

PACKET

May 6

2019



LOUISE L. E. MILLER
TOWN ADMINISTRATOR
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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

REVISED
BOARD OF SELECTMEN
Monday, May 6, 2019
7:00 p.m.
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road, Wayland, MA
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
- Review of agenda for the public
- 7:05 pm 2. Announcements and public comment
- 7:10 pm 3. Organization of the Board: Vote to elect officers
- Board Liaison Assignments: Review, discuss and assign
 - Governance Guidelines: Review and revise, if needed
- 7:25 pm 4. Annual Town Meeting Follow Up
- 7:35 pm 5. Minutes: Vote to approve Board of Selectmen minutes of April 16, 2019; April 22, 2019; April 29, 2019; and April 30, 2019.
- 7:40 pm 6. Update on boat storage request by Cliff Lewis
- 7:45 pm 7. Consent Calendar: Review and vote to approve (see separate sheet)
- 7:50 pm 8. Correspondence Review

BOARD OF SELECTMEN
Monday, May 6, 2019
7:00 p.m.
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road, Wayland, MA

Proposed Agenda – Page Two

- 7:55 pm** 9. State of the Town: Discuss and determine date of possible event
- 8:00 pm** 10. Town Administrator's Report
1. Spencer Circle Update
 2. River's Edge Update
 3. Update on legal matters:
 - o Cascade 40B Development
 - o Bernstein v. Town of Wayland
 - o Kenneth Nelson v. Town of Wayland
 4. Open Meeting Law complaints: Review and discuss complaints
 - o Against Board of Selectmen
 - o Against Conservation Commission
 - o **Opinion of the Attorney General dated April 22, 2019**
- 8:20 pm** 11. Selectmen's reports and concerns
- 8:25 pm** 12. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
- 8:30 pm** 13. Enter into Executive Session
- I. Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to discuss strategy with respect to collective bargaining with all bargaining units pursuant to the Public Employee Committee (PEC) agreement and.
 - II. Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to discuss strategy with respect to litigation—Stephen Cass v. Town of Wayland and.
 - III. Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to review and approve the executive session minutes of April 8, 2019
- APPROVE AND HOLD: Executive Session minutes of April 8, 2019.
- 8:50 pm** 14. 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.

**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 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.

5.) Draft minutes of
April 16, 2019 (BoS)



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DRAFT

Board of Selectmen

Meeting Minutes

April 16, 2019

7:00 p.m.

Wayland Town Building

Council on Aging Room

41 Cochituate Road, Wayland

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

Absent: Douglas A. Levine

Also Present: Town Administrator Louise Miller

A1. Call to Order by Chair L. Anderson called the meeting of the Board of Selectmen to order at 7:01 p.m. in the Council on Aging Room in the Wayland Town Building when a quorum was present, noted that the meeting will likely be broadcast and videotaped for later broadcast by WayCAM, and reviewed the agenda for the public.

A2. Announcement and Public Comment The Council on Aging has a survey available for residents to weigh in on how best to help people stay in their homes safely as they age. There will be a vendor expo from 2:30p.m.-6:00p.m. on Wednesday afternoon at the High School on the same topic. Also, the Library has a survey to help with future planning that is available online and on paper. The BoS will meet again Monday night April 22, 2019 for the Warrant Hearing.

Aida Gennis, Wayland Hills Road, Board of Library Trustees Chair, read a statement explaining why the Board of Library Trustees can't support the Town Manager Special Act proposal in its current form.

Kim Steere, Friends of the Library President, read a statement expressing concerns about the possible effects the Town Manager Special Act would have on the oversight of the library and the Library's historical role in the community.

Jon Hart, 40 Knollwood Ln., expressed his opinion that the Library should remain run by an independent elected Town Board and not an appointed Town Manager.

Tom White, Sedgemoor Road, noted the level of attendance at this meeting considering it is School vacation week.

Alexia Obar, 18 Dean Road, discussed her concern about holding the meeting tonight during school vacation week and said she could not support the Town Manager Special Act without exempting the Library.

