

Senior Living Residences, LLC

Management Agent for Traditions of Wayland

Name	Apt #	Yearly Income	Very Low (50% AMI)	Low (60% AMI)	Moderate (80% AMI)	Wayland Residency	Son or Daughter in Wayland	Town Employee
	217	\$13,452.00	X				X	
	218	\$18,048.00	X				X	
	219	\$19,836.00	X					
	110	\$22,488.00	X				X	
	213	\$28,800.00	X					
	220	\$29,040.00	X				X	
	226	\$31,332.00	X					
	6a	\$31,608.00	X				X	
	5b	\$33,948.00	X					
	306	\$33,948.00	X					
	228	\$34,380.00	X					
	9	\$40,116.00		X				
	223	\$41,580.00		X				
	10	\$42,000.00		X				
	8	\$42,672.00		X				
	107	\$43,380.00		X				
	301	\$44,100.00			X		X	
	202	\$45,000.00			X			
	215	\$45,600.00			X			
	212	\$45,816.00			X			
	1	\$49,032.00			X		X	
	320	\$49,596.00			X			
	225	\$49,728.00			X			

Current HUD Published Income Limits

for 1 person households

(Middlesex County)

Very Low < \$36,200

Low < \$43,440

Moderate < \$54,750