A3. Workshop on Town Manager Special Act: Discuss revised Act and next steps Town Counsel Carolyn Murray was present for the discussion. L. Anderson reviewed the materials in the Board's packet to facilitate tonight's Board discussion. She reminded the Board that the Town has been discussing the Town Manager Special Act (TMSA) since March of 2018. At the last meeting on the TMSA in January 2019, the Board had questions on the changes from existing code as shown in the Collins draft. In follow up discussions with town counsel, L. Anderson suggested taking a different approach to use the language from Chapter 60 as a template. The document in front of the Board has the familiarity of the existing language as a place to start the discussion about possible changes.

The Board discussed changes that were not carried over in the new version, for example specific positions are no longer called out and the lengthy description of removing the Town Manager has been changed. C. Karlson asked if a statement should be included that the TMSA would not take away any authority given by state law. L. Anderson asked if a TMSA can trump responsibilities given by state law.

C. Murray said once the Act becomes official, if approved by Town Meeting and the legislature, it becomes a special act of legislation and will be on equal footing with every state statute. If the Act is silent on certain issues, it defaults to state law. She discussed the position of Town Manager how it would change or not change authority from the Town's Boards and Committees. She explained the exceptions given to the School Committee by state law and stated that Wayland needs to decide what will work best for the Town. She urged the Board to consider what it wants so that Wayland can create a TMSA that fits its needs.

The Board discussed their vision for the Special Act. C. Karlson said she is looking for the Town to be more operationally efficient, noting that Wayland is a \$90M business that requires professional management. M. Antes discussed the difficulty of finding volunteers and the burnout that is often experienced. L. Jurist says this follows the advice of consultants to be more professional and is not intended to take away power. L. Anderson reviewed the changes around creating the DPW and discussed her vision including the structure and flow of a potential Finance Department or a potential future land use department. She does not intend to take policy and program decisions from the Boards but rather to have to work in consultation with the Town Administrator's office.

Beginning with Section 1, C. Murray worked with the Board to review and discuss each section of the new version of the TMSA. She noted that at the end of each paragraph there is a notation of whether the text is new, modified or taken directly from existing code. Section 1 is substantially from existing code. Section 2, Authorities, includes more organization changes and addresses administrative, financial, personnel, and facility responsibilities. The Board is the chief executive of the Town; the Town Manager could be the chief operating and administrative officer. C. Murray noted that "policy making" and the word "program" can be defined as broadly as the Board desires, but cautioned the Board about defining everything. The Board suggested combining and reordering some of the sections and edits to word choices. When asked, L. Miller explained how the Town Administrator is currently involved in the personnel hiring process based on union contracts and job descriptions and how the hiring process might change for the Personnel Board based on the TMSA.

L. Jurist stated he thinks there's enough protection in the draft for boards and committees and they should not fear losing any power. Authority over grants, officers, and how far the Town Manager's appointing authority should expand were all discussed. C. Murray noted that any future positions created will have to address a hiring and firing authority. L. Anderson suggested taking out the Library Director position under the appointing authority of the Town Manager. The Board discussed the various issues the Library has with the Town Manager Special Act and why it lacks support from the Trustees. C. Karlson noted there are many reasons why the Library does not support it and the Board shouldn't focus on resolving just one of the reasons at this time. C. Murray went through the rest of the sections and discussed the Board's options regarding language and noted how other municipalities have structured their Town Manager role.

C. Murray noted that other sections of the bylaw may need to be updated, e.g. Finance, Personnel. C. Murray and the Board agreed the draft needed to be cleaned up and then the Board will have to identify what is left to decide. The Board stated that after reviewing the next revision of the TMSA, they will then send it back out to all boards and committees for review and comment and also hold a public session specifically for community input.

A4. Minutes: (none)

A5. Consent Calendar: Review and vote to approve (see separate sheet)

1. Vote the question of approving and signing the weekly payroll and expense warrants

L. Jurist moved, seconded by M. Antes, to approve the Consent Calendar. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist. NAY: none. ABSENT: D. Levine. ABSTAIN: none. Adopted 4-0.

A6. Selectmen's reports and concerns A session of the Citizen's Academy was held at the Library and M. Antes said she thought it went well. C. Karlson noted she has heard great things about program. L. Miller said the Town will post the department power point presentations used at the Citizen's Academy.

A7. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any:
None.

A8. Adjourn L. Jurist moved, seconded by C. Karlson, to adjourn the meeting at 9:38p.m. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist. NAY: none. ABSENT: D. Levine. ABSTAIN: none. Adopted 4-0.

Items Distributed for Information and Use by the Board of Selectmen at the Meeting of April 16, 2019.

1. Statement from Wayland resident Jon Hart, presented during the public comment portion of the meeting, re: Library should remain run by an independent elected town board
2. Statement from the Kim Steere, President, Friends of the Wayland Library, presented during the public comment portion of the meeting, re: the Special Act in its current form would bring long-term changes to the oversight of the Library

Items Included as Part of Agenda Packet for Discussion During the April 16, 2019 Board of Selectmen's Meeting

1. Town Manager Special Act Workshop Overview
2. Workshop material, TMSA Draft dated April 11, 2019
3. Background material, Collins Draft TMSA dated January 7, 2019
4. Background material, Board and Committee Feedback on Collins Center draft
 - a. Finance Committee Feedback
 - b. Board of Library Trustees
 - i. A. Gennis memo dated February 1, 2019
 - ii. J. Dion letter dated February 1, 2019 with attachments:
 1. Excerpts from MBLC Trustee Handbook, pages 39-40
 2. Bylaws of the Board of Library Trustees
 3. Library data on Wayland Peer Towns, February 1, 2019
 - c. Personnel Board Draft Minutes, September 25, 2018
 - d. Board of Assessors Meeting Notes by C. Karlson, August 13, 2018
 - e. Board of Public Works
 - i. Memo: Draft Financial Management Structure Review, May 22, 2018
 - ii. Email from Tom Abdella, member BoPW, dated June 12, 2018 re: BoPW Memo

5.) Draft of minutes
of April 29, 2019 (Bo



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DRAFT

Board of Selectmen

Meeting Minutes

April 29, 2019

6:30 p.m.

Wayland High School

Field House

264 Old Connecticut Path, Wayland

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

Absent: Douglas A. Levine

A1. Call to Order by Chair L. Anderson called the meeting of the Board of Selectmen to order at 6:43 p.m. in the Field House at Wayland High School when a quorum was present and reviewed the agenda for the public.

A2. Announcement and Public Comment None.

A3. Discuss any Annual Town Meeting business L. Anderson reminded the Board that it discussed moving forward Articles 18, 19 and 20 if the budget discussion under Article 6 is accomplished quickly in order to be efficient with Town Meeting's time. The Board concurred. L. Anderson reviewed the protocol for electing a Temporary Town Clerk for town meeting. She reported that the petitioner on Article 21 Spencer Circle plans to pass over the article. It is understood that the topic will be brought back to the fall Town Meeting.

A4. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any:
None.

A5. Recess and reconvene to join Annual Town Meeting At 6:48 p.m., the Board recessed until the start of Annual Town Meeting.

Items Distributed for Information and Use by the Board of Selectmen at the Meeting of April 29, 2019.

1. 2019 ATM Warrant
2. 2019 ATM Motions as of April 29, 2019

Items Included as Part of Agenda Packet for Discussion During the April 29, 2019 Board of Selectmen's Meeting

None.

5.) Draft of minutes
of April 30, 2019
(BOS)



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DRAFT

Board of Selectmen
Meeting Minutes
April 30, 2019
6:30 p.m.
Wayland High School
Field House
264 Old Connecticut Path, Wayland

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

Absent: Douglas A. Levine

Also Present: Town Administrator Louise Miller

A1. Call to Order by Chair L. Anderson called the meeting of the Board of Selectmen to order at 6:37 p.m. in the Field House at Wayland High School when a quorum was present and reviewed the agenda for the public.

A2. Announcement and Public Comment None.

A3. Discuss any Annual Town Meeting business The Board discussed finishing Town Meeting this evening.

A4. Consent Calendar: Review and vote to approve (see separate sheet)

1. Vote the question of approving and signing the weekly payroll and expense warrants.
2. Vote the question of approving the correspondence to Leon Gaumont, Jr., Town Manager, Town of Weston, re: Weston Development Projects – Traffic Study @ Route 20/Old Connecticut Path/Plain Road
3. Vote the question of approving a one-day liquor license for the Knights of Columbus, Good Shepard Council #16156, for the sale or service of Beer & Wine (to be drunk on the premises) at the Knight of the Races event at St. Ann's Hall, 134 Cochituate Road, Wayland, MA, on Saturday, May 18, 2019 from 5:30 pm to 11:00pm
4. Vote the question of approving the placement of four (4) temporary sandwich signs from May 25, 2019 – June 1, 2019 at Fire Station Two in Cochituate; Old Connecticut Path and Cochituate Road (Five Paths); and Route 20/Old Connecticut Path by the Coach Grill; and Town Center (corner of Routes 20 and 27) to promote the Wayland Cradles to Crayons Collect and Sort event sponsored by the Wayland Children and Parent's Association

M. Antes moved, seconded by L. Jurist, to approve the Consent Calendar. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist. NAY: none. ABSENT: D. Levine. ABSTAIN: none. Adopted 4-0.

A5. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any:
None.

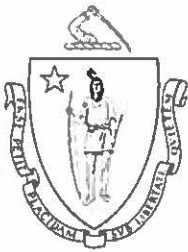
A6. Recess and reconvene to join Annual Town Meeting At 6:40 p.m., the Board recessed until the start of Annual Town Meeting.

Items Distributed for Information and Use by the Board of Selectmen at the Meeting of April 30, 2019.

1. 2019 ATM Warrant
2. 2019 ATM Motions as of April 29, 2019

Items Included as Part of Agenda Packet for Discussion During the April 30, 2019 Board of Selectmen's Meeting

1. Letter from Louise Miller to Leon Gaumond, Jr., Town Manager, Town of Weston, dated April 29, 2019 regarding Weston Development Projects – Traffic Study @ Route 20/Old Connecticut Path/Plain Road



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

April 23, 2019

George Harris
8 Holiday Road
Wayland, MA 01778

RECEIVED

APR 25 2019

Board of Selectmen
Town of Wayland

RE: Open Meeting Law Complaint

Dear Atty. Harris:

Thank you for contacting the Attorney General's Office. On April 23, 2019, we received your Open Meeting Law complaint, which was originally received by the Wayland Board of Selectmen on or about March 4, 2019. We will review your complaint and will contact you in the event that we require additional information. We will notify you of our determination following our Office's review.

Your complaint may be resolved through either a formal order or informal action. Formal orders contain a detailed discussion of the alleged violation, applicable legal requirements, and may order any of the remedies provided in G.L. c. 30A, § 23(c). If a complaint is appropriate for informal action, we will attempt to resolve the matter by speaking to the parties, followed by a brief letter noting whether or not there was a violation and what remedial action was taken.

For additional information on the Open Meeting Law and the complaint process, please visit our website at www.mass.gov/ago/openmeeting. Please do not hesitate to contact the Division of Open Government with any further questions.

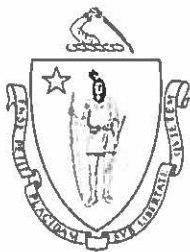
Sincerely,

A handwritten signature in black ink that reads "Mira Netsky".

Mira Netsky
Paralegal
Division of Open Government

cc: Wayland Board of Selectmen, c/o Lea Anderson, Chair

10.) DML against Conservation Commission



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

April 16, 2019

George Harris
8 Holiday Road
Wayland, MA 01778

RECEIVED
APR 18 2019
Board of Selectmen
Town of Wayland

RE: Open Meeting Law Complaint

Dear Atty. Harris:

We understand that on March 5, 2019, you filed a complaint with the Wayland Conservation Commission ("Commission") alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. The Commission is required to notify our office of the complaint and any remedial action taken to address the complaint. G.L. c. 30A, § 23(b); 940 CMR 29.05(5). Our Office did not receive a response from the Commission, although we understand that you received a response from the Commission on April 3, 2019.

Under the Open Meeting Law, our office may only review your complaint after 30 days have passed from the time you first filed your complaint with the Commission. G.L. c. 30A, § 23(b); 940 CMR 29.05(6). After 30 days, you may file a request with our office for further review of your complaint.

Thirty days have now passed since you first filed your complaint with the Commission. You may file your complaint for further review with our office up until ninety days have passed since the alleged violation date. Accordingly, we will presume that the action taken by the Commission was sufficient and will close this file unless we receive a request for further review and a copy of the initial complaint by **May 16, 2019**.

Please feel free to contact us if you have any questions about the Open Meeting Law complaint process.

Sincerely,

Mira Netsky
Paralegal
Division of Open Government

cc: Wayland Conservation Commission

RECEIVED
APR 18 2019
WAYLAND CONSERVATION COMMISSION



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

10.) Opinion of the
Attorney General
- dated April 22, 2019

(617) 727-2200
www.mass.gov/ago
RECEIVED

APR 24 2019

Board of Selectmen
Town of Wayland

April 22, 2019

OML 2019 – 37

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

RE: Open Meeting Law Complaints

Dear Attorney Murray:

This office received two complaints from George Harris on May 8 and May 24 alleging that the Wayland Board of Selectmen (the “Board”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25.¹ The complaints were originally filed with the Board on March 22 and April 4, and you responded, on behalf of the Board, by letters dated April 10 and April 24, respectively. The complaints allege that the Board posted insufficiently detailed notices with respect to the executive session topics for its February 26 and March 6 meetings.

We appreciate the patience of the parties while we reviewed these matters. Following our review, we find that the Board violated the Open Meeting Law by posting notices for its February 26 and March 6 meetings that provided insufficient detail about the topics to be discussed. In reaching this determination, we reviewed the original complaints, the Board’s responses to the complaints, and the complaints filed with our office requesting further review. We also reviewed the notices and open and executive session minutes of the Board’s February 26 and March 6 meetings, as well as a video recording of the February 26 meeting.²

FACTS

We find the facts as follows. The Board duly posted notice of a meeting to be held on Monday, February 26 at 6:00 P.M. The notice listed seventeen topics, including an Executive Session under Purpose 2 “to conduct strategy sessions in preparation for negotiations with

¹ All dates in this letter refer to the year 2018.

² The video recording is available at <https://www.waycam.tv/government-on-demand>.



nonunion personnel or to conduct collective bargaining session, including grievance hearings, or contract negotiations with nonunion personnel.”

The February 26 meeting was held as planned. Chair Lea Anderson called the public meeting to order, and the chair then moved to enter into executive session “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.” Specifically, Chair Anderson announced that the Board would convene in executive session to conduct collective bargaining sessions, including “a grievance hearing with the Wayland Police Officers Union in affiliation with the New England Police Benevolent Association.” The Board approved a unanimous vote by roll call to convene in executive session and announced that it would reconvene in open session following the executive session. Chair Anderson invited certain individuals by name who were then present to attend the executive session, including the Town Administrator, Chief of Police, Police Union President, Police Union Vice President, Police Union Treasurer, Labor Counsel for the Town, Former Police Sergeant Jennifer Ordway, and Sergeant Ordway’s legal counsel. The Chair did not identify Ms. Ordway as the grievant. During the executive session, the Board reviewed the procedures for a Step 3 grievance hearing and heard from both the grievant and the Police Department. The Board then reconvened in open session and discussed the noticed topics.

The Board duly posted notice of a meeting to be held on Tuesday, March 6 at 6:30 P.M. The notice listed eleven topics, including an Executive Session under Purpose 3 “to discuss strategy with respect to collective bargaining with the Wayland Police Officers Union in affiliation with the New England Police Benevolent Association, as an open meeting would have a detrimental effect on the Town’s bargaining position.”

The March 6 meeting was held as planned. Chair Lea Anderson called the public meeting to order, and the chair then moved to enter into executive session “to discuss strategy with respect to collective bargaining, specifically the grievance hearing with the Wayland Police Officers Union in affiliation with the New England Police Benevolent Association.” The Board approved a unanimous vote by roll call to convene in executive session and announced that it would reconvene in open session following the executive session. Chair Anderson invited certain individuals by name who were then present to attend the executive session, including the Town Administrator, Chief of Police, and Labor Counsel for the Town. During the executive session, the Board reviewed the procedures for a Step 3 grievance hearing and discussed whether to deny the grievance or proceed to arbitration. The Board then reconvened in open session and discussed the noticed topics.

DISCUSSION

The Open Meeting Law requires that all meetings of a public body be conducted in an open session, with some exceptions. G.L. c. 30A, §§ 20(a), 21(a). Public bodies may enter a closed, executive session for any of the ten purposes enumerated in the Open Meeting Law. G.L. c. 30A, § 21(a). Executive session topics must be described, both in the meeting notice and in an announcement during open session, in as much detail as possible without compromising the purpose for which the executive session was called. See G.L. c. 30A, § 21(b)(3); see also

District Attorney for the N. Dist. v. Sch. Comm. of Wayland, 455 Mass. 561, 567 (2009) (“[a] precise statement of the reason for convening in executive session is necessary ... because that is the only notification given the public that a [public body] would conduct business in private, and the only way the public would know if the reason for doing so was proper or improper”).

Executive Session Purpose 2 allows a public body to enter executive session to “conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel.” G.L. c. 30A, § 21(a)(2). Executive session Purpose 3 allows a public body to enter executive session to “discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.” G.L. c. 30A, § 21(a)(3). Grievance matters may also be discussed under Purpose 2 or Purpose 3 because they are part of the collective bargaining process. See Ghiglione v. School Committee of Southbridge, 376 Mass. 70, 73 (1978) (“[c]ollective bargaining sessions encompass not only the negotiations leading to the agreement, but also the resolution of grievances pursuant to the collective bargaining agreement”). When convening in executive session pursuant to Purpose 2 or Purpose 3, a public body must identify the collective bargaining unit with whom it will be negotiating, if doing so will not compromise the lawful purpose for secrecy. See OML 2018-139; OML 2016-43; OML 2015-87.³

The complaints allege that the executive session topics listed on both the February 26 and March 6 notices lacked sufficient detail because they did not specify that the Board was discussing a grievance hearing and did not identify the collective bargaining unit or specific individual that was the subject of such hearing. Here, both the February 26 and March 6 meeting notices indicated that the Board would be entering executive session to conduct collective bargaining. However, only the February 26 notice identified the collective bargaining session as including a grievance hearing. Moreover, the Board identified the collective bargaining unit on the March 6 meeting notice but did not on the February 26 notice. Yet, when convening in executive session on both February 26 and March 6, the chair stated that the collective bargaining session would include a grievance hearing and identified the collective bargaining unit as the Wayland Police Officers Union in affiliation with the New England Police Benevolent Association. Since the chair announced at both the February 26 and March 6 meetings that the Board was convening in executive session to conduct a grievance hearing and then specifically identified the collective bargaining unit involved, we conclude that revealing this information on the meeting notices would not have compromised the purpose for which the executive sessions were called, and therefore the executive session topics as listed on both the February 26 and March 6 notices should have included this specific information. See OML 2012-53.

We turn next to whether the Board should have included the name of the specific grievant on the notices as well. The Board argues that it did not include the name of the employee in order to protect the identity of that employee and the employee’s privacy interests. A public body may withhold the identity of an employee out of concern for the individual’s privacy. See OML 2015-180. During the February 26 open session, Chair Anderson invited the employee by name to join the Committee in executive session. However, the chair did not specifically

³ Open Meeting Law determinations may be found at the Attorney General’s website, www.mass.gov/ago/openmeeting.

identify her as the grievant. The employee was not invited to join the Committee in executive session on March 6 because she was not present at that meeting. Since the employee was not publicly identified as the grievant during the meetings, we find that the Committee's decision not to identify her by name on the February 26 and March 6 notices out of respect for her privacy was appropriate.

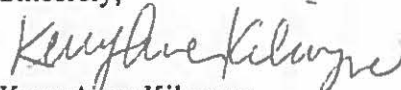
Although not raised in the complaint, we note that the Board's February 26 executive session minutes are not sufficiently detailed. The Open Meeting Law requires that a public body "create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes." G.L. c. 30A, § 22(a). The minutes should contain enough detail and accuracy so that a member of the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred. See OML 2016-105. Based on our *in camera* review of the minutes of the Board's February 26 executive session, we note that the minutes are inadequate to meet the standard required by the Open Meeting Law because they do not offer a sufficiently detailed summary of the Board's hour-long discussions. We recommend that the Board amend its February 26 executive session meeting minutes in accordance with the requirements of G.L. c. 30A, § 22(a).

CONCLUSION

For the reasons stated above, we find that the Board violated the Open Meeting Law by providing insufficient detail in its February 26 and March 6 meeting notices. We order immediate and future compliance with the law's requirements, and we caution that similar future violations could be considered evidence of intent to violate the law.

We now consider the complaints addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Board. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,



KerryAnne Kilcoyne
Assistant Attorney General
Division of Open Government

cc: George Harris
Wayland Board of Selectmen

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.

**PUBLIC DOCUMENTS PROVIDED TO THE BOARD OF SELECTMEN FROM
APRIL 19, 2019 THROUGH AND INCLUDING May 2, 2019 OTHERWISE NOT
LISTED AND INCLUDED IN THE CORRESPONDENCE PACKET FOR MAY 6, 2019**

**Items distributed to the Board of Selectmen – April 19, 2019 – May 2, 2019
(none)**

**Items Distributed for Information and Use by the Board of Selectmen at the Meeting of
April 22, 2019**

1. 2019 Annual Town Meeting Warrant booklet
2. Draft 2019 ATM Motions as of April 19, 2019
3. Draft Article 23: Appropriate Funds for Snake Brook Dam Valve Repairs
4. 2019 Annual Town Meeting Errata Sheet for Article 24: Limit Carrying of Weapons in Town Buildings and to Town Events
5. Correspondence to the Board of Assessors from Louise Miller, Town Administrator, dated April 29, 2019, re: Assessing Department Staffing
6. Correspondence from Michele Randazzo, KP Law, to Louise Miller, Town Administrator, dated April 18, 2019, re: Ability of Town Meeting to Mandate Payments from “School” Revolving Funds.
7. Information on the Commonwealth of Massachusetts Fuel Card Program (distributed to Lea Anderson, Cherry Karlson, Mary Antes, Louis Jurist)
8. Municipal Advocate publication, Vol. 29, No. 4 (distributed to Lea Anderson, Cherry Karlson, Doug Levine, Louis Jurist)
9. Correspondence from Teri Hegarty, Executive Assistant, to the Board of Selectmen, dated April 22, 2019, re: Liquor License Transfer of Mason Mack Petroleum, LLC, DBA Wayland Gulf

**Items included as part of the Agenda Packet for discussion during the May 6, 2019 Board of
Selectmen Meeting**

1. Draft of Board of Selectmen minutes of April 16, 2019
2. Draft of Board of Selectmen minutes of April 29, 2019
3. Draft of Board of Selectmen minutes of April 30, 2019
4. Correspondence from Kerry Anne Kilcoyne, Assistant Attorney General, Commonwealth of Massachusetts, to Carolyn Murray, KP Law, dated April 22, 2019, re: Open Meeting Law Complaints against the Wayland Board of Selectmen
5. Correspondence from Mira Netsky, Paralegal, Office of the Attorney General, Commonwealth of Massachusetts, to Wayland resident George Harris, dated April 16, 2019, re: Open Meeting Law Complaint against Wayland Conservation Commission
6. Correspondence from Mira Netsky, Paralegal, Office of the Attorney General, Commonwealth of Massachusetts, to Wayland resident George Harris, dated April 23, 2019, re: Open Meeting Law Complaint
7. Policy on Board of Selectmen Officers and Meetings
8. Policy on Board of Selectmen’s Liaison Program
9. Town of Wayland Governance Guidelines for the Board of Selectmen and Appointed Boards, Committees, Commissions

BOARD OF SELECTMEN
Monday, May 6, 2019
7:00 p.m.
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road, Wayland, MA

CONSENT CALENDAR

1. Vote the question of approving and signing the weekly payroll and expense warrants
2. Vote the question of approving and signing invoice from Betty Waxman, Esq., Arbitrator for Case AAA No . 01-18-0001-1636, Wayland Police Officers Union, NEBA, Local 176 and Town of Wayland, in the amount of \$14,000

2.) Invoice from
Betty Waxman, Esq.
Arbitrator

ARBITRATOR'S BILL

This bill is submitted on behalf of the arbitrator:

ARBITRATOR:

Betty E. Waxman, Esq.
80 Olde Field Road
Newton, MA 02459

CASE:

AAA No. 01-18-0001-1636
Case: Wayland Police Officers Union, NEBA, Local 176 and Town of Wayland
Grievant: Jennifer Ordway

REPRESENTATIVES:

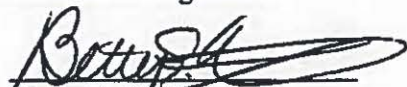
Thomas E. Horgan and Keith Nicholson, Esqs. for the Union
Wendy H. Chu, Esq. for the Town

ARBITRATOR'S COMPENSATION:

Hearing dates: 8/1/18; 9/12/18; 11/2/18; 1/11/19 @ \$1,400.00 per diem	= \$ 5,600.00
Late cancellation for 1/4/19 @ \$1,400.00 per diem	= \$ 1,400.00
Study and Preparation, 5 days @ \$1,400.00 per diem	= \$ 7,000.00
TOTAL	= \$ 14,000.00

PAYABLE BY UNION	\$ 7,000.00
PAYABLE BY EMPLOYER	\$ 7,000.00

Arbitrator's Signature:


Betty E. Waxman, Esq.

Date: 4/18/19

ok.
BW

BOARD OF SELECTMEN
Monday, May 6, 2019
7:00 p.m.
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road, Wayland, MA

CORRESPONDENCE

1. Correspondence from Louise Miller, Town Administrator, to Leon Gaumond, Jr., Town Manager, Town of Weston, dated April 30, 2019, re: Weston Development Projects –Traffic Study @ Route 20/Old Connecticut Path/Plain Road
2. Correspondence from Gaelen Daly, Chief, Real Estate Division, Department of the Army, to Louise Miller, Town Administrator, dated April 4, 2019, re: Natick SSC Military Housing Site, Wayland, MA –Easement to the Town of Wayland for a Water Line
3. Correspondence from Teri Hegarty, Executive Assistant, to Louise Miller, Town Administrator, dated April 17, 2019, re: request for stop sign at Bayberry Lane/The Meadows
4. Correspondence from Louis Martin, Associate Director, Department of Housing and Community Development, dated April 17, 2019, re: Housing Production Plan—Certification Approved
5. Correspondence from Ronit Goldstein, Community Relations and Economic Development, Eversource, to Louise Miller, Town Administrator; David Houghton, Fire Chief; Patrick Swanick, Chief of Police; Elizabeth Doucette, Assistant Town Administrator; Joe Doucette, DPW Superintendent; Mike Linderman, (formerly with DPW); Neil McPherson, Deputy Fire Chief; Paul Brinkman, Town Engineer; Teri Hegarty, Executive Assistant; Thomas Holder, DPW Director, dated April 26, 2019, re: Transmission Line Upgrades in Wayland